



Australian
Human Rights
Commission

everyone, everywhere, everyday

Inquiry into mental health and workforce participation

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Australian Human Rights Commission Submission
to the House of Representatives Standing
Committee on Education and Employment

27 April 2011

1 Introduction

1. The Australian Human Rights Commission makes this submission to the House of Representatives Standing Committee on Education and Employment in its Inquiry into Mental Health and Workforce Participation.

2 Summary

2. The Commission welcomes the Committee's commitment to address the persisting barriers to employment and education faced by people with mental ill health to allow people with mental ill health to enjoy their right to work and education on an equal basis with other Australians.
3. Most people with disability, including people with mental ill health, want to work if they have the capacity to do so as employment is a critical gateway to economic, social and political participation in the Australian community.
4. For people with mental ill health living in Australia, the right to work, education, habilitation and rehabilitation, amongst other rights to achieve social inclusion and a life with dignity and respect, are recognised in the Convention on the Rights of Persons with Disabilities, ratified by Australia on 17 July 2008.¹
5. The Commission congratulates the Government for the many positive measures to get Australians with disability, including Australians with mental ill health, into work that were included in the National Mental Health and Disability and Employment Strategy, released on 14 September 2009.²
6. The continuing decline in employment of people with disability in the Australian Public Service³ and the number of employment related complaints lodged with the Commission under the *Disability Discrimination Act 1992*,⁴ however, indicate that many barriers still exist, and that the situation is not improving and is possibly becoming worse.
7. The Commission believes that many significant barriers to employment faced by people with disability, including people with mental ill health, are not related to ability, qualifications or desire for employment but to a combination of

¹ The Convention on the Rights of Persons with Disabilities is available at <http://www.un.org/disabilities/convention/conventionfull.shtml>

² The National Mental Health and Disability and Employment Strategy is available at www.workplace.gov.au/NR/rdonlyres/...B1A6.../NHMDES_paper.pdf

³ In 1986 the number of people with disability employed in the Australian Public Service (ongoing employees) was 6.6%, which dropped to 5.8% in 1992 and has been declining ever since. For the period 2009-2010, the figure was 3.1%. See Management Advisory Committee (2006) *Employment of People with Disability in the APS* available at <http://www.apsc.gov.au/mac/disability6.htm#f61> and Australian Public Service Commission (2010) *State of the Service Report 2009-10* available at www.apsc.gov.au/stateoftheservice/0910/report.pdf

⁴ Australian Human Rights Commission *Annual Report 2009-2010* available at http://www.humanrights.gov.au/about/publications/annual_reports/2009_2010/index.html

negative attitudes and stereotypes and the lack of available supports and services to employers and workers on an as-needed basis during the course of employment.

8. The barriers to participation in education, training and employment for people with mental ill health have been clearly identified in recent years, including in the Commission's National Inquiry into Employment and Disability⁵ (conducted in 2005) and during the Government's public consultation and submission process in 2008 which informed the National Mental Health and Disability Employment Strategy.⁶
9. The significant barriers documented in these and other processes, which still remain, include:
 1. negative assumptions and attitudes towards people with disability, including people with mental ill health
 2. concern about risks and possible financial and personal impact on people with disability, including people with mental ill health, and their employers, especially if a job does not work out
 3. concern about costs of participation for people with disability, including people with mental ill health, and possible costs for employers when employing a person with disability
 4. lack of guaranteed access to support on an as-needed basis for any worker with disability and their employer, including for any worker with mental ill health, at any stage of employment and regardless of whether or not the job was originally secured by a government-funded employment service provider
 5. lack of access to flexible working arrangements
 6. segregation of people with disability, including people with mental ill health, in Australian Disability Enterprises without plans to transition to open employment.
10. In relation to perceived concerns about risk held by employers as identified in the Commission's Inquiry into Employment and Disability Risk, the Australian Safety and Compensation Council (now Safe Work Australia) reviewed the evidence and found that:
 1. there is no conclusive evidence to support the suggestion that workers with disability are more likely to be injured at work than other employees

⁵ Australian Human Rights Commission National Inquiry into Disability – all documents related to the Inquiry, including the interim and final reports, are available at http://humanrights.gov.au/disability_rights/employment_inquiry/index.htm)

⁶ Information about the National Mental Health and Disability Strategy is available at <http://www.fahcsia.gov.au/sa/mentalhealth/proserv/Pages/NationalMentalHealthDisabilityEmploymentStrategy.aspx>

2. employees with disability have lower number of OHS incidents and lower workers' compensation costs (this was only one of a number of positive findings about employees with disability, including employees with mental ill health)
 3. there was an absence of guidance material for employers in relation to supporting workers with mental ill health.⁷
11. In response to the finding numbered 3 above, the Commission developed *Workers with mental illness: a practical guide for managers* which was released in May last year.⁸ This Guide is supported by Safe Work Australia and endorsed by the Fair Work Ombudsman, *beyondblue: the national depression initiative*, the Mental Health Council of Australia and Sane Australia.
 12. The Commission notes that many concerns about the cost of disability for people with disability, including people with mental ill health, are currently being considered by the Productivity Commission in its Inquiry into Disability Care and Support.

3 Recommendations

13. The Australian Human Rights Commission recommends that:
 1. **The current model of employment support services be amended to ensure that any worker with disability and their employer, including any worker with mental ill health, have access to employment support services on as-needed basis at any stage of employment and regardless of whether the job was originally secured by a government-funded employment service provider or not.** This would also assist workers with disability, including workers with mental ill health, with career progression and advancement which is another significant obstacle in employment.
 2. **The right to request flexible working arrangements be expanded to include people with disability.** Currently, the National Employment Standards restricts the 'requests for flexible working arrangements' to parents and people with caring responsibilities for children under school age. Expanding this right to people with disability will enable people with disability to have the same right to request flexible working arrangements. This has been law in the UK now for several years.⁹

⁷ Australian Safety Compensation Council (2007) *Are people with disability at risk at work? A review of the evidence* available at <http://www.safeworkaustralia.gov.au/ABOUTSAFEWORKAUSTRALIA/WHATWEDO/PUBLICATIONS/Pages/RR2007ArePeopleWithDisabilityAtRisk.aspx>

⁸ Australian Human Rights Commission (2010) *Workers with Mental illness: a Practical Guide for Managers* available at http://humanrights.gov.au/disability_rights/publications/workers_mental_illness_guide.html

⁹ http://www.direct.gov.uk/en/Employment/Employees/Flexibleworking/DG_10029491

- 3. Diversity Field Officers be appointed to various industry groups and associations across Australia, as many employers feel more comfortable contacting someone known to them in the first instance to ask specific questions about employment and disability.**
- 4. The Commonwealth Government develop and introduce a national strategy to increase public sector employment of people with disability which includes, but is not limited to, the following measures:**
 - i. 20 % of public service graduate recruitment places are reserved for graduates with disability (20% reflects the number of people with disability in the general population).
 - ii. Recruitment targets for employees with disability are set by all public sector agencies. As an example, the ACT Government recently launched the ACT Public Service Employment Strategy which includes a target to double the number of public servants with disabilities over the next four years.¹⁰
 - iii. Apprenticeship, traineeship and work experience opportunities for people with disability are created.
 - iv. Recruitment agencies contracted by APS agencies, as a requirement of their contract, are encouraged and supported to identify applicants with disability. Practices should also be monitored to ensure compliance.
 - v. A comprehensive support and capacity building programme is developed for employees with disability and their public sector employers. This could include:
 - A specific pool of funds for training opportunities for employees with disability;
 - All employees with disability to be given the opportunity to be matched with a mentor during their term of employment.
- 5. Australian Disability Enterprises be repositioned as a mechanism for assisting people with disability, including people with mental ill health, to achieve the fullest possible participation in, and benefit from, mainstream employment opportunities.**

¹⁰ ACT Public Service Employment Strategy available at www.cmd.act.gov.au/_data/assets/pdf_file/0015/.../pwdstrategy.pdf