

Submission to

Portable long service leave scheme for Queensland's social and community services sector

By

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20-11-18

The Author

John Homan has been involved with the disability sector at a strategic level since the introduction of the federal Disability Services Act in 1986, and at an operational level much longer.

- He is a member of the management committee of the Capricorn Community Development Association, and is a Life Member
- he wrote a discussion paper on a 'National Disability Insurance Plan' in 1997,
- he was a management committee member of several disability service providers,
- served as a Community Member on the (first) Disability Services Council of Queensland,
- wrote four submissions to the Productivity Commissions inquiry into Disability Care and Support, and
- made two presentations to the Productivity Commission.
- made a submission to the Productivity Commission's inquiry into NDIS Cost.
- he was co-author, with Sandy Paton, of "Learning with Amanda", presented at the International Conference on Engaging Communities, Brisbane, 2005

Issues

Long Service Leave as a tool to promote stability through retaining staff over extended periods of time, has served its purpose over the years. However, the introduction of the National Disability Insurance Scheme (NDIS) has created a new normal for the social and community services sector. Person centred services are this "new normal".

Person centred services give participants choices. They can select services from industry specialist services but also from generic, allied health, or 'quality of life' providers, like sports, arts, education, employment, or social activities. This will drive a shift from 'off the shelf' services to participant specific niche services. Participants may also select compatible support workers, and retain these support workers when they change service providers, or take services from more than one service provider.

Providing niche services that meet the specific needs of a participant, and the matching of participants with compatible support workers will become the norm.

This will lead to major casualisation of the work force.

Additionally, it will enable support workers to cross inter-sector boundaries. They may work some days in disability, and on other days may be in health, mental health, DV or aged care. It may be the catalyst that will unite a fragmented social and community services sector into a single, organic system.

Service providers will need to adjust their business model to accommodate this new environment in which additional to their specialties, they will also become 'labour-hire' agencies that source casual staff to meet participants needs.

Long Service Leave, as we know it, may no longer be relevant.

Related flow on effects:

1. Training and certification become the responsibility of the support worker.
2. It will be in the workers' hands to decide which parts of the sector they wish to work in and what certification will be relevant.

A portable Long Service Leave system in a casual workers' environment will need different rules and understandings. The two main elements are:

1. **Money.** After accumulating a certain time of service in the sector, the support worker is entitled to be paid a relevant amount of, what may be referred to as, holiday pay. With the system being portable this payout should no longer be administered by service providers, but may be added to support workers' pay rate. It may then be administered by an independent body, preferably a government instrumentality, further connecting it to the sector. And uncoupling it from the service provider.
2. **Leave.** In the non portable system Long Service Leave and payout are linked in a common time frame. If this was maintained when Long Service Leave becomes portable, it would create a new Murphy's Law. When Long Service Leave becomes due it will be inconvenient for everybody! Separating the money and leave components will make a negotiated solution a practical option.

Recommendations

1. Uncoupling long service payments and leave entitlement.
2. Linking long service payment with support workers' pay, rather than service providers.
3. Administration of long service moneys by an independent, preferably government, instrumentality.
4. A mediation process to assist resolving issues around taking leave due.

Conclusion

The existing Long Service System will fit poorly into the 'new normal' of person centred services. The suggested adjustments may not be helpful to service providers but will add a level of flexibility that will benefit participants, support workers, and the sector as a whole.

Attachment:

In April 2017 the author made a submission (142) to the Productivity Commission inquiry into NDIS costs. In it is a section of 'Future Casting', which speculates on trends and development of the sector. It is attached as it describes more comprehensively the environment that Portable Long Service Leave will be predicted to be part of.

https://www.pc.gov.au/_data/assets/pdf_file/0006/215826/sub0142-ndis-costs.pdf

Future Casting

In this section the author has indulged in contemplating the future. Guided by research, anecdotal evidence, experience and a dose of imagination, it identifies trends and consequences in the social and community services sector.

What are the effects and challenges for people with disabilities, service providers and workers?

Stepping out of the twilight of the old world into the light of the new one is challenging to all parties: participants, support workers, service providers, and other stakeholders. There is much unlearning to do, before the new environment becomes a comfortable one to accept, embrace and operate in.

The most obvious change is that the new world is 'person centred', The participant is at the centre and meeting his 'necessary and reasonable needs' is the central objective. Relationships become facilitating, and supporting, equal and trusting.

The introduction of outsourced Local Area Coordinators has created confusion, mistrust and suspicion, mainly based on lack of knowledge and misunderstandings. Many organisations have tried to ignore LAC's (in the hope they would go away?) The question has been asked: Is outsourcing Local Area Coordination just a bad decision, or an effort to render it harmless?

Simply, Local Area Coordination as proposed by PC11, was designed to be the lubricant in the system. LAC's should help unravel the intricacies of the system, they should bring parties together and help create consensus. They should advocate for participants, and protect them from carpet baggers and snake oil salesmen. They should create an empowering environment around participants and take them on a journey towards their potential, and connect participants with their community. LAC's are meant to be the 'go to' people!

Outsourcing Local Area Coordination, as indicated above, has changed these dynamics.

Trends

Changes in the landscape, and anticipated consequences and trends:

1. *The participants: People with disabilities*

In the NDIS the participants have money through direct funding, which – for the first time – gives them a level of ownership over their lives. It gives them decision making powers over how to best meet their 'necessary and reasonable needs', and realise their goals, and a good life in a welcoming community.

Unfortunately, many participants and families, over many years, have had things done 'to them, for them and at them', but rarely with them. In many cases this has led to a level of 'learned helplessness'. For participants to realise the good life they aspire to, they first need to unlearn this helplessness. They have to accept that they are now in charge of their future (and accept the rights and obligations that come with it). Participants are the ones that now will drive the process and make the decisions. Service providers, and Local Area Coordinators will act as facilitators and advisors, but participants own their decisions, and manage the risks.

Once the money is there, participants can go shopping for services. Service providers are an option. Participants can select one or more providers, or may decide to 'go it alone', and manage their own package. This is a very realistic option in regional and remote areas of the country, where services are few, and far between.

Services to choose from may be disability specific, or generic, like clubs, training, education, allied health services, social groups and employment, or may support other passions. There are many options, and the LAC is there to help choose, negotiate and advocate.

Opening up the market will also open up the sector to people who normally would not consider the sector as a career. Nurses, students, house wives with time to spare, and many others, will find it attractive to contribute, may be just a few hours a week. It will greatly enrich the sector.

Participants can now select support workers on the basis of compatibility and skill sets. "My Place WA Pty. Ltd." has developed 'A Guide to Engaging Your Own Support Workers' ¹ It is thorough and it is free, minimises the risk of future conflict, and was highly recommended by Dr Bruce Bonyhady, ex Chairman of the NDIA.

New technologies also offer effective and affordable support. They should not isolate participants from contact with people, as relationships are a critical part of a good life.

Another frequently overlooked option for effective, low cost support is 'man's best friend': Assist dogs, which can be funded by the NDIS:

"Guide dogs and assistance dogs, including the reasonable costs of being assessed for a dog, a dog, user training and veterinary costs".²

People with disabilities with assist dogs require fewer hours of attendance by support workers, and, with the dogs being on duty around the clock, create a safer environment. Assist dogs are also less expensive to employ than human support workers.

There are other benefits that are very positive: The relationship between owner and dog can be rich and rewarding, and a (disabled) person with a dog is more likely to build linkages in the community than one accompanied by a 'carer'.

Other benefits are that the disability sector may expand its capacity without a proportional increase in staff numbers. Also expansion of the assist dog breeding and training sector will increase economic activity and employment, and open up employment opportunities for persons with a disability. ³

A likely development is that participants who self manage their packages may connect with others who have similar objectives, and issues. They may support each other, leading to 'communities of practice'⁴, and eventually, may be, the formation of a cooperative, or small incorporated service provider. A mini responsible autonomy, built on relationships and trust!

2. Service Providers

The greatest challenge for service providers will be that, from being a 'protected species', they now have to transition to the competitive environment of the market place. From gatekeepers they will become shop keepers. This will mean a change from a comfortable operational relationship and accountability with the funder, to a dynamic, strategic and trusting relationship with their clients. It will mean a declining demand for 'off the shelf' services. Participants will look for – in many cases niche - services that meet their particular needs and wishes, and that they are prepared to pay for. Service providers will need to embrace innovation which means managing risk rather than be risk averse.

¹ http://www.myplace.org.au/services/pdf/MyPlace_EngagingBooklet_Web.pdf

² PC disability Care and Support, Overview, p23

³ Homan, J., Men Women and Dogs, sub0975, PC11, 2011

⁴ Community of practice is a group of people with common interests who learn from each other, and then practice their learnings.

A number of service providers have adopted a strategy of getting bigger in response to the coming of the NDIS. Whether this was a defensive response or motivated by other reasons is an open question. As explained earlier, size does matter, and big may not be better. History has shown that small organisations tend to be more innovative, and flexible. They are better equipped to transition from a top down model of governance to a relationship based organic system.

With the transition to a system where support becomes an entitlement, the number of participants will increase dramatically. This will bring with it a major increase in funding. It will also increase the number of service providers, both not for -, and for profits. That will test whether the culture in the sector will be competitive or collaborative.

Staffing will become a major issue. Several Productivity reports, including PC11 have drawn attention to the difficulties the sector has in recruiting staff.⁵ Not only will numbers be an issue, but also quality. A common practice has been to engage people on the basis of their skill sets. With participants now having a major voice in staff selection, values and attitudes are likely to become major factors. (If they seem almost right, don't hire them)⁶

With the new person centred system of the NDIS, where participants make their own choices, traditional disability specific service providers are at a disadvantage. With generic services entering the market, and self-managing of funding packages, issues like minimum engagement periods, shift loadings, penalty rates and other rules and regulation, reduce their flexibility, and increase their costs. This is particularly an issue where full time and part time staff are employed.

Organisations may respond to this in various ways:

- Adopt technology that can help to set their rosters and schedules up to maximise efficiency by minimising travel and down time between clients.
- Change to a higher percentage of casual staff.
- Keep and attract participants through outstanding innovative services with superb outcomes: quality over price.

Possibly the biggest challenge for service providers is to build and grow a new culture that is owned by everybody in the organisation. To quote Peters and Waterman (again):

*“Without exception the dominance and coherence of culture proved to be an essential quality of the excellent companies. Moreover, the stronger the culture and the more it was directed toward the marketplace, the less need was there for policy manuals, organization charts, or detailed procedures or rules. In these companies, people way down the line know what they are supposed to do in most situations because the handful of guiding values is crystal clear”.*⁷

3. The Workforce

Four anticipated trends are:

1. Transition to casual employment.
2. Transition to whole of sector employment.
3. Training and qualification.
4. Transition from casual employees to 'sole traders'⁸.

⁵ Caring for Older Australians, # 53, 2011, Contribution of the Not-for-Profit Sector, 2010

⁶ Russell Wells, insurance executive in a conversation with the author.

⁷ Peters, T. J., Waterman Jr, R. H., In search of excellence, 1984

⁸ A sole trader is a one person business where the trader must comply with relevant legislation and is responsible for paying appropriate taxes.

1. Participants selecting who they employ may force service providers to grow the pool of support workers that participants may choose from. This is a further incentive to employing casual staff. Participants who self-manage their funding will also be more likely to employ casual staff.
2. Casual employees may choose to work for more than one service provider, and/or self-managing participant. It is also likely that these workers may want to work across the sector, rather than be limited to one discipline. They have a choice to be employed in one or more parts of the sector, disability, health, aged care, mental health and more.

For this to be practical, government will need to make entitlements, like long service leave, portable.

3. In the 'old system' service providers were responsible for employees to be properly trained and certificated. In the new world, with the loosening of bonds between organisations and employees, the entry of generic services into the sector, and participants who self-manage their packages, participants will become responsible for determining the qualifications they require. In this process Local Area Coordinator and service providers will need to assist and advise.

It will be in the workers' hands to decide which parts of the sector they wish to work in and what certification will make them employable. This is likely to create growth and diversification in the training sector. Different organisations, and individuals, will emerge that will offer specialist training in selected subjects. Workers may decide which of these qualifications suit them, and wear them like 'scout badges'.

To make this possible, government needs to adjust the training certification and standards to accommodate this model.

4. Working for different organisations and individuals creates complexities in relation to taxation penalty rates and other administrative detail. To knit it all together into something that is consistent and makes sense will not be easy. What may be an attractive option will be for casual employees to become 'sole traders'.⁹ It makes the worker a legal entity. The worker needs to comply with relevant legislation and will be responsible to the taxation department. The process is relatively simple and inexpensive. A good accountant is all it takes! A major advantage is that sole traders can negotiate pay rates, and can invoice the service provider or participant.

https://www.pc.gov.au/data/assets/pdf_file/0006/215826/sub0142-ndis-costs.pdf

⁹ A sole trader is a one person business where the trader must comply with relevant legislation and is responsible for paying appropriate taxes.