



Touching Base Inc submission

Section 10 – draft lists of

NDIS Supports

“Touching Base strongly opposes the introduction of restrictive support lists. The proposed lists restrict NDIS participants’ ability to personalise their supports, which contradicts the scheme’s core values of choice and control.”

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DATE: 25th August 2024

Touching Base Inc

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Who we are

Touching Base developed out of the need to assist people with disability and sex workers to connect with each other, focusing on access, discrimination, human rights, legal issues and attitudinal barriers. Touching Base has brought the disability sector and the sex industry together in respectful and meaningful ways, through education, policy development, lobbying, resources development and training workshops for disability workers and sex workers.

The benefits of sexual supports

In the case NDIA v WRMF¹ a full bench of the Federal Court set a precedent by validating the findings of the AAT that access to sexual supports enhanced the health, wellbeing², mood, self esteem of the participant.

The AAT accepted WRMF's response that supporting the "*achievement of sexual release [from the sex services provided]... was good for her mental well-being, her emotional well-being and her physical well-being*". Accepted outcomes of sex services being accessed included that "*she said that her mood is less dull, it releases tension and anxiety, and improves her outlook on life*".³ These facts were not challenged by the NDIA in their appeal to the Federal Court.

The need for sexual supports

In 1992, Anne Finger, an American disabled author and activist, famously wrote, "*Sexuality is often the source of our deepest oppression; it is also often the source of our deepest pain*".

The NDIS has produced internal research reports related to sexuality and sexual activities⁴ that have been released under FOI applications, that highlight why persons with disability are more likely to seek sexual supports, as follows:

¹ [National Disability Insurance Agency v WRMF \(2020\)](#)

² NDIA v WRMF para 47

³ WRMF v NDIA (AAT) para 34

⁴ NDIS Technical Advisory Branch (TAB) - [Research Request - Sexual Activity Supports 2020-07-10 FOI 23.24-1401.pdf](#), p.32

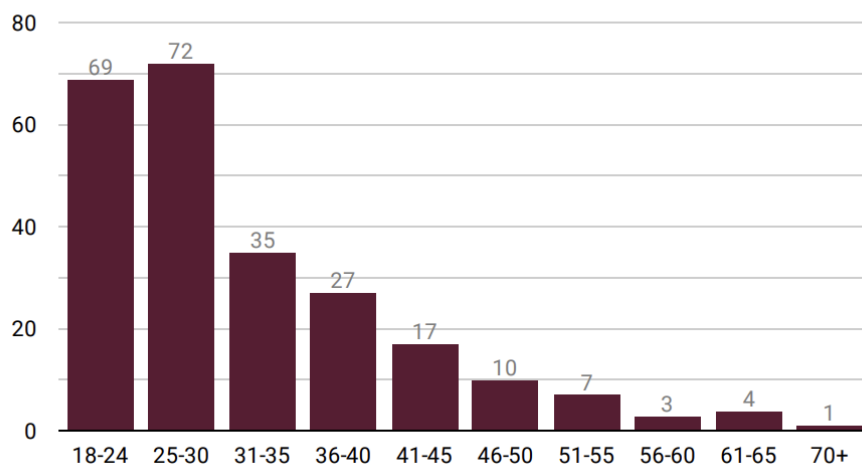
Sexuality and disability

A review of the social and empirical evidence on disability and (a)sexuality, conducted in 2001 [77], highlighted that people with disabilities tend to face disproportionate levels of difficulty in leading fulfilling sexual lives compared to people without disabilities, despite possessing the same sexual needs and desires. The review identified that people with disabilities tend to encounter several barriers when expressing their sexuality and accessing sexual and reproductive healthcare, located at the individual (e.g. poor body image), societal (e.g. negative attitudes), and structural (e.g. inaccessible environments) levels.

Data from Touching Base referral services confirms this. Of the people with disability seeking disability friendly sex services via our referral service between 14/07/2020 and 22/08/2022, **for 23% of them seeing a sex worker would be their first sexual encounter.**⁵

The age range of these clients in the diagram below further shows **many clients wanting to access our referral list of sex workers are losing their virginity at a much later age than the average Australian.** We believe this is only the tip of the iceberg.

Clients by age - haven't had sex before



⁵ [Appendix A to Annual Report 2023 – Referral List data \(-gender data\) \(PDF\)](#) p.4

This evidence clearly indicates that having a disability can be a barrier that can significantly delay opportunities for some people to explore and express their sexuality with another person.

Why sexual services are imperative for equity

The same NDIS Technical Advisory team research report ⁶ also quotes directly from the Northcott Sexuality and Relationship Policy to helpfully demarcate which disability specific sexuality support needs **require a sex worker** to assist the person with disability to meet those needs.

Support workers cannot help the person/s with a disability to:

- *Position them sexually (transfers must refer to standard Manual Handling procedures)*
- *Help with penetration of any opening (e.g. put a penis inside an anus)*
- *Physically assist with masturbation (e.g. physically guide someone's hand to masturbate)*
- *Be in the room during the sexual act*
- *Put on/insert contraception or sex toys that need to be inserted (e.g. put a condom on a person's penis or insert a dildo into a vagina) [pp. 14,15]*

Sex Aids

Support workers cannot be expected to provide physical assistance with masturbation and sexual positioning. Visual aids and resources are available from recognised organisations, and supporters may assist people to contact suppliers for advice if they want more information.

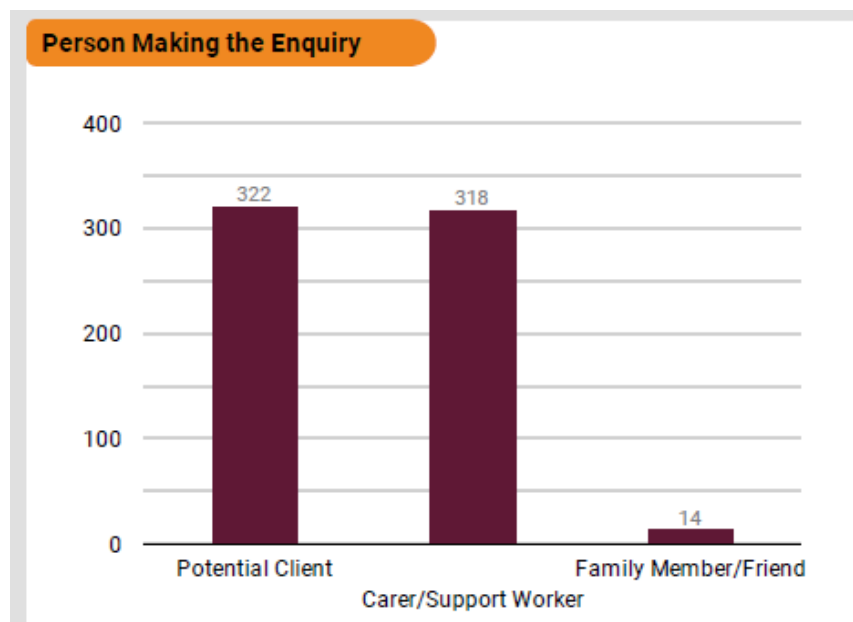
There are also many sex aids specifically designed to make them more accessible for disabled people⁷. These must be permitted to be funded by the NDIS for participants who require them.

⁶ NDIS Technical Advisory Branch (TAB) - [Research Request - Sexual Activity Supports_ 2020-07-10_FOI 23.24-1401.pdf](#), p.32

⁷ [Pleasure ABLE – Sexual Device Manual for Persons with Disabilities](#)” and [“The MA+ Guide: A Guide to more Accessible Sexuality-Related Assistive Technology”](#)

Assistance required to access sexual supports

Collated data from the operation of Touching Base’s referral list of disability friendly sex workers and sex services premises, from 1st July 2022 - 30th June 2023, show that almost 50% of people with disability seeking referrals **required assistance for the form to be filled out**. This figure is consistent with prior years.



This evidence suggests that many of these people seeking referrals from Touching Base have significant disabilities and on that basis may be eligible to have sexual supports funded if they have an NDIS plan. Overall, compared to the size of the scheme, and number of participants overall, these are not large numbers of people seeking sex services through Touching Base.

Overwhelming community support

The NDIS internal research reports related to sexuality and sexual activities contradict Minister Shorten’s public statements that sex services funded under the NDIS do not meet the test when it comes to public support, as follows:

It appears that there is overwhelming community support for the NDIS to support funding for sexual activity and the development of a comprehensive sexual activity supports policy.

No oppositional statements could be found from religious groups.⁸

⁸ NDIS Technical Advisory Branch (TAB) - [Research Request - Sexual Activity Supports 2020-07-10_FOI 23.24-1401.pdf](#) p.47/62

A recent Joint Position Statement titled [Ten Organisations Call for People with Disability's Access to NDIS Funded Sexuality Services to be Protected](#) strongly condemns recent comments made by Minister Shorten regarding the exclusion of sex work and sexuality services from the NDIS.

Touching Base also contributed to the development of a new [Joint Position Statement on NDIS and Sexuality](#) that received endorsements by 37 other disability or allied health organisations and services, which specifically insists that “*accessing sex work services and sexual supports must remain a funded support where reasonable and necessary.*”

Structural revision of the draft NDIS support lists required

Touching Base supports the position taken by Every Australian Counts and strongly opposes the introduction of restrictive support lists. The proposed lists restrict NDIS participants' ability to personalise their supports, which contradicts the scheme's core values of choice and control. This can lead to less innovation, separation, and higher costs.

Touching Base also endorses the DANA submission on the draft NDIS support lists and in particular echoes their call in the following recommendations:

Recommendation 1:

That Government re-evaluate their intention to constrict the types of supports the NDIA can fund through these draft lists, in favour of a clearer, principles-focused trust-based approach, accompanied by investments in building capacity and understanding of current definitions of NDIS supports.

Recommendation 2

That Government, if electing to proceed with this course, acknowledge and address the identified problems with the lists approach, and take all action necessary to promote clarity, cost-effectiveness and understanding, and reduce stigma, harm and confusion.

Recommendation 3:

That Government allocate increased funding to the provision of independent and rights-focused decision making support to help people with disability understand the NDIS supports definition and make informed decisions about their lives.