**SUBMISSION TO THE AUSTRALIAN GOVERNMENT REVIEW**

**“A STRONG FUTURE FOR SUPPORTED EMPLOYMENT”**

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**About LEAD**

LEAD is an experienced disability service provider that has been operating in Canberra and the local region since the early 1990s.

LEAD is an Australian Disability Enterprise (ADE) providing employment opportunities for around 130 people with a disability. LEAD is also a provider under the Government’s Disability Employment Services (DES) program. We are the only organisation in Canberra, and one of only a small number across Australia, to deliver services under both the open employment and supported employment elements of the Government’s support for disability employment.

As such, LEAD can provide a well-informed perspective on relevant issues across the spectrum of disability employment programs. Over nearly 30 years, LEAD has observed and worked with many changes in Government policy and administrative arrangements for open and supported employment, including the initial period when both programs were administered side-by-side by the same agency.

Further, LEAD has had direct experience with the operation of the National Disability Insurance Scheme (NDIS) from the commencement of the trial period in the ACT in 2013 through to full scheme implementation from 2016 onwards. In particular, LEAD has been able to observe at close hand the impact of the transfer of the Government’s supported employment program from the Department of Social Services into the NDIS.

**Responses to the discussion paper**

Attachment A provides a series of dot point comments in response to the questions posed in the discussion paper.

The key issues that LEAD wishes to present to the ADE review are discussed below.

**Overarching comment**

Based on LEAD’s direct recent experience, it is apparent that the current structural arrangements – with the National Disability Insurance Agency (NDIA) being responsible for funding ADEs through participants’ NDIS plans – are not delivering optimal outcomes for people with a disability who are seeking to be supported into employment.

In our view, the current NDIS arrangements are in fact producing negative and perverse outcomes for participants as well as impacting severely on the viability and long–term sustainability of ADEs.

The difficulties with the current NDIS administrative arrangements can be summarised as follows:

* Supported employment is treated in the same way in an NDIS plan as other supports that are purchased from an external provider, whereas there are material differences that suggest supported employment should be treated differently within the NDIS;
* The annual NDIS planning process does not provide long-term certainty for supported employees and is not sufficiently agile to enable participants and ADEs to take advantage of employment opportunities that become available at short notice;
* The planning process – driven by a computer algorithm - in many instances fails to deliver employment funding in participants’ plans, despite employment being identified clearly as a goal in the plan; and
* There is not an appropriate funding formula for supported employment that is based on complexity of support needs, similar to the DMI mechanism that was previously used to determine funding to ADEs.

These issues are discussed in more detail below.

***Supported employment is different to other supports***

The NDIS planning processes are primarily focused on identifying, and providing funding for, “reasonable and necessary supports” which can then be purchased by the participant from an external service provider as and when required, within the limits imposed by funding levels in the plan.

While an NDIS participant may have aspirations to be employed by an ADE, they cannot simply go out and “purchase’ a job from the ADE. Supported employment is different in that it involves an employer/employee relationship between an ADE and the NDIS participant, which is established when the ADE has work available and it considers that the participant is a suitable employee to undertake that work.

The NDIS funding enables the ADE to employ adequate numbers of staff to provide the required levels of support in the workplace to the people with disability that it employs. Thus if a participant has not secured funding for employment in their NDIS plan, an ADE is unable to offer them a job.

The availability of supported employment that an ADE can offer depends on its ability to secure contracts from business and government to deliver various types of services. In LEAD’s case, we have a number of longer-term contracts in the areas of horticulture, cleaning, and mail management. From time to time, we are able to secure shorter-term contracts that can provide additional employment opportunities, for example in packaging of coins, beer or coffee.

To be a viable business that is sustainable over the longer term, an ADE needs to be active in the market place seeking out new work contracts, and needs to have ready access to a pool of employees who can be called on to fill these employment opportunities as they arise, frequently at short notice.

***Issues with the NDIS planning process***

LEAD is aware of a number of participants who have identified employment as a key goal in the planning process and sought to have funding for employment support included in their plan. However, a major failing we have observed is that the final plan has in many instances completely failed to provide for employment supports, and in other instances has delivered a minimal level of funding that is sufficient to pay for supports for only a limited period, which means that the participant cannot be offered long-term or regular employment.

LEAD is concerned that NDIS plans are generated by a computer algorithm that is fed by broad data inputs relating to levels of disability and fails to pay adequate attention to the specific circumstances and aspirations of individuals. Further, the process of annual reviews of plans involves starting again from “square one” with the computer algorithm each year, often leading to funding outcomes that provide no certainty of continuity from year to year.

The annual “NDIS planning lottery” works against the ability of ADEs to assure employees that they can continue to be employed from year to year. It also works against their ability to respond quickly to emerging employment opportunities in the market place. As a not-for-profit organisation, LEAD needs to be careful about taking risks in seeking out new employment opportunities when we cannot be reasonably certain that the NDIS will provide the funding support to enable participants to take up available employment.

***Pricing issues***

LEAD is concerned that the NDIA does not yet have a coherent basis for determining funding for supported employment that is based on the complexity of participants’ support needs. As noted in the discussion paper, those participants who were previously supported through ADE program funding continue to be supported at their existing funding levels, which were determined using the old DMI instrument.

For newer participants with no previous DMI assessment, the NDIA calculates supported employment funding based on the average per person funding previously paid to individual ADEs. This approach has a number of shortcomings with potentially serious implications:

1. The average price has no regard to the complexity of individual participants’ support needs. ADEs cannot afford to subsidise the support costs of higher-need employees, and the natural consequence is that ADEs will not be able to offer a job to people with complex support needs. This is a highly inequitable and undesirable outcome.
2. Because the average price is calculated specifically for individual ADEs, this means that the NDIA cannot confirm the amount of funding in the plan until the participant can nominate which ADE they are to be employed by. This creates needless delays and uncertainty for both participants and ADEs who are hesitant to commit to offering a person a job until their funding is confirmed – a “chicken and egg” situation.

***What is happening because of this?***

NDIS participants are being seriously disadvantaged by the current processes discussed above, primarily through the failure of the system to deliver employment outcomes which are clearly a “reasonable and necessary support’ to help enhance their independence and quality of life.

LEAD has also been seriously inconvenienced by these arrangements. Most significantly, LEAD has been severely constrained in its ability to offer supported employment to people that we would be ready and willing to employ if they were able to secure supported employment funding in their NDIS plan at a level commensurate with their support needs.

As a highly regarded ADE in the Canberra region, LEAD is regularly being contacted by businesses and government agencies looking for us to provide them with contract services that employ people with a disability. As part of their corporate social responsibility these organisations are committed to assisting people with disability to enjoy the life experience that work provides.

Regrettably, LEAD has more work on offer than people available to do it. Our current estimate is that we could offer meaningful employment to an additional 50 people if the NDIS processes were sufficiently responsive.

***What should be done?***

It is essential that supported employment be recognised as materially different from other NDIS funded supports.

One option is to withdraw supported employment (funding and administrative arrangements0 from the NDIS processes and to return the funding and program arrangements to the Department of Social Services under an integrated policy framework linking supported and open employment, aiming to deliver the most effective employment outcomes for all people with disability.

We concede however that this option is likely to be considered unrealistic. It is therefore necessary to consider workable modifications to the NDIS planning and funding processes to significantly improve supported employment outcomes.

**Recommendation:**

LEAD recommends that all NDIS participants who express an employment goal in their NDIS planning meeting should be provided with a guaranteed minimum amount of funding in their NDIS plan for “finding and keeping a job”. This would be in the nature of “seed funding” that will enable the participant to engage with an ADE to try to find a job, and would enable the ADE to make an immediate job offer, subject to the person being assessed as suitable.

This would cut through the current “chicken and egg” scenario discussed above and deliver greater certainty to both ADEs and participants. There would also need to be a short-term follow-up mechanism whereby the ADE can advise the NDIA of the actual costs associated with supporting the participant in their job, and this can included as longer-term funding in the participant’s NDIS plan.

As part of this approach, there will need to be a mechanism for recognising the variability of participants’ support and delivering funding at levels commensurate with support needs. A price schedule could be set, similar to the previous differential support funding based on DMI assessments, which should spell out the characteristics of the various levels of support. As experienced operatives in supported employment, ADEs should be trusted to self-assess the support needs of employees; this would be more efficient than re-establishing a government-administered assessment mechanism like the DMI. The ADEs’ assessments would of course be subject to audit, and a strong penalty regime would serve as a deterrent to fraud.

This approach is entirely consistent with the “employment first” principle proposed in the discussion paper, and which LEAD strongly endorses.

A change along these lines would be a strong and positive strategy towards this principle, will help deliver better employment outcomes for people with disability, and will help secure a more sustainable future for ADEs.

**Attachment A**

**Response to the discussion paper**

Following are a series of dot point responses to the questions posed in the discussion paper. Many of these points articulate in greater detail the overarching issues that are discussed in the body of this submission.

1. ***Are there other principles, which should guide the Government’s policy direction for supported employment?***

* Fair wages
* Integration not segregation
* People get the supports they need that enable them to work
* Nobody to be deemed as unemployable

1. ***What is a ‘good’ participation outcome for a supported employee and how can good outcomes be measured?***

* Wage based on legally ratified tool
* Opportunity for inclusion or connection with community in the work they are doing
* Job roles which hold some value in the community
* Variety in the scope of work available for people with a disability
* Client satisfaction in their jobs
* Scope for learning both soft and hard skills
* Good working environment
* Safety records

1. ***What do supported employees most value about working in an ADE?***

* Good support and training from the ADE
* Flexibility and tolerance
* Good disability awareness
* Ability to accommodate issues that may not be accommodated in other environments
* Friendly environment

1. ***Why do most supported employees transition back to supported employment from open employment?***

* Stronger emphasis on productivity and higher work expectations in open employment
* Not enough support available under DES model
* Miss the people or peers they have known for many years
* Difficulties in building new sustainable friendships with co-workers without a disability can make fitting into a workplace difficult. Supported employees may need intensive support in initial stages of open employment to get this established
* Employers are not ready for the level of support and assistance they may be required to provide

1. ***How can more supported employees be provided the opportunity to choose open employment?***

* Increase level of support to people in the workplace, particularly in initial placement stages
* Remove/change the DES eligibility process
* Ensure service safety in innovation
* Promote more natural employment pathways. People with disability should experience the same work expectations as their peers – starting casual work at 14yrs in paid after school work with support, moving to post school transitional jobs that can lead to a career, then career advancement
* Funding for community development component. Individualised funding has limitations in working on the demand side (champion employers and disability aware workplaces) as it strongly focuses on supply side (people with disabilities). LEAD believes for every 1 hour of individualised funding focused on the person with disability should have an equal hour of funding focused on employer or community development.
* Better supported school years work experience. Schools and parents need to build expectations and work culture understandings earlier. Current work experience programs should be titled work exposure not work experience. People with disability are taught wrong notions of employment as they make tea or collect mail. Work experience placement needs strong clear duty statements with task expectations and good preparation prior to placement. School work experience can do more harm than good including giving valuable potential employers of people with disability a low support, high stress experience that can burn future employment opportunities
* Ensuring that the providers of employment support are skilled and experienced. We sometimes bear the brunt of other disability services (not delivering employment support) who use bad practices especially bad IR/HR practices. In particular, people need to understand the legal boundaries of volunteering and work experience.

1. ***Why is participant access to concurrent DES and ADE support services so low?***

* Still requires DES eligibility guidelines to be met. People deemed 0-7 should be able to access open employment roles as well. Need to check the rule about if they are in work at their assessed capacity can they access a DES program?
* Our ADE clients require more support on the job than is typically funded by the DES program. Surely, in an NDIS environment it would be more cost effective to provide 1:1 support dollars for someone to be at work with a person than dollars for them to go to the movies or an art class. Employment funding falls within the capacity area of NDIS funding and the NDIS misclassifies capacity building to be time limited. This should not be the case.

1. ***What is the role a supported employer can play in building employee capacity for transition to open employment?***

* Building social skills. It is more common for us to see people with disability lose their jobs over the soft skills of work not the tasks required by the job. It is easy for us to build skills in tasks through vocational training etc but it is things like reliability, getting on with the team, personal presentation and communication that causes problems in open employment workplaces

1. ***What will attract NDIS participants to employment opportunities in the future?***

* There needs to be an easier to understand disability employment support system. Currently it is hard to explain to people and families the difference between NDIS employment funding and DES funding
* A seamless pathway for people with disability into employment. Employment support agencies should be able to provide support to young people in paid after school and weekend work positions. Employment support agencies should play a crucial role in school work experience support. Also employment support services should have a way of capturing students before they leave school and go home and lose skills and motivation to work
* There is a specific issue with moving into new locations due to no DMI assessment process. Variable rate is site specific

1. ***How are ADEs marketing their services to an expanded market of potential NDIS participants?***

* Through connection with the schools in the area
* Partner alliances with two other ACT services
* Attendance at expos and careers days
* Through our RTO delivery
* Word of mouth
* With LACs – regrettably unsuccessfully
* Network meetings

1. ***What is the range of NDIS supports that ADEs currently offer?***

* SLES
* Finding and keeping a job generally
* ADE
* Increased social and community participation
* Support connection

***11. What costs would be involved for ADEs that choose to:  
a) reform to more open employment models?   
b) redevelop as service providers offering other NDIS supports?  
c) specialise in the provision of employment support as a   
non-employer?***

1. More open employment

* Already part of LEAD’s service structure. No cost.

1. Other NDIS supports

* Already part of our service structure although inadequate NDIS pricing is a disincentive to operate more in this area.

1. Non-employer employment support specialist

* We already have the capability to do this. Minimal cost.
* Cost is not the barrier to this. Policy and bureaucratic processes are!

***12. Should the Government have a role in supporting new market entrants and start-ups in the short-term?***

* Government policy should be equitable for new and existing players

***13. What investment, or industry adjustment will promote viable expansion in the employer/provider market?***

* There have been some very productive developments in social procurement opportunities in the ACT currently. The issue is now our ability to respond to the opportunities with the NDIA effectively acting as our most problematic barrier to attracting and commencing new workers. We need to be careful not to build a demand market without sorting the supply issues at the same time. This needs to occur concurrently.

***14. How could employer/providers share learnings of their success and failures within a competitive market?***

* Services and employers already have collaboration processes in place. Not sure it is accurate or helpful for government to assume that this sharing is not already occurring. It is important however for government to recognise that the more they push competition the more of an issue this will be for them.

***15. How can wage supplementation be better targeted?***

* No comment

1. ***How can the NDIS enable an employment first approach in planning?***

* Get the current funding right in the first instance. We have long term ADE workers who have had plan errors in relation to their ADE funding. Distressingly we have had to cease their employment in some instances where the error has not been rectified. This leaves us open to industrial relations issues as terminating someone’s work is very different to ceasing someone’s funding. We have obligations and workers have rights that are clear under IR law. There is a formal process required to terminate an employee and an error in an NDIS plan that sees someone’s funding cut off is not grounds to terminate.
* Establish a suitable way of funding new ADE entrants. The NDIA variable service funding is not a good way of ensuring services will be open to placing people with higher support requirements. It also means that people need to have identified their employment service prior to attending their planning meeting as the rate for each service is different and so stops people having it there in the event that they may find a suitable ADE placement. ADEs need to have access to a pool of workers when opportunities arise so a way where employment funding could be in plans so when a need arises we don’t have to wait for plan reviews etc - in the ACT the current wait for a plan review is upwards of three months. By then work opportunities would have had to be actioned.
* Remove the notion of employment support (capacity building) being time limited. People may have support requirements that are life-long but can still participate in an employment environment. Isn’t it better to work than go to bowling or the movies?
* Ensure that the NDIA recognises or enables bundled and appropriate levels of employment support. We have lots of people who approach us with 20 hours worth of employment supports in their NDIS plan thinking this is enough to find, place and train someone in employment. It is difficult to approach an employee without a guarantee for support beyond placement. When job searching we offer the whole bundled package
* Make employment the easiest option for people with a disability when they receive their NDIS plan. For example have employment dollars available in everyone’s plans so that if people want to work they can without seeking a plan review or hitting a bureaucratic road block.

1. ***How do current assessment processes drive the inclusion of employment supports in an NDIS participant’s plan?  
   a) Are existing employment assessment processes appropriate for NDIS participants?***

* There is no relationship between the current employment assessment processes and NDIS planning. The NDIS does not appear to consider the DES assessment processes. In the initial NDIS rollout, we had many plans that stated people were to go for a Job Capacity Assessment but nobody explained to families what this meant nor determine if this was an appropriate referral. In terms of ADE no assessment process is available for new clients and the variable rate is both inappropriate and non-transferrable, which limits the potential growth of services. For current ADE clients there are different approaches that sometimes allows them to transfer their current DMI rate where other planners do not allow this transfer. The SLES assessment also seems to have great variance in the people who get access to this very useful funding model. Our SLES participants have ranged from people with very high support needs to those ready for work – the process seems a little random and confusing for families and people with disability.

1. ***Are there different approaches to planning that could be explored for different groups of supported employees (e.g. younger workers, established workers, retirement transition)?  
   a) How could SLES better support school leavers to build skills and confidence in order to move from school to employment?***

* Any new approaches to planning need to consider replicating the natural patterns of employment for all people. That is there should be a way of supporting young people to access paid after school work or weekend work. These jobs are often structured to teach work in a systemic way to young people. Supported work experience is also a good way of demonstrating expected work habits. PWD doing inadequate work experience leads to unreal expectations in the workplace. The transition from school should be about job exploration. People should be supported to move through a number of different work options without penalty followed by a move into career of their choice. Established/older workers should then receive some level of career development support and a staged transition into retirement.
* One approach could be to provide employment seed funding in people’s plans to accommodate these natural employment transitions. A younger worker could access support dollars to do work experience, an established worker could access support funding to train in a new skill.
* SLES should start when people are still at school enabling them to do paid after school and work experience support. People who are DES or ADE determined do not need SLES - it should only be for those who with a little extra support could get to DES. Policy setting should be more clear about the process to move from SLES to DES when successful in obtaining a job bearing in mind you are ineligible for DES if you have an existing job. Ensure the use of experienced employment providers to deliver employment support. Community support providers do not always consider industrial rules such as those that relate to work experience or volunteering.

1. ***What role could or should an NDIA Local Area Coordinator or planner have in linking participants to an employment opportunity?***

* **Absolutely none!!**  Employers willing to engage people with disability are gold in our community. For a LAC or planner to place someone in employment without an ongoing appropriate support means that we risk burning our most precious resource. Employers have long memories. Many employers say to us that they have “done it before” but it was a disaster. Right now the LACs can’t even get the planning parts of their jobs done on time and are focused on pushing through plans not establishing community supports. We argue that the DES and ADE service providers, already connected to their communities and employers, should receive LAC funding to boost the job search, job matching, training and job support that existing services currently do.

1. ***What role could or should NDIA market stewardship have in developing a market with a range of employment, other support, or participation options for existing supported employees?***

* Promotions and advertisement role only
* Raising the valued status of PWD.
* National ‘strategies’ can have a limited effect. Local issues need local responses from local agencies.
* Fix internal barriers before looking at other areas.