



May 10, 2017

## CERTAINTY FOR DISABILITY

### WE WON'T BUY THE GOVERNMENT'S HOLLOW SPIN

### A MESSAGE FROM STATE SECRETARY LLOYD WILLIAMS

The NDIS is complex, but it doesn't mean the Victorian Government needs to privatise public disability services. In last week's announcement that the Government will go ahead with an EOI process, they have claimed DHHS needs to transfer to the non-government sector to give choice to people with disabilities.

This is an example of the government's hollow spin. By privatising disability services, the Government is taking away our resident's choice to continue receiving public disability services under the NDIS. Privatisation is the exact opposite of choice.

Another example of government spin is when they state that "as the NDIS rolls out no one should be worse off – not people with a disability and not workers" – This statement only refers to the roll out period, and not thereafter. The NDIS will be fully rolled out by July 2020, proving the Government has no real commitment to protecting workers and people with a disability beyond this date.

HACSU is a union that fights, we not only fight for our working conditions, but the conditions of future workers and those in the private sectors, but most importantly, we are one of the only groups actively taking to the streets to fight for quality services for people living with intellectual disabilities.

We may be in for a long fight, but it is the most valuable fight of our careers.

Lloyd Williams

## EOI FACTSHEET FREQUENTLY ASKED QUESTIONS

### WHAT IS AN EOI PROCESS?

An Expression of Interest (EOI) process is the first formal step in a process to privatise DHHS disability services. The EOI invites non-government service providers to indicate whether they would be willing to take on DHHS disability services, who have until the 29th June 2017 to make the case that they are capable of taking on services. The services that non-government service providers (both not-for-profit and for-profit) are able to bid for are:

- Group Homes (Supported Independent Living)
- Facility Based Respite (Short Term Accommodation and Assistance)
- Early Childhood Intervention Services (ECIS)
- Behavioural Intervention Services (BIS)

Providers can submit an EOI for any combination of services across any number of geographical areas. While the EOI closes on 29 June 2017, the Victorian Government has said it won't make any further decisions until the end of the year.

### WHAT ARE THE "STRICT CRITERIA" NON-GOVERNMENT SERVICE PROVIDERS NEED TO MEET TO BE CONSIDERED TO TAKE ON SERVICES?

Non-government service providers (both not-for-profit and for-profit) need to go through a two-stage process to be considered. In the first stage providers need to demonstrate they meet the following four criteria:

- They can deliver services under the NDIS
- They are financially viable
- They have strong safety record
- They employ disability workers on fair terms

Providers need to meet all four criteria to reach the next stage of application. If a provider meets these criteria, they will be given the opportunity to make a formal expression of interest where they are asked to demonstrate their ability to meet the following four criteria:

## 1. Quality Services

- Approach to and experience in delivering an individually driven service model
- Ability and approach to manage participant and family complaints
- Ability and approach to building connections to a local community and fostering social capital

## 2. Operational Capability

- Ability to deliver disability services under the NDIS
- Ability to ensure any transfer of services is smooth
- Financial viability and ongoing sustainability

## 3. Workforce Development

- Proven success in attracting, managing and retaining a quality workforce

## 4. Innovation

- Experience in and approach to delivering continuous improvement and innovative models of delivery
- Propose innovations to the model of delivery for services which benefit participants, families

While all of these criteria seem sensible and fair, the Government has not provided any detail on what it considers financial viability, a strong safety record or fair terms of employment. This is incredibly concerning and suggests the Government is only paying lip-service to these conditions.

**Ultimately, these criteria mean nothing without knowing what the standard of evaluation actually is. For example, does “fair terms” mean that providers who employ staff on the Modern Award will be excluded? We simply don’t know, and the Government’s actions so far suggest their evaluation won’t be up to scratch.**

## WHAT IS THE RELATIONSHIP BETWEEN THIS EOI AND THE NDIS?

This EOI process is completely separate to the rollout of the NDIS. The NDIS is currently rolling out across Victoria on an area-by-area basis. When the NDIS launches in an area, people with disabilities who are currently receiving services from the Victorian Government will continue receiving those services if that’s what they want. The only difference is that the funding to pay for those services will come out the \$22 billion NDIS annual budget. There are currently over 500 people with disabilities receiving DHHS group home services in Barwon, North East Melbourne, Central Highlands and Loddon. These people are currently in the NDIS and are still receiving public disability services. Showing that public disability services can operate under the NDIS.

However, if the Government privatises its 506 group homes, those residents who wish to continue receiving services from the DHHS will have that choice taken away from them. This goes against the principles of choice and control at the heart of the NDIS. It’s important to remember that the Government’s decision to privatise public disability services is not required by the NDIS. **By linking the two together using the argument that its decision is about providing “choice for people with disabilities” the Government is deliberately misleading the public, people with disabilities and the workers who support them. HACSU argues that this EOI is linked to the NDIS only because NDIS prices—which pay worker wages and conditions—are set to**

**the Modern Award and the Victorian Government does not want to pay for the wages and conditions of DHHS workers since they are around 30% more than the Modern Award. Like any privatisation, this about cutting costs, not providing choice.**

## WHY ARE THE GROUP HOMES FOR FORMER SANDHURST RESIDENTS NOT INCLUDED IN THE EOI PROCESS?

The Government has said that the five group homes housing the former residents of the Sandhurst Centre in Bendigo will not be included in the EOI process and will continue to be operated by the DHHS “for now.” There is no further detail on whether these five group homes will eventually be privatised. The Government has said that not including these homes in the EOI process is “consistent with Government’s previous commitment to clients.”

**HACSU is calling on the Government to give all clients the choice to remain in DHHS services. It is contradictory to give one group choice and not another.**

## WHAT ARE THE ALTERNATIVE MODELS OF SERVICE DELIVERY HACSU IS DEVELOPING?

HACSU has been campaigning against the Government’s decision to privatise public disability services. As part of its campaign, HACSU has been lobbying the Government to consider alternative models of public sector disability services delivery. The Government has given an in-principle commitment to investigate the viability of alternative models of public sector service delivery under the NDIS. This study will be undertaken by a team of respected researchers from a number of universities and will occur over the coming months. Once it is completed, these alternative models will be assessed against the same EOI criteria for non-government service providers. **While the Government has told HACSU it supports this work, it is under no obligation to accept any of the recommendations.**

## WHAT DOES THE GOVERNMENT MEAN WHEN IT SAYS IT “EXPECTS TO REMAIN A SERVICE PROVIDER IN SOME FORM”?

The Government has not clarified what it means with by statement, however, HACSU’s understanding is that the Government will continue to provide services through the Disability Forensic Assessment and Treatment Service (DFATS) and for particularly complex clients and complex group homes.

## WHAT IS THE TIMELINE FOR THE FULL PRIVATISATION PROCESS?

The timeframe for complete privatisation is unclear. If no service providers meet the Government’s EOI criteria then no transfer will take place. However, if the Government decides that one or more providers meet the criteria then it will likely proceed to a formal tender for services. In NSW, where the Liberal Government is nearly finished the process of privatising all the Group Homes it operates, the timeframe from the release of the EOI to the awarding of contracts was twelve months. The Victorian Government has publicly criticised the NSW Government’s process as “rushed” which suggests that if it proceeds, a transfer is unlikely to occur until at least May 2018. **While the Government has stated that there will be no changes to services in 2017, members should be cautious as the Government has shown they cannot be trusted.**

# IMPACT ON DHHS WORKERS

## WHAT DOES THE GOVERNMENT MEAN WHEN IT SAYS WORKERS WILL BE TRANSFERRED ON “FAIR TERMS”?

When referring to “fair terms” for staff in relation to a possible transfer, the Government has only publicly committed that staff will transfer with their current Enterprise Bargaining Agreement (EBA) and will have their prior service recognised. Currently, the EBA is expired and HACSU is negotiating with the DHHS for a new replacement four-year EBA. HACSU cannot say when negotiations for a replacement EBA will be finalised, however we expect it to be finalised prior to any possible transfer, which is why we have numerous claims relating to job security. **In terms of the Government’s commitment to “recognise prior service” it is unclear what this practically means and whether it covers recognition of accrued leave entitlements. This is why our job security claims in the new EBA are so important.**

## HOW LONG WILL TRANSFERRING STAFF MAINTAIN THEIR EBA?

Even with a replacement four-year EBA, **there are a large number of risks for workers where an EBA is transferred using the Fair Work Act’s “Transmission of Business” provisions:**

- Transmission only applies to existing employees that transfer. New employees may not be covered and may be employed at lower wages and conditions creating a two-tiered workforce working side-by-side in the workplace – breaking down worker collective by creating the “haves and the have nots” and producing perverse incentives for employers to treat more expensive workers differently, e.g. not giving them favourable shifts, unreasonable performance management, etc.
- Transmission only provides comfort for the life of the EBA. Once the EBA expires an employer has several options:
  - » Negotiate a new EBA with improvements. However, this is **unlikely given the underfunding of the NDIS.**
  - » **Try and force a new EBA that reduces wages and conditions**, taking them closer to the Modern Award on which NDIS prices are based.
  - » Leave the EBA in place after it expires. The practical effect of this is **a long-term wage freeze.**
  - » Apply to the Fair Work Commission to terminate the expired EBA. **Workers revert to the Modern Award with immediate cuts to pay and conditions.** There are many examples where this has occurred across Australia.
- **Transmission can only happen once.** If the new provider transfers the work and employees to another provider then the EBA would not continue.

## WHAT ARE THE REASONABLE INCENTIVES THE VICTORIAN GOVERNMENT MIGHT OFFER FOR STAFF TO TRANSFER?

These are unclear, beyond an “employment guarantee” it is telling that the Government has not stated how long this guarantee would endure for.

## WILL THERE BE PACKAGES FOR STAFF WHO DON’T WANT TO TRANSFER?

The Government does not want to lose any staff through this transfer so it is unlikely that they would offer any kind of incentive to staff to not transfer. **However, we simply don’t know.**

## WHAT IS THE IMPACT OF THIS ANNOUNCEMENT ON THE COLANDA CLOSURE NEGOTIATIONS?

The Colanda closure negotiations are occurring as part of wider negotiations for the new EBA. While the terms and conditions for Colanda staff who move to replacement DHHS group homes will be secured through this process, it is unclear whether the replacement Group Homes to house former Colanda residents will not be included in the EOI process. Given the Government has only stated that the Group Homes housing residents of the now-closed Sandhurst Centre will not be included, **we believe that the replacement Colanda Group Homes will be subject to a transfer under the EOI.**

## WHAT DOES THIS MEAN FOR STAFF TRANSFERRING TO THE NDIA?

Staff employed as Case Managers and in Outreach were invited to apply for positions with the National Disability Insurance Agency (NDIA) earlier this year. **The EOI does not affect these staff.**

# THE NGO/PRIVATE DISABILITY SECTOR AWARD

## WHY WE MUST CAMPAIGN

PUBLIC (DHHS) SERVICES		NGO/PRIVATE DISABILITY SECTOR		DIFFERENCE
<b>WEEKLY WAGES</b>				
Cert IV Direct Support Worker (DDSO1 Q Y5)	\$1077.30	Cert IV Direct Support Worker (SCHADS 2.4)	\$958.28	<b>9%</b> <b>\$86.02 P/W</b>
Advanced Dip Direct Support Worker (DDSO2A y9)	\$1383.29	Advanced Dip Direct Support Worker (SCHADS 3.4)	\$1041.96	<b>33%</b> <b>\$341.33 P/W</b>
House Supervisor (DDSO 3 Y5)	\$1290.03	House Supervisor (SCHADS 3.4)	\$1041.96	<b>24%</b> <b>\$248.07 P/W</b>
House Supervisor -Complex setting (DDSO3A Y5)	\$1533.52	No Allowance for HS Complex setting (assume equivalent to be SCHADS 4.4)	\$1183.18	<b>30%</b> <b>\$350.34 P/W</b>
Area Coordinator/Manager (DDSO5 Y2)	\$1875.47	Area Coordinator/Manager (SCHADS 6.3)	\$1401.97	<b>34%</b> <b>\$473.50 P/W</b>
<b>COMMUTED ALLOWANCE - ANNUALISED WEEKEND AND PUBLIC HOLIDAY PENALTY RATES</b>				
Full Time Employees only - 18% of Salary. Paid for all purposes and when on leave		Nil, Penalty Rates apply Saturday – 150% Sunday – 200% Public Holiday – 250%		<b>18% of salary while on all forms of Leave</b>
<b>QUALIFICATIONS ALLOWANCES</b>				
Additional Certificate - \$38.08 per week		NIL		<b>\$38.08 per week</b>
Degree or diploma - \$57.12 per week				<b>\$57.12 per week</b>
<b>SUBSTITUTED PUBLIC HOLIDAY LEAVE</b>				
Full Time - 13 days Part Time – 1 day for each PH worked		NIL		<b>Up to 13 days pay</b>
<b>SLEEP-OVER ALLOWANCE</b>				
Monday to Friday - \$88.20 Weekend and PH - \$104.08		SCHADS – \$44.00 per night Expired EBAs' - \$74.95		
<b>CASUALISATION OF SUPPORT WORKFORCE - CONTINUITY OF SUPPORT AND CARE</b>				
	<b>22%</b>		<b>43%</b>	<b>Higher Casualisation</b>  <b>Lower continuity of Support and Care</b>
<b>SUPERVISION IN GROUP HOMES</b>				
One Full Time supervisor per group home		Various ratios of remote off site supervision per group homes: 1 supervisor : 4 group homes 1 supervisor : 6 group homes 1 supervisor : 8 group homes		<b>Lower Supervision – Higher Risk</b>

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