

# ***WORKability II: Solutions***

## **People with Disability in the Open Workplace**

Final Report of the National Inquiry  
into Employment and Disability



*Human Rights and  
Equal Opportunity  
Commission*

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**December 2005**

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## **Further information**

This publication (*WORKability II: Solutions – People with Disability in the Open Workplace*) and the interim report of the National Inquiry into Employment and Disability (*WORKability I: Barriers – People with Disability in the Open Workplace*) can be found on the Commission's website at: [www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/index.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/index.htm)

For further information on the work of the Disability Rights Unit of the Human Rights and Equal Opportunity Commission please visit the Commission's website at: [www.humanrights.gov.au/disability\\_rights/index.html](http://www.humanrights.gov.au/disability_rights/index.html)

## **Acknowledgements**

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Finally, the Commission would like to thank staff in the Disability Policy Branch at the Department of Employment and Workplace Relations for their cooperation and assistance throughout the Inquiry process.

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The Hon Philip Ruddock MP  
Attorney-General  
Parliament House  
CANBERRA ACT 2600

Dear Attorney

I am pleased to present the final report of the Human Rights and Equal Opportunity Commission's National Inquiry into Employment and Disability. The report is titled *WORKability II: Solutions – People with Disability in the Open Workplace*.

The report is furnished to you under the functions and powers conferred by sections 31(a),(b),(c) and (e) of the *Human Rights and Equal Opportunity Commission Act 1986* (Cth). As such, it is subject to the tabling requirements in section 46 of that Act.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sev Ozdowski'.

Dr Sev Ozdowski OAM

**Human Rights Commissioner**

**Acting Disability Discrimination Commissioner**

7 December 2005



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# Foreword



Disabled persons...have the right, according to their capabilities, to secure and retain employment or to engage in a useful, productive and remunerative occupation...

*Declaration on the Rights of Disabled Persons, Article 7*

It is clear that Australia's labour environment does not always provide equality of opportunity for the significant number of people with disability living in Australia. People with disability represent 16.6 percent of Australia's working age population, yet in 2003 the participation rate was 53.2 percent and the unemployment rate was 8.6 percent. This compares to a participation rate of 80.6 percent and an unemployment rate of 5 percent for people without disability.

The purpose of this report – *WORKability II: Solutions* – is to identify practical ways of ensuring greater participation and more employment opportunities for people with disability in Australia.

Most people with disability want to work if they have the capacity to do so. However, we cannot expect high participation rates if people with disability have work-related expenses that are higher than their potential wages or they cannot access the supports they need. And we cannot expect high employment rates if employers continue to be concerned about the costs and risks involved – albeit that the source of those concerns is unsubstantiated.

The Inquiry's interim report – *WORKability I: Barriers* – identified a range of hurdles faced by people with disability in the open workplace. It seems a simple thing to say, but the bottom line is that government has the responsibility to remove those barriers so that people with disability can compete on an equal footing to those without disability.

This means that government must offset any additional costs and remove any additional risks faced by people with disability and their employers. It also means that government must provide easily accessible information, advice and support in order to halt the perpetuation of unfounded perceptions.

Real change also requires leadership from all levels of government, employers, employment services and groups representing people with disability.

The Commonwealth government must start this process by becoming a 'best practice' employer itself. The Australian Public Service Commission and the Depart-

mental heads of Commonwealth agencies must take responsibility for increasing the number of employees with disability and for providing a model for the private sector to follow.

This report contains a pool of practical ideas that have been developed over the past nine months through intense interaction with the Commonwealth government, industry, employment services and the disability sector. Some of the ideas are not fully formed due to the Inquiry's short timeframe, but all of the thirty recommendations provide realistic responses to the concerns expressed by people with disability and employers.

As this is my last report as Human Rights Commissioner and Acting Disability Discrimination Commissioner I will not be in a position to monitor the implementation of its recommendations.

However, I would like to thank the Department of Employment and Workplace Relations for its cooperation and assistance throughout the Inquiry. The Department's input has been invaluable and its agreement to launch a one-stop-information-shop by July 2006 is an encouraging sign of the Commonwealth's commitment to improving the work environment for people with disability.

I would also like to thank the many people in the disability community, the employment service industry, the private sector and government who participated in this Inquiry. I thank you both for your involvement in this project and your support throughout my term as Commissioner.

Finally, I would like to thank the Commission staff who worked with me during this Inquiry, including Vanessa Lesnie, David Mason, Cristina Ricci and Kate Temby.

This report is a reflection of the work of many people representing numerous views. I hope that it does justice to those efforts and helps to make a real difference to the many people with disability who are looking for 'a fair go' in Australia's open workforce.

Dr Sev Ozdowski OAM  
**Acting Disability Discrimination Commissioner**  
**Human Rights Commissioner**

7 December 2005

# Executive Summary



People with disability represent a significant proportion of Australia's working age population (16.6%), yet they participate in the workforce at lower rates, they are less likely to be employed when they do attempt to participate, and they will earn less if they do get a job. This has been the case for a long time and the problem is not just ongoing, it seems to be getting worse.<sup>1</sup>

The National Inquiry into Employment and Disability (the Inquiry) was launched on 4 March 2005 to address this important issue.

The Inquiry's interim report – *WORKability I: Barriers* – makes it abundantly clear that people with disability face higher barriers to participation and employment than many other groups in Australian society.

This final report – *WORKability II: Solutions* – focuses on how to address these barriers and ensure equality of opportunity for people with disability in the open workplace.

*WORKability I: Barriers* identified three sets of obstacles facing people with disability and their actual or potential employers:

1. *Information* – an absence of easily accessible and comprehensive information and advice that assists in decision making processes and responds to ongoing needs
2. *Cost* – concern about costs of participation for people with disability and possible costs borne by employers when employing a person with disability
3. *Risk* – concern about any possible financial and personal impact on people with disability and their employers, especially if a job does not work out.

These obstacles were evident through all stages of the employment process: getting ready for the open workplace,<sup>2</sup> recruitment and selection,<sup>3</sup> and job retention.<sup>4</sup>

Further, the absence of clear *information* appears to have exacerbated the other two barriers by making it extremely difficult to distinguish between perceived and real *costs* and *risks*. For example, employers cite an increased risk of workers compensation claims as a major barrier to employing people with disability, yet there is no evidence available to support this concern. Similarly, the cost of workplace accommodations is often mentioned as a significant concern despite

evidence from the United States suggesting that most modifications cost under US\$500.

*WORKability II: Solutions* makes a series of recommendations to address the myriad of barriers identified in *WORKability I: Barriers*. These recommendations must be considered in a holistic manner. For example, there is little point in asking people with disability to participate in the open workplace if there are no jobs to go to, or the expenses of participation are higher than the wages earned, or there is inadequate access to the supports needed by employers and employees to ensure that the job can be done properly.

The primary responsibility for addressing the barriers for people with disability in the open workplace falls on government. It is for this reason that Commonwealth, State and Territory government services and programs are the subject of many of the recommendations discussed in this report. It is also the reason that *WORKability II: Solutions* recommends that the Commonwealth government lead the development of a National Disability Employment Strategy for Australia.

Commonwealth, State and Territory governments must work together to create a level playing field for people with disability in the open workplace. To increase participation and employment of people with disability, governments must provide the supports, services and incentives that ensure that people with disability have true equality of opportunity.

Governments must also provide leadership to the private sector, and the community at large, by improving public sector employment practices and developing clear information strategies which address concerns about the costs and risks associated with people with disability as employees in the open workplace.

However the private sector also has a role to play. Business peaks and individual corporations need to help government identify what needs to be done to lower the barriers to employing people with disability. And more employers are needed to pave the way and demonstrate the business case for hiring people with disability.

In addition, public and private recruitment services, public and private workplace support services, public and private vocational education and training institutions, community groups representing people with disability and people with disability themselves have a role in bringing about the conditions that ensure equality of opportunity for people with disability.

Designing a strategy to increase the participation and employment opportunities for people with disability is no small task. The process must be capable of addressing a wide range of issues in a coordinated manner.

As set out in Recommendation 30, a National Disability Employment Strategy should focus on *at least* the following issues, as a matter of priority:

- developing a whole-of-government approach to ensuring appropriate financial and practical support to people with disability, including a streamlined system to provide adequate:
  - income support;
  - transport, equipment and health care subsidies and concessions;
  - workplace supports and modifications; and
  - personal care in the home and workplace;
- improving the effectiveness of government-funded employment service delivery to people with disability and employers (including recruitment assistance and access to supports on an as-needed basis);
- improving transition-to-work schemes for people with disability in secondary, tertiary and vocational education and training institutions;
- ensuring better relationships between private sector employers and government-funded information, recruitment and employment support services;
- increasing recruitment and retention of people with disability in the public sector (at the Commonwealth, State, Territory and local government levels); and
- developing a benchmarking, monitoring and reporting system to ensure accountability and ongoing improvement to the incentives, supports and services available to people with disability and employers.

In addition to a general recommendation about developing a National Disability Employment Strategy, the Inquiry has made 29 specific recommendations which address many of the issues listed above. Those recommendations provide guidance on how to improve the current support system and employment environment for people with disability.

Implementation of any one of those recommendations will be a positive step towards addressing the barriers facing people with disability and their actual or potential employers. However, they are unlikely to have any substantial impact if implemented in a piecemeal fashion.

It is only when the barriers for people with disability *and* employers are simultaneously addressed in a holistic manner that we can hope to enjoy real increases in the participation and employment of people with disability in the Australian workplace.



All parties in the employment process and all levels of government need to act cooperatively with each other to bring about a streamlined approach to increasing participation and employment rates of people with disability.

The Inquiry therefore urges prompt implementation of the following 30 recommendations.

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### **Executive Summary: Endnotes**

- 1 See Issues Paper 1 setting out the detailed statistics at: [www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/papers/issues1.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/papers/issues1.htm)
- 2 See Chapter 4 of *WORKability I: Barriers* at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/interim/ch4.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/interim/ch4.htm)
- 3 See Chapter 5 of *WORKability I: Barriers* at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/interim/ch5.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/interim/ch5.htm)
- 4 See Chapter 6 of *WORKability I: Barriers* at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/interim/ch6.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/interim/ch6.htm)

# Recommendations



## **Recommendation 1: One-stop-information-shop**

The Inquiry recommends that the Department of Employment and Workplace Relations ensure that:

- (a) a one-stop-information-shop is launched by 1 July 2006;
- (b) the one-stop-information-shop is accessible to people with disability – this will require consideration of publication in a variety of formats;
- (c) the one-stop-information-shop includes, on launch, a 1800 number, TTY and email service that can respond to individual queries promptly;
- (d) the one-stop-information-shop 1800 number, TTY and email service is staffed by an adequate number of appropriately trained personnel;
- (e) the one-stop-information shop publishes its strategy to maintain, update and develop the service and invites users to make suggestions;
- (f) there are ongoing consultations with users, employers, employment services, community groups and people with disability regarding the development of the information site and advice service; and
- (g) there is wide promotion of the one-stop-information-shop to employers, employment services, relevant government agencies, community groups and people with disability.

## **Recommendation 2: Map government services**

The Inquiry recommends ongoing Commonwealth, State and Territory interagency consultations with a view to developing up-to-date information regarding:

- (a) the government programs available to employers and people with disability;
- (b) the relationships between various government agencies and programs; and
- (c) the outcomes of those programs.

The Inquiry recommends that this information be incorporated into the one-stop-information-shop (see Recommendation 1).

### **Recommendation 3: Research into costs**

The Inquiry recommends that the Productivity Commission research the economic cost of disability to:

- (a) people with different disabilities participating in the open workplace;
- (b) employment services assisting people with different disabilities; and
- (c) large, medium and small businesses employing people with different disabilities

with a view to making recommendations to increase participation and employment of people with disability.

### **Recommendation 4: International approaches to providing supports and subsidies**

The Inquiry recommends further research into the following international support and subsidy programs (including collection of any program evaluation reports, cost analyses and changes in participation and employment rates):

- (a) the Job Support, Training Support, Self Start and Mainstream programs in New Zealand; and
- (b) the Opportunities Fund for Persons with Disabilities in Canada

with a view to improving the program of support, assistance and incentives in Australia.

### **Recommendation 5: Case management**

The Inquiry recommends investigation into making case management available to people with disability throughout the job readiness, recruitment and retention stages of the employment process. The purpose of such case management would be to ensure coordination of all services and supports across all levels of government.

### **Recommendation 6: Cost of disability allowance**

The Inquiry recommends reconsideration of the *McClure Report's* recommendation regarding simplification of welfare payments and the introduction of a cost of disability allowance which takes into account the varying needs of people with different disabilities.

### **Recommendation 7: Cost of participation allowance**

The Inquiry recommends reconsideration of the *McClure Report's* recommendation regarding simplification of welfare payments and the introduction of a cost of participation allowance which takes into account the varying needs of people with different disabilities who participate in the workplace.

### **Recommendation 8: Health concessions**

The Inquiry recommends extending eligibility for health care concessions for people with disability who enter the workforce.

### **Recommendation 9: Mobility Allowance**

The Inquiry recommends that the Commonwealth government increase the Mobility Allowance to allow reimbursement of the cost of transport to and from the workplace.

### **Recommendation 10: Transport concessions**

The Inquiry recommends further investigation into the need to extend eligibility for transport concessions for people with disability. The investigations should include a focus on:

- (a) the cost of transport for people with different disabilities;
- (b) the additional costs that may be incurred because of participation in the open workplace;
- (c) the impact of transport costs on participation in the open workplace; and
- (d) alternate solutions to fund additional travel costs for people with disability in the event that travel concessions are not extended.

### **Recommendation 11: Workplace Modifications Scheme**

The Inquiry recommends that the Department of Employment and Workplace Relations ensure that its revision of the Workplace Modifications Scheme include the following features:

- (a) eligibility for any employee with disability, whether or not the person is referred by a government-funded employment service or working on a full-time, part-time or casual basis;
- (b) eligibility for people with disability who are working from home, self-employed or who engage in consultancy or contract work;
- (c) expansion of the types of modifications covered by the scheme;
- (d) increased funding for modifications;

- (e) facility to take certain equipment funded by the Workplace Modifications Scheme to a new workplace;
- (f) simplified application process; and
- (g) wide promotion of the scheme to employers, employment services and people with disability.

### **Recommendation 12: Employer tax incentives**

The Inquiry recommends research into the structure and effectiveness of international tax incentives to encourage employment of people with disability, with a view to determining the appropriateness of such incentives in Australia.

### **Recommendation 13: Occupational health and safety, industrial relations and disability discrimination laws**

The Inquiry recommends development of the following strategies to address concerns about the potential financial impact of, and legal risks created by, occupational health and safety laws, disability discrimination laws, industrial relations laws, and the interaction between those laws, on employers who hire people with disability:

- (a) government-sponsored personal and workplace assessments (which also recommend risk management strategies);
- (b) a government-sponsored trial program that simultaneously covers insurance premiums and ensures the collection, analysis and dissemination of reliable data about the true impact of those laws on employers;
- (c) engagement of State workers compensation authorities in disseminating information and developing disability employment strategies;
- (d) capacity building for employment service providers; and
- (e) a multifaceted awareness raising campaign through ‘myth buster’ fact sheets, ‘how to’ information sheets and business-to-business promotion.

### **Recommendation 14: Safety net options**

The Inquiry recommends ongoing consultation regarding the proposed ‘Welfare-to-Work’ reforms in the 2005 Budget in order to:

- (a) determine the financial impact of participation in the workplace on people with disability over an extended period of time; and
- (b) explore further ways of reducing the risk of returning to or entering the open workplace for people with disability.

### **Recommendation 15: Work trials**

The Inquiry recommends that the Department of Employment and Workplace Relations develop robust government-supported work trial schemes that benefit employers and people with disability.

The following issues should be addressed in developing such schemes:

- (a) the purpose of the work trial scheme (is it to fill a job vacancy, provide a training opportunity or provide work experience?);
- (b) eligibility for the work trial;
- (c) a mechanism to define the rights, obligations and expectations of all parties before, during and on completion of the work trial;
- (d) length of the work trial;
- (e) payment during the work trial (how much and by whom);
- (f) insurance coverage during the work trial;
- (g) supports provided to employers and people with disability prior to and during the work trial;
- (h) employer obligations at the end of the work trial;
- (i) agencies to run and support work trials; and
- (j) a strategy to encourage participation by employers and people with disability in work trials.

### **Recommendation 16: Transition-to-work schemes**

The Inquiry recommends consideration of the following measures to improve transition-to-work schemes, as a matter of priority:

- (a) ongoing consultation and cooperation between Commonwealth, State and Territory governments to ensure more coordinated work placement support when students with disability are transiting from secondary, tertiary and vocational education and training institutions to the workplace;
- (b) improvements to the Disability New Apprentice Wage Support (DNAWS) scheme, including increased funding;
- (c) provision of appropriate supports for work experience, traineeship and apprenticeship schemes (including the New Apprenticeship Access Program (NAAP) and the School-based New Apprenticeships Program (SNAP));
- (d) availability of a case manager to ensure successful transition and assist with the planning, funding and organisation of any necessary supports and modifications;

- (e) clearer pathways from secondary, tertiary and vocational education and training institutions to government-funded employment service providers; and
- (f) public sector leadership in recruiting people with disability into work experience, traineeship and apprenticeship schemes.

### **Recommendation 17: Government-funded employment support services**

The Inquiry recommends a review of the employment support services offered by the Commonwealth government, with a view to ensuring availability of appropriate support services to any employee with disability and his or her employer.

In conducting the review, the Inquiry recommends consideration of the following issues:

- (a) providing access to support services on an as-needed basis, without time limitations;
- (b) ensuring a holistic assessment process;
- (c) increasing the scope of services available to employees with disability and their employers;
- (d) improving coordination between support service providers to ensure access to the required range of supports; and
- (e) increasing funding for Disability Open Employment Services, Job Network and vocational rehabilitation services to provide the appropriate employment support services.

### **Recommendation 18: Non-government and private employment support services**

The Inquiry recommends that the one-stop-information-shop (see Recommendation 1) provide details of private agencies and non-government organisations that offer employment support services to people with disability and their employers.

### **Recommendation 19: Flexible workplace**

The Inquiry recommends the creation of an inter-sector coalition focussed on developing guidelines and strategies for promoting workplaces that can respond to the varying needs of different employees. The coalition might include groups representing people with disability, ageing workers, parents and carers as well as unions, employment services, employer peaks and relevant government agencies.

### **Recommendation 20: Employment services**

The Inquiry recommends that the Department of Employment and Workplace Relations engage in:

- (a) ongoing consultation with employment service providers, employers and people with disability regarding the delivery

- of high quality employment services at all stages of the employment process;
- (b) the collection, analysis and publication of qualitative and quantitative data regarding the impact of case based funding on the provision of employment services to people with disability and employers; and
  - (c) the collection, analysis and publication of qualitative and quantitative data regarding the impact of capping on Disability Open Employment Service places for those on the Disability Support Pension wishing to enter the workforce.

### **Recommendation 21: Mental illness**

The Inquiry recommends that the Commonwealth government facilitate:

- (a) consultation, research and development of measures that address the recruitment and employment support needs of people with mental illness; and
- (b) prompt implementation of those measures through a national mental health employment strategy.

### **Recommendation 22: Personal assistance at home and in the workplace**

The Inquiry recommends increased funding, improved coordination and streamlined access to personal assistance at home and in the workplace for people with disability participating in:

- (a) full-time, part-time or casual employment;
- (b) self-employment; and
- (c) apprenticeships, traineeships and work experience programs

with a view to ensuring the personal care necessary to meet employment or study obligations.

### **Recommendation 23: Public sector leadership**

The Inquiry recommends that the Commonwealth government develop and introduce a comprehensive national strategy to increase public sector employment of people with disability.

In developing the strategy the Commonwealth should consider the following actions:

- (a) collecting national statistics regarding employment of people with disability at all levels of government;
- (b) analysing the reasons for low recruitment rates in the public sector;



- (c) examining strategies currently employed by Commonwealth, State, Territory and local government agencies to increase the recruitment and retention of people with disability;
- (d) introducing target employment figures and an internal accountability mechanism for failure to meet those targets;
- (e) creating apprenticeship, traineeship and work experience opportunities for people with disability;
- (f) introducing a comprehensive support and capacity building program for employees with disability and their public sector employers;
- (g) creating a separate fund to provide support to government agencies to employ people with disability and cover any additional costs incurred;
- (h) providing specific financial and practical assistance to Departmental heads in order to address any perceived, or real, costs and risks associated with hiring people with disability; and
- (i) examining the appropriateness of the Australian Public Service employment strategy regarding Indigenous employment, for adaptation to people with disability.<sup>1</sup>

#### **Recommendation 24: Government procurement policy**

The Inquiry recommends that the Commonwealth government commence a Regulation Impact Statement process which examines the option of adopting a government accessible procurement policy similar to section 508 of the *Rehabilitation Act 1973* in the United States.

#### **Recommendation 25: Reporting scheme for employers**

The Inquiry recommends that the Commonwealth government coordinate the collection of annual statistics from private sector and public sector employers regarding the employment of people with disability, and ensure their publication.

#### **Recommendation 26: Best practice awards scheme for employers**

The Inquiry recommends introduction of a widely promoted national scheme of employer awards which ensures:

- (a) publication of best practice models regarding recruitment and retention of people with disability;
- (b) a mechanism to actively share best practice amongst the business community; and
- (c) promotion of the benefits of employing people with disability to the business community.

The Inquiry recommends that the awards scheme be administered by the business leadership project (see Recommendation 29).

### **Recommendation 27: Recruitment agencies**

The Inquiry recommends that the recruitment industry pursue an agenda that:

- (a) establishes a diversity charter;
- (b) establishes a repository of available information on diversity best practice;
- (c) develops guidelines on recruitment practices which ensure equality of opportunity for people with disability;
- (d) influences the make up of selection panels by incorporating diversity into recruitment panels; and
- (e) promotes education of employer clients regarding the employment of people with disability.

The Inquiry further recommends that public and private sector employers use recruitment agencies that have adopted policies and practices designed to encourage hiring of people with disability.

### **Recommendation 28: Multi-sector leadership coalition**

The Inquiry recommends that the Department of Employment and Workplace Relations coordinate an ongoing multi-sector leadership coalition, including:

- (a) people with disability and disability peaks;
- (b) employers and employer peaks;
- (c) employment service providers and service peaks; and
- (d) relevant Commonwealth, State and Territory government agencies

with a view to monitoring and developing strategies to improve employment opportunities for people with disability.

### **Recommendation 29: Business leadership project**

The Inquiry recommends that the Department of Employment and Workplace Relations, in cooperation with employer organisations, develop a business leadership project.

The project should incorporate the following minimum features:

- (a) a flexible package of funding to provide incentives to businesses to engage in proactive recruitment and retention strategies regarding people with disability; and
- (b) specialised employer support and advice to maximise the success of those strategies.

In designing the business leadership project, the Department of Employment and Workplace Relations should analyse the effectiveness of its *Corporate Leaders for Indigenous Employment Project* and make any relevant improvements.<sup>2</sup>

### **Recommendation 30: National Disability Employment Strategy**

The Inquiry recommends that the Commonwealth government lead the development of a National Disability Employment Strategy, in cooperation with the multi-sector coalition (see Recommendation 28), with a view to ensuring increased participation, recruitment and retention of people with disability in Australia.

Without limiting the scope of such a strategy, the Inquiry recommends that the strategy focus on *at least* the following issues as a matter of priority:

- (a) developing a whole-of-government approach to ensuring appropriate financial and practical support to people with disability, including a streamlined system to provide adequate:
  - (i) income support;
  - (ii) transport, equipment and health care subsidies and concessions;
  - (iii) workplace supports and modifications; and
  - (iv) personal care in the home and workplace;
- (b) improving the effectiveness of government-funded employment service delivery to people with disability and employers (including recruitment assistance and access to supports on an as-needed basis);
- (c) improving transition-to-work schemes for people with disability in secondary, tertiary and vocational education and training institutions;
- (d) ensuring better relationships between private sector employers and government-funded information, recruitment and employment support services;
- (e) increasing recruitment and retention of people with disability in the public sector (at the Commonwealth, State, Territory and local government levels); and
- (f) developing a benchmarking, monitoring and reporting system to ensure accountability and ongoing improvement to the incentives, supports and services available to people with disability and employers.

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### **Recommendations: Endnotes**

1 See: <http://www.apsc.gov.au/indigenousemployment/index.html>

2 For information on the Corporate Leaders for Indigenous Employment Project see: <http://www.workplace.gov.au/workplace/Category/SchemesInitiatives/IndigenousProgs/CorporateLeadersforIndigenousEmploymentProject.htm>

# Abbreviations and Acronyms



Commission	Human Rights and Equal Opportunity Commission
CRS Australia	Commonwealth Rehabilitation Services Australia
CWCA	Comprehensive Work Capacity Assessment
DDA	<i>Disability Discrimination Act 1992</i> (Cth)
DEWR	Department of Employment and Workplace Relations (Cth)
DOES	Disability Open Employment Services
DSP	Disability Support Pension
First Round Submissions	Submissions received by the Inquiry prior to publication of <i>WORKability I: Barriers</i> (Submissions 1-133)
HREOC	Human Rights and Equal Opportunity Commission
Inquiry	HREOC National Inquiry into Employment and Disability
Interim Recommendations	Interim recommendations contained in <i>WORKability I: Barriers</i>
JN	Job Network
NGO	Non-government organisation
OHS	Occupational health and safety
Second Round Submissions	Submissions received by the Inquiry in response to <i>WORKability I: Barriers</i> (Submissions 134-162)
WMS	Workplace Modifications Scheme
<i>WORKability I: Barriers</i>	Interim report of the Inquiry, published on 19 August 2005



# Chapter 1



## Background to the Inquiry

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## 1.1 Introduction

People with disability represent 16.6% of Australia's working age population (15-64 years of age).<sup>1</sup> However, they are much less likely to be employed than people without disability. People with disability have a comparatively lower labour force participation rate (53.2% compared to 80.1%) and a higher unemployment rate (8.6% compared to 5%) than those without a disability.<sup>2</sup>

The National Inquiry into Employment and Disability (the Inquiry) was launched by the Human Rights and Equal Opportunity Commission on 4 March 2005 in order to address this well known inequity.

The main goal of the Inquiry has been to identify the primary reasons for low participation and employment rates for people with disability, and to work towards practical, achievable solutions.

## 1.2 What does the Human Rights and Equal Opportunity Commission do?

The Human Rights and Equal Opportunity Commission (the Commission) is an independent statutory authority established under the Commonwealth *Human Rights and Equal Opportunity Commission Act 1986*.

One of the main purposes of the Commission is to monitor Australia's compliance with human rights norms, including the International Labour Organisation's *Discrimination (Employment and Occupation) Convention* (ILO No. 111), the United Nations *Declaration on the Rights of Disabled Persons* and the United Nations *Declaration on the Rights of Mentally Retarded Persons*. These three international instruments highlight the importance of ensuring equality of opportunity in employment for people with disability.

The Commission also administers the Commonwealth *Disability Discrimination Act 1992* (the DDA). The purpose of the DDA is to ensure equality of opportunity and to protect against unlawful discrimination of people with disability in the workplace, amongst other things.

Some of the functions of the Commission include:

- examining laws regarding equality of opportunity in employment
- inquiring into acts and practices related to equal opportunity in employment
- promoting understanding and public discussion of equality of opportunity and treatment in employment situations
- making recommendations to the Commonwealth Parliament regarding how to improve Australia's performance in these areas.<sup>3</sup>



### 1.3 What are the terms of reference for this Inquiry?

The following terms of reference were issued on 4 March 2005:

*Dr Sev Ozdowski, Human Rights Commissioner and Acting Disability Discrimination Commissioner, will conduct on behalf of the Human Rights and Equal Opportunity Commission and pursuant to sections 31(a)(b)(c) and (e) of the Human Rights and Equal Opportunity Commission Act 1986 (Cth), an inquiry into equal opportunity in employment and occupation for people with a disability in Australia.*

***The purpose of the Inquiry is to:***

- *identify existing systemic barriers to equal employment opportunity for people with disabilities;*
- *examine data on employment outcomes for people with disabilities including workforce participation, unemployment and income levels; and*
- *examine policies, practices, services and special measures implemented to advance equal employment opportunities for people with disabilities.*

***The scope of the Inquiry includes:***

- *Commonwealth government as an employer and service provider; and*
- *private sector employers.*

### 1.4 Why an Inquiry now?

Before this Inquiry was launched, the Commission sought public comment on whether a public inquiry might advance employment opportunities for people with disability. The Commission received 22 submissions on the topic, all of which commented on the usefulness of such a process.<sup>4</sup> One of the common themes in those submissions was that, despite the talk, there was very little action in the area.

The statistics show that people with disability participate in the workforce at lower rates, are less likely to be employed when they do participate, and will earn less if they do get a job. This has been the case for a long time and the problem is not just ongoing, it seems to be getting worse. The detailed statistics can be found in *Issues Paper 1*, which is published on the Commission's website.<sup>5</sup>

There have been several investigations into the issue of employment and disability over the past few years, as discussed in *Issues Paper 4*.<sup>6</sup> However, many of those reports focus on the barriers to employment as opposed to the solutions to the problems. In any event, it appears that little action has been taken with respect to the recommendations in those reports.

Further, earlier investigations into employment of people with disability tend to examine *either* the employee perspective *or* the government perspective *or*, less frequently, the employer perspective.

This Inquiry sought to take a more holistic approach to the employment of people with disability. It also sought to refocus the debate onto practical solutions that can

be implemented in the short- to medium-term, and which will have long-lasting impact.

Current discussions about welfare and industrial relations reform make this Inquiry particularly well-timed. Law and policy in these areas is in a state of flux. In such circumstances it is important that policy makers take the time to listen to what people with disability, and their actual or potential employers, say is needed to bring about increased participation, recruitment and retention rates.

For example, the Inquiry has repeatedly been told about the importance of a coordinated approach to employment and people with disability. People with disability explain that there is little point in implementing a policy designed to encourage entry into the workplace if employers are unwilling to hire them. Submissions also note that it is pointless to encourage people with disability to move from welfare into the workplace if there is inadequate vocational education and training assistance, or insufficient transition-to-work assistance, or inadequate ongoing supports to ensure successful recruitment and long-lasting employment relationships, or if it is uneconomic – from either the employee or employer perspective.

The Inquiry's interaction with the Department of Employment and Workplace Relations (DEWR) suggest that the government is open to new ideas. The Inquiry has focussed on providing those ideas based on the views of all parties involved in the employment equation – people with disability as employees, private employers, public employers, recruitment and employment support services and the Federal Government as a welfare and service provider.<sup>7</sup>

## **1.5 What is the structure of this report?**

In August 2005 the Inquiry published an interim report which identified the primary barriers to employment for people with disability and made 28 Interim Recommendations on the basis of the 133 submissions it had received by that date.

This final report does not republish the extensive material in the interim report. Rather, it seeks to develop solutions to the barriers identified in that report.

In order to clarify the distinction between the text of the interim report and this final report, the Inquiry has changed the title of the interim report from the more general 'WORKability' to 'WORKability I: Barriers'. A copy of *WORKability I: Barriers* can be downloaded from the Human Rights and Equal Opportunity Commission's website.<sup>8</sup>

The content of this report – *WORKability II: Solutions* – can be summarised as follows:

- summaries of the comments received since publication of *WORKability I: Barriers*

- discussion of the process and outcomes of the four working groups convened by the Inquiry since publication of the interim report, which address:
  - work trials
  - occupational health and safety, disability discrimination and industrial relations laws
  - flexibility in the workplace
  - ongoing supports for employees with disability and their employers
- preliminary research about international approaches to:
  - providing supports to people with disability and their employers
  - government accessible procurement policies
- summary of the Department of Employment and Workplace Relations intentions regarding:
  - the development of a one-stop-information-shop
  - improvements to the Workplace Modifications Scheme
- 30 final recommendations
- next steps for the Commission.

Thus the Chapters of this final report – *WORKability II: Solutions* – are as follows:

- Chapter 1: Background to the Inquiry
- Chapter 2: Inquiry methodology
- Chapter 3: Responses to *WORKability I: Barriers*
- Chapter 4: Developing government-supported work trial schemes
- Chapter 5: Strategies to address perceptions about occupational health and safety, disability discrimination and unfair dismissal laws
- Chapter 6: Strategies to encourage the adoption of flexible workplaces
- Chapter 7: Improving delivery of ongoing supports in the open workplace
- Chapter 8: International approaches to providing supports in the open workplace
- Chapter 9: International approaches to government accessible procurement policies
- Chapter 10: Developing a one-stop-information-shop and improving the Workplace Modifications Scheme
- Chapter 11: Final recommendations
- Chapter 12: Next steps.

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## Chapter 1: Endnotes

- 1 Australian Bureau of Statistics, *Disability, Ageing and Carers Australia*, Catalogue Number 4430.0, 2003. See further *WORKability I: Barriers*, Chapter 2, section 2.2.
- 2 *Issues Paper 1: Employment and disability: The statistics*. Available at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/papers/issues1.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/papers/issues1.htm)
- 3 *Human Rights and Equal Opportunity Commission Act 1986* (Cth), s 31.
- 4 For a list of preliminary submissions see: [http://www.humanrights.gov.au/disability\\_rights/employment/responses\\_rfc.htm](http://www.humanrights.gov.au/disability_rights/employment/responses_rfc.htm)
- 5 *Issues Paper 1: Employment and Disability: The statistics*. Available at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/papers/issues1.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/papers/issues1.htm)
- 6 *Issues Paper 4: Employment and Disability: Commonwealth Government Assistance*. Available at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/papers/issues4.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/papers/issues4.htm)  
See also: House of Representatives Standing Committee on Employment, Workplace Relations and Workforce Participation, *Working for Australia's future: Increasing participation in the workforce*, March 2005.
- 7 While recognising the role of State and Territory governments, it was not within the scope of the Inquiry to directly engage those governments.
- 8 [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/index.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/index.htm)



# Chapter 2



## Inquiry methodology

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## 2.1 Introduction

The primary goal of this Inquiry has been to identify and develop measures to improve the participation, recruitment and retention rates of people with disability in the open workplace.

The Inquiry has sought to achieve this goal by collaborating with all those involved in the employment process. Thus, the products of this Inquiry are the result of ongoing consultation with a large variety of constituents, including individuals with disability, community groups representing people with disability, unions, employment service providers and their peak bodies, employers and their peak bodies and government agencies.

The processes used by the Inquiry to engage the various parties involved in employment and disability include:

- publishing short Issues Papers (March–August 2005)
- publishing an interim report – *WORKability I: Barriers* (August 2005)
- gathering and publishing written submissions (March–November 2005)
- conducting roundtable discussions and individual meetings (March–September 2005)
- convening four working groups (August–November 2005)
- consulting directly with the Department of Employment and Workplace Relations (DEWR) (March–November 2005)
- researching international models (August–November 2005).

These methodologies are discussed in more detail below.

While the Inquiry will be complete on the publication of this report, the Human Rights and Equal Opportunity Commission intends to pursue various issues that have arisen from this process (see Chapter 12).

## 2.2 Issues papers

On 4 March 2005, the Inquiry published four Issues Papers designed to focus attention on specific questions and to elicit written submissions by 15 April 2005.

The papers discussed the following issues:

- *Issues Paper 1*: Employment and disability: The statistics
- *Issues Paper 2*: Employment and disability: The issues for people with a disability
- *Issues Paper 3*: Employment and disability: The issues for employers



- *Issues Paper 4: Employment and disability: Commonwealth Government assistance.*

A fifth Issues Paper was released on 8 June 2005:

- *Issues Paper 5: Mapping of Commonwealth Government Services: Stage One of the Information Gathering Exercise.*

The focus of *Issues Paper 5* was to publish the information gathered by the Inquiry as a result of a Commonwealth Government agency meeting on 15 March 2005. It is the first step towards a clearer map of government service provision. The Inquiry asked for feedback about the scope and quality of the information in that paper by 24 June 2005.

A sixth Issues Paper was published on 19 August 2005:

- *Issues Paper 6: Interim Report – Executive Summary, Interim Recommendations, Next Steps.*

*Issues Paper 6* requested feedback on the interim report and its interim recommendations by 30 September 2005.

All Issues Papers are available on the Inquiry website at: [www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/index.htm#issues](http://www.humanrights.gov.au/disability_rights/employment_inquiry/index.htm#issues)

### **2.3 Interim report – *WORKability I: Barriers***

The submissions provided to the Inquiry by July 2005 focussed mainly on the barriers to employment for people with disability and their actual or potential employers. The Inquiry was of the view that it would be useful to publish a summary of those submissions, as early as possible, so that it could be used as a platform for developing the solutions proposed in this final report.

Accordingly, an interim report – *WORKability I: Barriers* – was published on 19 August 2005.<sup>1</sup>

*WORKability I: Barriers* sought to:

- summarise the information and ideas contained in the written submissions received by 1 August 2005
- select the issues within those themes that appeared to be the most pressing
- develop interim recommendations to address the most significant barriers
- develop an agenda for further research and action in the remainder of 2005
- seek comment on the appropriateness of the interim recommendations and plan of action.

As discussed further in Chapter 3 of this report, *WORKability I: Barriers* examined the information needs, costs and risks facing employers and people with disability.<sup>2</sup> It also considered the specific issues arising at the three stages of the employment process: job readiness, job seeking and job retention.<sup>3</sup>

*WORKability I: Barriers* made 28 Interim Recommendations and sought further submissions regarding those proposals.<sup>4</sup>

*WORKability I: Barriers* also highlighted eight areas for further development, as described in sections 2.6–2.8 below.<sup>5</sup>

*WORKability I: Barriers* can be downloaded from the Commission's website at: [www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/docs/interim.doc](http://www.humanrights.gov.au/disability_rights/employment_inquiry/docs/interim.doc)

## **2.4 Written submissions**

The Inquiry has made substantial efforts to ensure that all individuals and organisations involved in the employment process have had an opportunity to contribute their views.

There have been three phases to the submission process, as described below.

### **2.4.1 Preliminary Submissions**

The Commission sought preliminary views as to the usefulness of conducting this Inquiry (Preliminary Submissions). The Commission received 22 submissions on the topic, all of which commented on the possible benefits of the process.

A list and electronic copies of the Preliminary Submissions can be found at: [http://www.humanrights.gov.au/disability\\_rights/employment/responses\\_rfc.htm](http://www.humanrights.gov.au/disability_rights/employment/responses_rfc.htm)

### **2.4.2 First Round Submissions**

When the Inquiry was launched on 4 March 2005, there was a general call for submissions (First Round Submissions). The Inquiry set an initial deadline of 15 April 2005 however it continued to request and accept responses and suggestions from all interested parties until the end of July.

As at 1 August 2005, the Inquiry had received 133 written submissions. The submissions came from a wide variety of constituents, including:

- individuals with disability
- carers of people with disability
- disability peak bodies
- groups representing people who are blind and vision impaired
- groups representing people who are Deaf and hearing impaired
- groups representing people with intellectual disability
- groups representing people with physical disability
- groups representing people with mental illness
- groups representing people living with HIV/AIDS

- community legal services
- community welfare groups
- social service advocacy groups
- employment services and peak bodies
- private sector employers and peak bodies
- State equal opportunity commissions
- Federal government agencies
- State government agencies
- vocational education and training agencies
- education service providers
- unions
- academics.

A list of the First Round Submissions can be found in Appendix 1 at the end of this report. Electronic copies of the submissions, where available, can be found at: [www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/subs1/index.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/subs1/index.htm)

The First Round Submissions formed the basis of *WORKability I: Barriers* and its Interim Recommendations.

### **2.4.3 Second Round Submissions**

The Inquiry sought to test the factual content and interim recommendations contained in *WORKability I: Barriers* with all parties to the employment process and the community more generally. The Inquiry therefore requested responses to the interim report by reopening the submission process (Second Round Submissions).

The Inquiry set an initial submission deadline of 30 September 2005, however it continued to accept responses until mid November.

As at 21 November 2005, the Inquiry had received 29 additional submissions. The submissions came from a variety of constituents, including:

- individuals with disability
- disability peak bodies
- groups representing people who are blind and vision impaired
- groups representing people who are Deaf and hearing impaired
- groups representing people with intellectual disability
- groups representing people with mental illness
- community health and welfare services
- employment service peak bodies
- private recruitment agency peak bodies
- vocational education and training agencies
- Federal government agencies
- State government agencies.

A list of the Second Round Submissions can be found in Appendix 2 at the end of this report. Electronic copies of the submissions, where available, can be found at: [www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/subs2/index.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/subs2/index.htm)

The content of the Second Round Submissions is discussed throughout this final report.

## **2.5 Roundtable discussions and individual meetings**

The Inquiry conducted the following group consultations (in addition to the working group consultations discussed in section 2.6 below):

- Canberra – 15 March 2005: Federal government consultation<sup>6</sup>
- Sydney – 31 March 2005: Inter-sector consultation<sup>7</sup>
- Melbourne – 7 April 2005: Inter-sector consultation<sup>8</sup>
- Brisbane – 22 April 2005: Employer-only consultation<sup>9</sup>
- Sydney – 7 July 2005: Employer-only consultation<sup>10</sup>
- Sydney – 10 October 2005: Employer-only consultation.<sup>11</sup>

The Inquiry also attended various forums of direct relevance, including:

- Melbourne – 29 June 2005: Mental Health Council of Australia Forum on Promoting Supportive Workplaces for People with Mental Illness
- Melbourne – 13 July 2005: Department of Employment and Workplace Relations Employer Roundtable
- Sydney – 20 July 2005: Mental Health Council of Australia Forum on Promoting Supportive Workplaces for People with Mental Illness
- Sydney – 9 September 2005: Employers Making a Difference Consultation with Members.

Finally, the Inquiry held a number of one-on-one meetings with people from various agencies and organisations including:

- Association of Competitive Employment
- Australian Chamber of Commerce and Industry
- Australian Public Service Commission
- Business Council of Australia
- Catholic Commission for Justice, Development and Peace
- Council of Small Business Organisations Australia
- Department of Employment and Workplace Relations
- Diversity@Work
- Employers Making a Difference
- Equal Opportunity Commission of Queensland
- Equal Opportunity Commission of South Australia
- Equal Opportunity Commission of Victoria

- IBM Australia Limited
- Mission Australia
- National Australia Bank Limited
- Open Minds Employment Service
- Rio Tinto Limited
- Victorian Employers Chamber of Commerce and Industry
- Westpac Limited
- Dr Harvey Whiteford, University of Queensland.

## 2.6 Working groups

*WORKability I: Barriers* noted that the Inquiry would convene four working groups focussing on the following issues regarding the employment of people with disability:

- creation of robust work trial schemes
- clarification of occupational health and safety, disability discrimination and unfair dismissal concerns
- flexibility in the workplace
- provision of ongoing supports.<sup>12</sup>

Representatives from 45 different organisations joined one or more of these working groups. The organisations included disability organisations and their peak bodies, employment services and their peak bodies, employers and their peak bodies, the ACTU, welfare groups and government agencies. Between 28 and 37 individuals participated in each group.

The working groups were conducted through a combination of face-to-face meetings and email communication.

More detailed discussion of these working groups can be found in Chapters 4–7 of this report.

The Commission hopes to continue the work of these groups into 2006, as noted in Chapter 12.

## 2.7 Consultations with the Department of Employment and Workplace Relations

The Inquiry has been in ongoing communication with Department of Employment and Workplace Relations (DEWR) from the outset of the Inquiry.

In particular, *WORKability I: Barriers* highlighted two specific areas for focussed consultation:

- progressing the development of a one-stop-information-shop
- improving the Workplace Modifications Scheme.<sup>13</sup>

The Inquiry met with DEWR staff on 5 October 2005 regarding these two issues and continues to follow their progress.

For further discussion about the consultations see Chapter 10 of this report.

## 2.8 International research

As suggested by several of the First Round Submissions, the Inquiry highlighted two areas for further research:

- international approaches to providing supports to people with disability and their employers in the open workplace
- international approaches to government accessible procurement policies.<sup>14</sup>

Research was conducted through a combination of web-based material and email communication with various international organisations, government agencies and academics. The results of the research are set out in Chapter 8 (provision of supports) and Chapter 9 (accessible procurement policies).

## 2.9 Next steps

The publication of this final report marks the completion of the National Inquiry into Employment and Disability.

However, there are several issues that have arisen in the context of the Inquiry which would benefit from further development. Those areas, and the Commission's proposed actions in the future, are described in Chapter 12.

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## Chapter 2: Endnotes

- 1 As noted in Chapter 1, in order to clarify the distinction between the main text of the interim report and this final report, the Inquiry has retrospectively changed the title of the interim report from the more general 'WORKability' to 'WORKability I: Barriers'.
- 2 See *WORKability I: Barriers*, Chapter 2 (Information needs, costs and risks for employers) and Chapter 3 (Information needs, costs and risks for people with disability).
- 3 See *WORKability I: Barriers*, Chapter 4 (Getting ready for the open workplace), Chapter 5 (Recruitment in the open workplace) and Chapter 6 (Job retention in the open workplace).
- 4 See *WORKability I: Barriers*, Chapter 7 (Interim Recommendations).
- 5 See *WORKability I: Barriers*, Chapter 8 (Next Steps for the Inquiry).
- 6 See *Issues Paper 5: Mapping of Commonwealth Government Services: Stage One of the Information Gathering Exercise*. Available at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/papers/issues5.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/papers/issues5.htm)
- 7 The Roundtable minutes are available at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/forums/forums.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/forums/forums.htm)
- 8 The Roundtable minutes are available at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/forums/forums.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/forums/forums.htm)
- 9 The Brisbane employer forum minutes are available at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/forums/brisbane.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/forums/brisbane.htm)
- 10 The Sydney employer forum minutes are available at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/forums/ceoe.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/forums/ceoe.htm)

- 11 The NSW EEO Practitioner's Association (NEEOPA) employer forum minutes are available at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/forums/neeopa.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/forums/neeopa.htm)
- 12 See *WORKability I: Barriers*, Chapter 8, section 8.3.
- 13 See *WORKability I: Barriers*, Chapter 8, section 8.2.
- 14 See *WORKability I: Barriers*, Chapter 8, section 8.4.

# Chapter 3



## Responses to *WORKability I: Barriers*

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### 3.1 Introduction

When the interim report – *WORKability I: Barriers* – was published in August 2005, the Inquiry encouraged the contribution of further submissions in response to:

- the general content of the report
- the Interim Recommendations
- the Inquiry’s proposed plan of action.<sup>1</sup>

The deadline for further submissions was 30 September 2005, however the Inquiry accepted comments until mid November 2005. The Inquiry received 29 additional submissions.<sup>2</sup> These submissions are collectively referred to as ‘Second Round Submissions’ (see further Chapter 2 on the Inquiry’s methodology).

The following sections provide a summary of:

- the content of, and responses to, the main body of *WORKability I: Barriers*
- the content of and responses to each of the 28 Interim Recommendations.

### 3.2 Main body of *WORKability I: Barriers*

#### 3.2.1 Summary of *WORKability I: Barriers*

*WORKability I: Barriers* identified three concerns that were common to both employees with disability and employers:

- *Information* – people with disability and employers are concerned about the absence of easily accessible and comprehensive information and advice to assist in decision making processes and respond to ongoing needs
- *Cost* – people with disability are concerned about the costs of participation, and employers are concerned about the possible costs of employing a person with disability
- *Risk* – people with disability are concerned about the financial and personal impact of participating in the workplace, and employers are concerned about the same things when hiring a person with disability, especially if a job does not work out.<sup>3</sup>

*WORKability I: Barriers* also discussed the varying issues facing employees with disability and employers throughout the three phases of the employment process, namely:

- *Job readiness* – being ready and qualified to enter the open workforce<sup>4</sup>
- *Job seeking* – recruitment and selection processes in the open workforce<sup>5</sup>

- *Job retention* – keeping and progressing within a job in the open workforce.<sup>6</sup>

In discussing these issues, the Inquiry was conscious that the term ‘people with disability’ describes people in a wide range of circumstances.<sup>7</sup> Some disabilities are sensory (eg visual and hearing impairments), some relate to mobility, some are intellectual disabilities, some are mental illnesses and some are the result of an acquired brain injury. Some disabilities are present at birth, some are the result of car and sporting accidents, some are acquired in the workplace, some are the result of illness. Some disabilities are severe, some are mild and other disabilities lie somewhere in between. Some disabilities are readily recognisable, others may be invisible until disclosed. Some disabilities are permanent, some are temporary, and some are episodic. Some need physical workplace accommodations, others do not. Some need on-the-job supports, others do not. Some people with disability have strong family and independent financial supports, others do not. Some people with disability are suited to working in the primary sector, others in the manufacturing sector and others in the services sector. Some are suited to senior positions, others to more junior positions.

Thus, while the Inquiry accepted that there was no single way to address the needs and concerns of this diverse group of people, *WORKability I: Barriers* focussed on some of the themes that were common to those groups. The Inquiry developed 28 interim recommendations and set out a plan of action in an effort to advance the issues raised in the submissions.

The chapters of *WORKability I: Barriers* are as follows:

- Chapter 1: Background to the Inquiry
- Chapter 2: Information needs, costs and risks for employers
- Chapter 3: Information needs, costs and risks for people with disability
- Chapter 4: Getting ready for the open workplace
- Chapter 5: Recruitment in the open workplace
- Chapter 6: Job retention in the open workplace
- Chapter 7: Interim recommendations
- Chapter 8: Next steps for the Inquiry

Despite the passing of time, Chapters 2-6 of *WORKability I: Barriers* continue to be a useful resource on the barriers and possible solutions to employment of people with disability. However, in the interests of brevity, that material has not been reproduced here.

As noted in Chapter 1 of this report, the Inquiry has changed the title of the interim report from ‘*WORKability*’ to ‘*WORKability I: Barriers*’ in order to clarify the distinction between the text of the interim report and this final report.

In addition, some minor corrections have been made to the text of the interim report since its original publication. The corrected version has been placed on the Commission's website and is available from: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/docs/interim.doc](http://www.humanrights.gov.au/disability_rights/employment_inquiry/docs/interim.doc)

### **3.2.2 General comments about *WORKability I: Barriers***

Many of the Second Round Submissions commented that the interim report was a comprehensive description of the primary barriers facing people with disability and their actual or potential employers.<sup>8</sup>

Several submissions noted ongoing concerns about the Federal Government's proposed Welfare-to-Work package.<sup>9</sup> For example, People With Disability Australia note that the 'interrelationships between changes in social security, employment assistance and industrial relations laws, policies and programs' may have a seriously negative impact on people with disability.<sup>10</sup> The Sydney South West Area Mental Health Service also suggests that the proposed welfare reforms will act as a disincentive to participation for people with disability.<sup>11</sup>

The National Ethnic Disability Alliance and the Fairfield Access Committee note that the special needs of people with disability from culturally and linguistically diverse (CALD) backgrounds requires greater focus.<sup>12</sup>

Several submissions also highlighted the ongoing need for comprehensive education campaigns aimed at changing the attitudes of employers, and the community more generally.<sup>13</sup>

Some submissions raised the issue of employment in business services (previously known as 'sheltered workshops').<sup>14</sup> The terms of reference for this Inquiry focus on employment in the open workplace rather than in business services. However, the Intellectual Disability Rights Service highlights that additional measures must be taken to ensure better transition from business services to open employment:

Business services are supposed to foster progression to open employment but this rarely occurs because the necessary training, development and opportunities are not provided...

Whilst we support a focus on access to open employment for people with disabilities, we believe that the reality for many workers with an intellectual disability is that they remain trapped in supported employment and subject to incredibly unfair wages and working conditions.<sup>15</sup>

### 3.3 Interim Recommendations and Next Steps

#### 3.3.1 Summary of the Interim Recommendations and Next Steps

*WORKability I: Barriers* proposed 28 Interim Recommendations which sought to address the concerns of the different parties involved in the employment process – in particular, actual and potential employees with disability and their employers.

The Interim Recommendations were organised in the following categories:

- information needs
- costs facing employers and people with disability
- risks facing employers and people with disability
- recruitment and support needs
- public and private sector leadership.<sup>16</sup>

*WORKability I: Barriers* also highlighted eight areas for the Inquiry's attention over August–November 2005 (the 'Next Steps').<sup>17</sup> The idea was to commence the process of developing and implementing some of the Interim Recommendations.

The eight areas of focus were:

- developing a one-stop-information-shop (Interim Recommendations 1 and 2)
- improving the Workplace Modifications Scheme (Interim Recommendation 11)
- clarifying concerns about occupational health and safety laws, disability discrimination laws and industrial relations laws (Interim Recommendation 13)
- developing a robust model for work trials (Interim Recommendation 15)
- developing a model for providing ongoing support to employers and employees with disability (Interim Recommendations 17 and 18)
- developing a model for a flexible workplace (Interim Recommendation 19)
- researching international models for increasing participation and employment (Interim Recommendation 4)
- researching international models for government procurement policies (Interim Recommendation 24).<sup>18</sup>

These topics were chosen on the basis that:

- the submissions indicated that they were a pressing concern
- there was some prospect of progress within the limited timeframe of the Inquiry.

*WORKability I: Barriers* emphasised that its recommendations were guided by the content of the submissions and consultations. They did not intend to, and did not, cover the field. It is in that context that the Inquiry sought further comments and suggestions as to other measures needed to increase participation and employment of people with disability.

### **3.3.2 General comments about the Interim Recommendations and Next Steps**

Many submissions endorsed the majority of the Interim Recommendations and then made comments about specific recommendations (see section 3.3.3 below).<sup>19</sup>

Several submissions noted that a holistic approach to workplace reform is vital to achieving increased participation, employment and retention of people with disability. For example, Centacare states that:

Centacare strongly supports the Interim Report's emphasis on the importance of a holistic and coordinated approach to improving employment participation and retention rates for people with a disability. Improved outcomes rely on the strength of a coordinated approach from all levels of government, business and the community. The Report has clearly given detailed consideration to the multiple stakeholder perspectives on the issue of disability and employment acknowledging that workable solutions will necessarily involve all of these groups.<sup>20</sup>

Centacare also suggested that while the interim report provides a good platform for further policy development, there is still much research to be done:

While the outcomes of this Inquiry represent a significant contribution to the body of knowledge about employment and disability, Centacare endorses the emphasis given to the need for further research for the purposes of developing an accurate assessment of the true nature and extent of information needs, risks, recruitment and support needs. Research in this area is critical to an informed policy response.<sup>21</sup>

Several submissions also endorsed the focus of the working groups and some organisations offered to assist in the progress of those issues.<sup>22</sup>

### **3.3.3 Comments about specific Interim Recommendations**

The following sections reiterate the Interim Recommendations and the reasoning behind them. They then discuss the responses to those recommendations in the Second Round Submissions and indicate how this has influenced the Inquiry's final recommendations. The final recommendations can be found in Chapter 11.

*(a) Interim Recommendations 1-2: One-stop-information-shop*

*WORKability I: Barriers* recommended the creation of a comprehensive one-stop-information-shop for all parties involved in the employment of people with disability.

***Interim Recommendation 1: One-stop-information-shop***

*The Inquiry recommends that:*

- (a) DEWR conduct multi-sector consultations on the ideal content, scope, format and cost of a one-stop-information-shop; and*
- (b) DEWR facilitate the launch of a site-in-progress, accompanied by an individualised inquiry service in early 2006.*

In particular, the Inquiry noted the need for a clear map of government services available to actual and potential employees with disability and their employers.

***Interim Recommendation 2: Map government services***

*The Inquiry recommends ongoing Commonwealth, State and Territory interagency consultations with a view to developing up-to-date information regarding:*

- (a) the programs available to employers and people with disability;*
- (b) the relationships between various government agencies and programs; and*
- (c) the outcomes of those programs.*

*The Inquiry recommends that this information be part of the one-stop-information-shop (see Interim Recommendation 1).*

*WORKability I: Barriers* also noted that the Inquiry would consult with the Department of Employment and Workplace Relations on the development of these initiatives. Chapter 10 discusses these consultations in greater detail.

*(b) Interim Recommendation 3: Research into costs*

***Interim Recommendation 3: Research into costs***

*The Inquiry recommends research into the economic cost of disability to:*

- (a) people with different disabilities participating in the open workplace;*
- (b) employment services assisting people with different disabilities; and*
- (c) large, medium and small employers of people with different disabilities.*

Interim Recommendation 3 was proposed with a view to developing qualitative and quantitative analysis to support – or rebut – the primarily anecdotal information currently available about the economic cost of disability.<sup>23</sup>

It was the Inquiry's view that such research would assist the government in determining the appropriate amount of support and funding for all parties involved in the employment equation. It might also dispel some of the myths and fears about the costs involved in the employment process.

In the Second Round Submissions, the Commonwealth Department of Human Services referred the Inquiry to a 2003 report by the Institute for Research into

International Competitiveness at Curtin University Business School.<sup>24</sup> The report conducts a cost-benefit analysis of the government's investment into the vocational rehabilitation services provided by CRS Australia. It found an overall social benefit of more than 30 times the investment.<sup>25</sup>

The City of Melbourne Disability Advisory Committee suggested that:

The economic benefits of equity of employment opportunity for people with disabilities MUST balance any research undertaken that will outline probable costs.<sup>26</sup>

The Inquiry is of the view that the Commonwealth Productivity Commission would be best placed to conduct specific research into the economic cost of disability to people with disability, employment support services and employers. The Inquiry has amended Interim Recommendation 3 accordingly.

*(c) Interim Recommendation 4: Streamlining supports and subsidies*

***Interim Recommendation 4: Streamline support and subsidies***

*The Inquiry recommends research into international approaches to encouraging the participation and employment of people with disability with a view to developing:*

- (a) a more streamlined and comprehensive program of support, assistance and incentives; and*
- (b) a whole-of-government approach.*

The division between support services provided by Commonwealth, State and Territory agencies, together with the multitude of supports and services 'hidden away', make it very difficult to determine what is available to people with disability and their actual or potential employers.

While a better information service might go some of the way towards addressing this problem (see Interim Recommendation 1), several of the First Round Submissions suggested developing a more holistic approach to providing assistance to actual and potential employees with disability and their employers.<sup>27</sup>

The Inquiry undertook to conduct some preliminary research about how other countries provide supports and subsidies to people with disability and their employers. The results of this research is set out in Chapter 8. The summary of the Second Round Submissions is also included in that chapter.

*(d) Interim Recommendation 5: Case management model*

***Interim Recommendation 5: Case management model***

*The Inquiry recommends research into case management models for people with disability throughout the job readiness, recruitment and retention stages of the employment process, with a view to ensuring coordination of all services and supports across all levels of government.*



The First Round Submissions suggested that a case management model ensuring coordination of services and supports is essential to a successful employment experience for people with disability and employers.<sup>28</sup>

The Second Round Submission from the Commonwealth Department of Human Services, which included information provided by CRS Australia, states that:

CRS Australia supports the provision of coordinated long term case management support for people with severe disabilities. However, caution should be exercised and recognition given that not all people with a disability need long term support. Many people with a disability, including those with significant impairment, neither choose nor require long term case management. Rather, many people seek services which assist them to improve independence in disability management. In the employment context this includes access to expertise and support in job match, job search & job placement and assistance with access to workplace, family, community and medical supports to optimise their job retention.

Further, case management models should be developed within the context that employers' obligation to accommodate diversity in the workplace to a reasonable level, under the Disability Discrimination Act, 1992.<sup>29</sup>

The City of Melbourne Disability Advisory Committee notes:

It is highly recommended that a change in language and philosophy shift to respecting people with disabilities as individual who have the same rights to choice and independence in all aspects of life. Case management terminology must change to individualised service planning models were people with disabilities direct and hold primary decision making power in determining employment choice and placement.<sup>30</sup>

The Inquiry has made only minor changes to Interim Recommendation 5.

*(e) Interim Recommendations 6-7: Cost of participation and cost of disability allowances*

***Interim Recommendation 6: Cost of disability allowance***

*The Inquiry recommends reconsideration of the McClure Report's recommendation regarding simplification of welfare payments and the introduction of a cost of disability allowance, which takes into account the varying needs of people with different disabilities.*

***Interim Recommendation 7: Cost of participation allowance***

*The Inquiry recommends reconsideration of the McClure Report's recommendation regarding simplification of welfare payments and the introduction of a cost of participation allowance, which takes into account the varying needs of people with different disabilities.*

In 2000, the Commonwealth Reference Group on Welfare Reform delivered its final report *Participation Support for a More Equitable Society* (the McClure Report). The report recommended the introduction of one base payment for all income support recipients with additional payments for those with special disadvantages, including people with disability.<sup>31</sup>

The First Round Submissions urged the introduction of a ‘cost of disability allowance’ to cover the additional financial burden of dealing with disability in daily life. They also suggested the introduction of a ‘cost of participation allowance’ to offset the disproportionate costs faced by people with certain disabilities when participating in the workforce.<sup>32</sup>

The Deafness Forum suggested that any such system could be made fairer by ensuring that the component covering the ‘additional costs of living due to disability’ has several tiers, to account for differing levels of disability and associated costs.<sup>33</sup> For example, depending on the disability, transport, health costs and personal care costs might vary greatly.

Some of the First Round Submissions also argued that a ‘cost of disability allowance’ should be available as long as there is evidence of additional costs – irrespective of whether the person has a job or is receiving welfare payments.<sup>34</sup>

Several of the Second Round Submissions also supported the introduction of these types of allowances.<sup>35</sup> However, the City of Melbourne Disability Advisory Committee cautioned that ‘radical changes that result in loss of benefits (health, pharmaceutical, travel) [may act] as a disincentive to participation in the paid workforce.’<sup>36</sup>

The Inquiry has made only minor changes to Interim Recommendations 6 and 7.

*(f) Interim Recommendations 8-10: Health and transport concessions and allowances*

***Interim Recommendation 8: Health concessions***

*The Inquiry recommends further investigation into the need for extending eligibility for health care concessions for people with disability. The investigations should include a focus on:*

- (a) the cost of health care for people with different disabilities;*
- (b) the additional health costs that may be incurred because of participation in the open workplace; and*
- (c) the impact of health care costs on participation in the open workplace.*

***Interim Recommendation 9: Mobility Allowance***

*The Inquiry recommends reconsidering the amount of the Mobility Allowance to take into account the cost of transport to and from the workplace for people with different disabilities. This should include consideration of access to the Mobility Allowance on an ‘as needed’ basis.*

***Interim Recommendation 10: Transport concessions***

*The Inquiry recommends further investigation into the need to extend eligibility for transport concessions for people with disability. The investigations should include a focus on:*

- (a) the cost of transport for people with different disabilities;*
- (b) the additional costs that may be incurred because of participation in the open workplace; and*
- (c) the impact of transport costs on participation in the open workplace.*

*WORKability I: Barriers* highlighted that the simultaneous loss of income support, health concessions and transport concessions can have a devastating impact on people with disability who enter the workplace. This financial impact can be a strong disincentive to people with disability to seek employment.<sup>37</sup>

Several of the Second Round Submissions continued to highlight the burden of transport and health costs for people with disability seeking to enter and remain in the open workplace.<sup>38</sup>

The Spastic Centre recommended that there be comprehensively subsidised travel and that people with disability should be able to retain their pension card for subsidies to additional services, in order to remove any disincentives to going to work.<sup>39</sup>

The Inquiry has amended Interim Recommendation 8 to suggest that health care concessions be extended to people with disability who enter the workforce. It has also changed Interim Recommendation 9 to recommend increasing the amount of the Mobility Allowance so that it reimburses transport costs to and from work for eligible persons.

It is the Inquiry's view that these measures can be readily implemented by the Commonwealth government and may have a substantial impact on the willingness of people with disability to participate in the open workplace.

The Inquiry has not made any substantial changes to Interim Recommendation 10 regarding transport concessions.

#### *(g) Interim Recommendation 11: Workplace Modifications Scheme*

##### ***Interim Recommendation 11: Improve the Workplace Modifications Scheme (WMS)***

*The Inquiry recommends that any revised WMS include the following features:*

- (a) eligibility regarding any employee with disability, whether or not the person is referred by a government-funded employment service or working on a full-time, part-time or casual basis;*
- (b) expansion of the types of modifications covered by the scheme;*
- (c) portability of WMS-funded equipment;*
- (d) increased amounts available for modifications;*
- (e) simplified application process; and*
- (f) promotion of the scheme.*

The Federal government's Workplace Modifications Scheme (WMS) is intended to offset the cost of making workplace modifications and provide an incentive to employers to hire people with disability. However, *WORKability I: Barriers* indicates that the WMS has little practical impact on employment decisions.<sup>40</sup>

The 2005-2006 Budget papers announced that DEWR would work to improve access to the WMS. *WORKability I: Barriers* noted that the Inquiry would consult with DEWR regarding its intentions in this area. These consultations are discussed in Chapter 10. The Second Round Submissions are also discussed in that chapter.

*(h) Interim Recommendation 12: Employer tax incentives*

***Interim Recommendation 12: Employer tax incentives***

*The Inquiry recommends research into the structure and effectiveness of international models for tax incentives regarding employment of people with disability, with a view to determining the appropriateness of introducing such incentives in Australia.*

A number of the First Round Submissions to the Inquiry suggested that tax incentives for employers might encourage the employment of people with disability.<sup>41</sup>

Second Round Submissions suggested research into the tax incentive schemes used in Germany<sup>42</sup> and Scandinavia.<sup>43</sup> For example, in Germany:

...all employers over 100 employees in size are obligated by law to employ 5% of their work force [as people with disability]. Those employers who choose not to do this pay a tax levy in lieu of their obligation.<sup>44</sup>

The Department of Human Services referred the Inquiry to the International Labour Organisation's Job Retention project which analyses employer incentives to hire and retain workers with disabilities.<sup>45</sup>

The Department of Human Services also recommends consideration of the following issues should any research take place in this area:

- Many current employees have a disability and manage work without incurring additional employer expense.
- Many people have a 'hidden' disability and choose not to disclose for fear of stigma. Employer tax incentives may carry the risk of employee pressure to disclose a disability, contrary to State and Commonwealth Privacy legislation.
- An unintended consequence of such a strategy may be that employees injured at work are identified for a tax incentive, in order to offset workers compensation claim costs.<sup>46</sup>

The Australian National Organisation of the Unemployed supports the idea of tax incentives as long as they are not abused:

Too often, when the cash benefits or tax break ends, the subsidised worker is 'no longer required'. They can be replaced by another worker on the same scheme which attracts a new round of wage subsidies. This 'revolving door' experience has been common amongst job seekers 'employed' under taxpayer funded wage subsidies paid to employers.

Any incentives to hire people with a disability must place clear and enforceable obligations on employers and Job Network members. Subsidised placements should be closely monitored by DEWR through

mandatory reporting by employers and JNMs with penalties imposed for proven exploitation of the system or an individual employed under a government funded scheme.<sup>47</sup>

Blind Citizens Australia is concerned that tax incentives to hire people with disability sends a negative message about the worth of such employees:

Like every other worker in the community, people who are blind or vision impaired want to be employed on their merits and for what they can bring to the workplace. Accordingly, Blind Citizens Australia has strong reservations concerning the level of respect tax incentives give to the work capabilities of people with disabilities and the type of message these employer centric incentives deliver to the community. All financial incentives that encourage the employment of people with disabilities should be based on and reinforce the positive aspects of employment for both the employer and the employee and send the right message to the community.<sup>48</sup>

Thus it appears that there is still some uncertainty about the impact and effectiveness of tax incentives on employers and employees with disability. On this basis, the Inquiry has made no changes to Interim Recommendation 12.

*(i) Interim Recommendation 13: Occupational health and safety, industrial relations and discrimination laws*

***Interim Recommendation 13: Occupational health and safety, industrial relations and disability laws***

*The Inquiry recommends gathering clear and practical information about the financial impact of, and legal risks created by:*

- (a) occupational health and safety laws;*
- (b) disability discrimination laws;*
- (c) industrial relations laws; and*
- (d) the interaction between those laws on employers who hire people with disability.*

The Inquiry created a working group to commence the process of implementing this recommendation. The outcomes of the working group are discussed in Chapter 5. The Second Round Submissions commenting on this recommendation are also discussed in that chapter.

*(j) Interim Recommendation 14: Safety net options*

***Interim Recommendation 14: Safety net options***

*The Inquiry recommends ongoing consultation regarding the proposed safety net provisions in the 2005 Budget in order to:*

- (a) determine the financial impact of participation for people with disability over an extended period of time; and*
- (b) explore other options that might reduce the risk of returning to the open workplace for people with disability.*

Entering the workplace can be a difficult process for some people with disability and there is no guarantee of success, especially at the outset. Many people with disability are afraid that if they lose income support and associated concessions because they have a job, and then the job does not work out, they may not be able to regain that income support.<sup>49</sup> UnitingCare Australia sums up the situation as follows:

[P]eople need to be empowered to do their best, to take calculated risks to move forward; services also need to provide support to them in their achievements. The DSP, or other reasonable income support, needs to remain in place to provide ongoing income support and health care extras to ensure people can participate to the best of their ability. Opportunities to access renewed income support if a person is unable to continue work for a time would provide security and increase the likelihood of them returning to the workforce.<sup>50</sup>

Changes announced in the May 2005 Budget suggested that a person who loses the Disability Support Pension (DSP) because of their earnings or hours worked will be entitled to return if they lose their job, for whatever reason and without reassessment, for up to two years. In addition, people who lose the DSP will retain access to the Pensioner Concession Card for 12 months and Telephone Allowance for 6 months.

Second Round Submissions made no comment about this recommendation other than that 'a secure and adequate income support safety net should always be available to people with disabilities while they engage with the labour market.'<sup>51</sup>

It is unclear whether additional 'safety net' provisions have been considered in the development of the Welfare-to-Work package to be introduced in July 2006.

As a result, only minor changes have been made to Interim Recommendation 14.

*(k) Interim Recommendation 15: Work trials*

***Interim Recommendation 15: Work trials***

*The Inquiry recommends the development of robust government-supported work trial schemes that benefit employers and people with disability.*

The Inquiry created a working group to develop the idea of 'robust government-supported work trials'. The outcomes of the working group are discussed in Chapter 4. The Second Round Submissions commenting on this recommendation are also discussed in that chapter.

*(l) Interim Recommendation 16: Transition-to-work schemes*

***Interim Recommendation 16: Transition-to-work schemes***

*The Inquiry recommends consideration of the following measures to improve transition-to-work schemes:*

- (a) ongoing consultation and cooperation between Commonwealth, State and Territory governments to ensure more coordinated work placement support;
- (b) improvements to the Disability New Apprentice Wage Support (DNAWS) scheme, including increased funding;
- (c) provision of appropriate supports for other work experience, traineeship and apprenticeship schemes (eg New Apprenticeship Access Program (NAAP) and School-based New Apprenticeships (SNAP)); and
- (d) public sector leadership in recruiting people with disability into work experience, traineeships and apprenticeships.

*WORKability I: Barriers* noted serious concerns regarding the assistance and programs available to ensure transition from education and vocational education and training institutions into the workforce.<sup>52</sup>

There are several government-funded apprenticeship and training schemes, for example the New Apprenticeship Access Program (NAAP) and School-based New Apprenticeships (SNAP). However, only one of them – the Disabled New Apprentice Wage Support (DNAWS) scheme – ensures provision of the appropriate supports for people with disability. Further, the funds available under that scheme have been described as ‘unrealistic to support apprentices with high support needs’ or for apprentices who need extended time to complete their qualification.

The First Round and Second Round Submissions contained a variety of suggestions regarding improvements to the transition-to-work process, including:

- improving the training and employment supports available to assist people with disability commence and complete traineeships<sup>53</sup>
- allocating an individual case-manager to assist a person through the transition process<sup>54</sup>
- clearer pathways to Disability Open Employment Services (DOES) from school, TAFE, university or prevocational programs<sup>55</sup>
- relaxing eligibility restrictions and unifying the transition-to-work models across States and Territories<sup>56</sup>
- linking training to employment opportunities<sup>57</sup>
- establishing a ‘Disability Access and Support’ program to assist New Apprenticeship Centres or Group Training Companies that lack the necessary expertise<sup>58</sup>
- commencing transition planning to the tertiary sector, and on to employment, as early as possible so that funding, support and modifications are ready when needed<sup>59</sup>
- reimbursing the cost of professional advice on adjustments under the Disability New Apprentice Wage Support

(DNAWS) scheme by recognising the advice as a ‘workplace modification’<sup>60</sup>

- ensuring that the public sector takes a more active role by providing traineeships and work experience opportunities for students with disability<sup>61</sup>
- ensuring students from non-government schools have the same access to transition assistance and employment programs as students from government schools<sup>62</sup>
- ensuring availability of DNAWS and other traineeship schemes to those who have a qualification but cannot get a job using those qualifications due to their disability<sup>63</sup>
- using business services to assist people to transition into the open workplace.<sup>64</sup> (The Intellectual Disability Rights Service suggests that business services are not currently a good transition service due to the problems within business services.)<sup>65</sup>

A First Round Submission from two academics, Waghorn and Lloyd, discussed the variety of educational, support and employment services which may be involved in the placement of a person with mental illness:

For instance, a person with a mental illness may receive help from a Clubhouse, a specialised or generic open employment service, or from CRS Australia to prepare for work, and may need access to vacancies held by a Job Network agency when job searching. To retain employment, ongoing help may be needed from an Open Employment service. In addition, a TAFE College may be assisting with tailored vocational training to improve employment prospects, or as part of a traineeship package. These programs need coordinating.<sup>66</sup>

In 2005, the Commonwealth Standing Committee on Employment, Workplace Relations and Workforce Participation issued a report – *Working for Australia’s Future: Increasing participation in the workforce* – which recommended:

That Commonwealth, State and Territory agencies improve the transition assistance available from education to work or to further training through more coordinated work placement support and the links between workplace coordinators and disability employment services.<sup>67</sup>

Holmesglen TAFE describes some of its vocational and transition programs as follows:

Each of the three courses has work experience components which students complete. These are structured so as to maximise the benefit to each student in addressing their vocational goals. Considerable consultation occurs with the student, teaching staff and employers. Many students do gain employment directly from the placement, or at the completion of their particular course. The length of work experience ranges from four to



eight weeks per course. Some students gain entry to the workforce through traineeships or apprenticeships.<sup>68</sup>

Holmesglen TAFE stresses the importance of work experience as a transition mechanism and encourages employers, employer groups, unions, employment agencies and other agencies connected to employment to provide meaningful work experience opportunities for all students, including those with disability.<sup>69</sup>

Holmesglen TAFE acknowledges that some employers have concerns about legal liability for injury while a student is on work experience and suggests:

Suitable guidelines about workplace safety can be given to the student, after consultation with the employer, to allay such concerns.<sup>70</sup>

Interim Recommendation 16 has been amended to provide further guidance on how to improve transition-to-work schemes, as suggested in the submissions to the Inquiry. However it is the Inquiry's view that this issue requires close analysis and major improvements, as a matter of priority.

*(m) Interim Recommendations 17-18: Ongoing supports*

***Interim Recommendation 17: Government-funded post-placement support***

*The Inquiry recommends a review of the post-placement support services offered by the Commonwealth government, including consideration of the following issues:*

- (a) funding levels for DOES, JN and CRS to provide on-the-job post-placement support;*
- (b) scope of services provided by DOES, JN and CRS;*
- (c) the appropriateness of time limitations on post-placement support; and*
- (d) access to the Jobs in Jeopardy Program.*

***Interim Recommendation 18: Other support services***

*The Inquiry recommends investigation into the following matters regarding people who obtain a job outside government-funded employment services, or who acquire a disability while on the job:*

- (a) where employees with disability and their employers currently access ongoing support services;*
- (b) who pays for those services;*
- (c) whether those services are sufficient; and*
- (d) any recommendations for improvements.*

The Inquiry created a working group to discuss how to improve the provision of ongoing supports to people with disability and their employers in the open workplace. The outcomes of the working group are discussed in Chapter 7. The Second Round Submissions commenting on these recommendations are also discussed in that chapter.

(n) *Interim Recommendation 19: Flexible workplaces*

***Interim Recommendation 19: Flexible workplace***

*The Inquiry recommends the development of guidelines for creating a flexible workplace for employees with disability. It may be useful to coordinate such efforts with people designing family-friendly workplaces.*

The Inquiry created a working group to commence the process of developing guidelines and to discuss promoting strategies regarding the creation of flexible workplaces. The outcomes of the working group are discussed in Chapter 6. The Second Round Submissions commenting on this recommendation are also discussed in that chapter.

(o) *Interim Recommendation 20: Employment services*

***Interim Recommendation 20: Employment services***

*The Inquiry recommends ongoing consultation and the collection and examination of data over the next 24 months regarding the impact of changes to employment services on people with disability, employers and employment service providers.*

As discussed in *WORKability I: Barriers*, the 2005 Federal Budget introduced a raft of reforms regarding government-funded employment services, some of which commenced on 10 May 2005 (the night the Budget was delivered), some on 1 July 2005 and some of which will commence on 1 July 2006. Some of the proposed reforms were welcomed and others were strongly criticised.<sup>71</sup>

While it is too early to ascertain the true impact of the reforms, the Inquiry is concerned that some of the features may not have the effect of providing better opportunities for people with disability to enter and remain in the workplace.

First Round Submissions to the Inquiry commented on successful international employment service programs into which there should be further research.<sup>72</sup> ACROD and Waghorn and Lloyd call for specific research into appropriate employment services for people with psychiatric disabilities.<sup>73</sup>

*WORKability I: Barriers* recommended that the Department of Employment and Workplace Relations augment its consultation with relevant parties in order to better understand the likely outcomes of the various measures proposed in the Budget regarding employment services. In particular, the Inquiry recommended a focus on:

- the impact of maintaining a cap on Disability Open Employment Service (DOES) places for those on the Disability Support Pension (DSP)
- mechanisms to ensure better cooperation between DOES and Job Network
- whether Job Network has sufficient expertise to assist people who access their services

- whether the case based funding model is sufficiently funded to assist people with high support needs
- whether the recruitment and post-placement support provided by Job Network and DOES adequately caters to those with episodic needs (for example people with mental illness)
- the impact of the new employment services model on recruitment outcomes and long-term retention of people with varying disabilities.

Second Round Submissions endorsed the need for further research and close monitoring of the impact of these reforms.<sup>74</sup>

In relation to the introduction of case based funding for employment services, the Spastic Centre suggests a study of the impact on clients with long-term high support needs. The Spastic Centre also notes that the new funding system will mean increased time spent on administration.<sup>75</sup>

Several organisations expressed concern about diminishing accountability under the *Disability Services Act 1986* (Cth).<sup>76</sup> Others are worried about the lack of expertise in dealing with clients with disability, and mental illness in particular.<sup>77</sup> The National Ethnic Disability Alliance emphasises the need to ensure capacity to assist people from a non-English speaking background (NESB) with disability.<sup>78</sup> The Australian National Organisation of the Unemployed suggests that one way to address the shortfall in expertise in Job Network is to create a system of disability accreditation for all staff.<sup>79</sup>

Australians for Disability and Diversity Employment note that employment services are not themselves hiring people with disability and therefore fail to ‘practice what they preach’. Australians for Disability and Diversity Employment suggests the collection of statistics on the internal employment record of government-funded employment services.<sup>80</sup>

In summary, there appears to be a great deal of scepticism about the quality of employment services delivered to people with disability. In particular, there is concern that the recent reforms to the funding of Job Network and Disability Open Employment Services may make the situation worse.

Interim Recommendation 20 has been amended to take account of these concerns.

*(p) Interim Recommendation 21: Mental illness*

***Interim Recommendation 21: Mental illness***

*The Inquiry recommends further investigation and implementation of measures that address the recruitment and support needs of people with mental illness, noting the general application of such measures.*

An overwhelming number of First Round Submissions highlighted the prevalence of mental illness in Australian society and the special needs of people with mental illness.<sup>81</sup> In particular those submissions suggested that the episodic and often chronic nature of mental illness required flexibility at all stages of the employment process. For instance, an assessment of work capabilities at a certain point in time may be an inaccurate indication of work capabilities at another point in time.

While the number of First Round Submission discussing mental illness suggests that there should be a special focus on this area, *WORKability I: Barriers* emphasised that adjustments made in the context of mental illness have benefits for many other groups of people. For example, a workplace that has flexible working hours will benefit people with mental illness, multiple sclerosis and HIV/AIDS. At the same time, it will also benefit working parents who have episodic demands on their time.

Similarly a workplace that ensures access to a mental health hotline will not only benefit those with chronic mental illness, it might also benefit other employees who go through a stressful period during their lives.

Waghorn and Lloyd make detailed suggestions regarding an employment model for people with mental illness.<sup>82</sup> SANE Australia has also developed a 'blueprint' and guidelines regarding employment for people with mental illness.<sup>83</sup>

In the Second Round Submissions, the Department of Human Services referred this Inquiry to the Senate Inquiry into Mental Health for further information.<sup>84</sup>

The South West Sydney Mental Health Services noted that there are some employment services that focus on clients with mental illness, for example, CARE Employment in Enfield in Sydney.<sup>85</sup>

The Mental Health Council of Australia provided the Inquiry with its recent report to the Department of Employment and Workplace Relations regarding the promotion of supportive workplaces for people with mental illness. That report made the following recommendations:

- That a national scheme be developed to reward and recognise excellence among employers creating supportive workplaces for people with mental illness This may be part of a broader scheme to recognise excellence in disability employment.
- That case studies demonstrating effective workplace education programs and human resource management policies and practices be disseminated through multiple channels to employers and peak business and professional groups including the Australian Institute of Management, Australian Chamber of Commerce and Industry and Australian Institute for Human Resources.
- That the Australian Government through the Australian Public Service Commission develop targets, goals and programs to create greater employment opportunities for people with mental illness.

- That a national mental health promotion program based on sound social marketing principles and evidence be developed and conducted over a four year period to increase literacy and understanding of mental health by employers.
- That funding of \$0.5m to support a national program of forums, similar to the two forums conducted as part of this project, be undertaken as a matter of urgency to support the introduction of the welfare to work reforms in July 2006.
- That additional support be provided to promote existing workplace programs, such as *beyondblue's* depression in the workplace and the Mental Health First Aid program.
- That funding of \$0.5m be provided to develop additional workplace programs addressing lower prevalence disorders (eg bi-polar and schizophrenia) and Comorbidity (alcohol and substance abuse in particular).
- That the proposed Australian JAN website be developed based on clearly defined end-user requirements.
- That the JAN website be supported through a complimentary suite of services including a telephone information service and a face-to-face advisory service.
- That further analysis and evaluation of the ideas generated from these forums be undertaken as a matter of urgency to ensure policy and program interventions are properly planned and targeted. The MHCA recommends the development of a mental health employment strategy with key stakeholders be undertaken in the later half of 2005. This is estimated at a total cost of \$0.15m.<sup>86</sup>

The City of Melbourne Disability Advisory Committee recommended that:

...people with mental illness including those with acquired brain injuries are consulted on the formulation and application of the strategies and/or actions that address their identified needs and aspirations.<sup>87</sup>

Thus while it appears that there are a variety of initiatives currently taking place in the context of mental illness in the workplace, there does not appear to be a coordinated strategy for implementation.

The prevalence of mental illness in the workplace, makes it appropriate to have a special focus on this area. However, the Inquiry reemphasises that any strategy to address mental illness is also likely to benefit people with other disabilities.

Interim Recommendation 21 has been amended to incorporate the Mental Health Council of Australia's recommendation to develop a national strategy on mental illness and the workplace.

(q) *Interim Recommendation 22: Home and work-based personal assistance*

***Interim Recommendation 22: Home and work based personal assistance***

*The Inquiry recommends better coordination, increased funding and streamlined access to work and home based personal assistance to enable people with disability in full-time, part-time or casual employment, apprenticeships, traineeships and work experience programs access to the help they need to meet their employment or study obligations.*

WORKability I: Barriers noted that many people with disability were unable to seek employment due to limited access to attendant or personal carers at home and in the workplace.<sup>88</sup>

The problem of access to carers appears to be exacerbated by the separation between State and Commonwealth funding. For example, if assistance is required at home, the funding comes from a State or Territory government and if the assistance is required in the workplace, the funding is Federal.

Long waiting lists exist in most States and Territories and there is insufficient funding available on a per capita basis. Further, the Work Based Personal Assistance scheme, which is Commonwealth funded, is restricted to people who have already commenced employment. The Equal Opportunity Commission of Victoria recommended that access to ‘Workplace Attendant Care Schemes’ should be widened.<sup>89</sup>

In the Second Round Submissions, Australians for Disability and Diversity Employment emphasised that home-based care and assistance should be available to people with disability who are seeking to establish or who are already conducting a home-based business.<sup>90</sup> Similarly, the City of Melbourne Disability Advisory Committee recommended that personal assistance be extended to include persons with disabilities who are self-employed, consultants or contractors.<sup>91</sup>

The Inquiry has made minor changes to Interim Recommendation 22 to take these further comments into account.

(r) *Interim Recommendation 23: Public sector leadership*

***Interim Recommendation 23: Public sector leadership***

*The Inquiry recommends a national review of public sector employment of people with disability, including consideration of the following:*

- (a) collection of comprehensive statistics;*
- (b) reasons for which employment levels have fallen; and*
- (c) strategies to increase public sector employment of people with disability.*

Many of the First Round Submissions expressed concern about the fall in Commonwealth public sector employment of people with disability and called for public sector leadership.<sup>92</sup>

The 2005 Commonwealth Standing Committee report – *Working for Australia's future: Increasing participation in the workforce* – also notes the decline in employment of people with disability in the Australian Public Service and recommends that:

[T]he Australian Government develop a consistent and standardised reporting system to:

- report on trend data for the number of people with a disability being employed by the Australian Public Service; and
- implement strategies to improve the participation of people with disabilities in the Australian Public Service.<sup>93</sup>

Second Round Submissions reinforced these concerns and urged the Inquiry to take a more strident stand on the issue.<sup>94</sup> For example, Australians for Disability and Diversity Employment state:

We hope this report can recommend that measurable targets are implemented by all levels of government for PWD and other disadvantaged groups. Without measurable targets there is no commitment to the process just lip service. Two examples where this is working very successfully are

- Brisbane City Council where 11% of the work force are PWD. The Brisbane Council also has targets for Indigenous people, mature age people, and people from other cultural backgrounds.
- The Queensland Department of Education has 9% of their work force PWD.<sup>95</sup>

The City of Melbourne Disability Advisory Committee specifically recommends:

...the implementation of strategies that demonstrate workplaces are welcoming of people with disabilities. For example job vacancy advertisements stating 'welcoming and flexible work environment for people with disabilities'.<sup>96</sup>

Australians for Disability and Diversity Employment also suggest that government be encouraged to use people with disability as consultants on disability issues and note that:

At present there seems to be little willingness by levels of government to even encourage consulting firms to employ or use PWD for this type of disability consultancy work.<sup>97</sup>

The Spastic Centre recommends:

...an ongoing commitment to the employment needs of people with a disability through the development of customized positions and traineeships within all Government Departments, both Federal and State. Governmental modelling of initiatives to increase employment opportunities.<sup>98</sup>

The mother of a boy with Asperger's Syndrome says that equality of opportunity is not enough and affirmative action is needed.<sup>99</sup> Similarly, the National Ethnic Disability Alliance suggests that:

The Australian Public Service should develop and monitor a quota system with appropriate support to increase the number of people from NESB with disability within government to reflect their numbers within the community.<sup>100</sup>

The Department of Human Services responded to the Interim Recommendation as follows:

Australian government agencies reports annually against the Disability Action Plan. A review of reasonable adjustment measures made available in the recruitment, induction, promotion and job retention aspects of Public Sector employment may be a more appropriate measure of leadership than a 'head count' of people who choose to disclose a disability in the recruitment phase.<sup>101</sup>

Regarding the Inquiry's recommendation to collect comprehensive statistics, the South Australian Office of Public Employment explained a variety of problems that might arise.<sup>102</sup> One of the primary issues is settling on a consistent definition of 'disability' across Australia. Other difficulties include:

- The reliance on survey respondents' perceptions of the extent of their own disability and its impact on their work capacity;
- Embarrassment or fear about disclosing disability status (eg psychiatric conditions, drug/alcohol-related conditions), or pride in managing a disability to minimise or eliminate its effects in the workplace;
- A lack of awareness of the presence of a disability or long term condition (eg mild diabetes), or underestimation of its effects in the workplace;
- The episodic or seasonal nature of certain conditions (eg epilepsy, asthma);
- The timing of data collection (eg data collection undertaken at the commencement of a person's employment will not record progressive degeneration or improvement of a disability, or a disability acquired, during a period of employment).<sup>103</sup>

Nevertheless, South Australia does collect its own statistics. Further, in 1995 the South Australian government established a *Strategy for the Employment of People with Disability in the South Australian Public Sector*. That strategy is described as follows:

The strategy enables people with a disability to apply for public sector positions and for public sector agencies to directly seek applications for positions outside of normal public sector recruitment processes. Participants are pre-screened and placed on a Disability Employment Register, which is managed by Disability WORKS Australia (DWA) Ltd.



Specifically the strategy involves Disability WORKS Australia being responsible for:

- Pre-screening applicants to determine their ability to undertake vocations sought and registering them on an employment register
- Liaising with Disability Employment Services to source potential applicants
- The provision of advice to South Australian public sector agencies in regards to recruiting and employing people with disabilities, including strategies for interviewing people with disabilities and conducting on site visits to identify workplace modifications that may be required
- The coordination of interviews and employment placements for people with disabilities within the South Australian public sector
- Advocating on behalf of people with a disability who are interested in accessing South Australian public sector traineeship and graduate positions
- Coordination of incentives, support services and workplace modifications for people with a disability employed within South Australian public sector agencies
- Promoting the strategy, and raising awareness regarding the benefits associated with employing people with disabilities, within the SA public sector
- The provision of Disability Awareness Training to promote the benefits of recruiting people with a disability
- The provision of reports to this Office as required regarding the number of people with a disability placed into public sector employment through Disability WORKS Australia as well as numbers of people with a disability on the disability register

The strategy has proven to provide benefits for both the participants and the public sector. Participants gain the benefits of employment, which can often lead to permanent ongoing employment in the public sector, while the government gains a more diverse workforce to serve the South Australian community effectively.

Since the inception of the strategy, it has proven to be an outstanding success with 392 people with disabilities winning positions in the public sector agencies. The positions won range from AS01 to AS06 level, including graduates and trainees, and cover a wide range of occupations.<sup>104</sup>

The Disability Services Commission (Western Australia) and the ACT Commissioner for Public Administration also explained their efforts to encourage employment of people with disability in the First Round Submissions.<sup>105</sup>

Further, the Inquiry is aware that the Australian Public Service Commission recently introduced an ‘Employment and Capability Strategy’ designed to increase employment of Indigenous Peoples in the public service. While it is too early to evaluate the effectiveness of that strategy, on face value it appears to be a useful model to consider in the context of people with disability. The strategy aims to

improve the following aspects of employment in the public sector regarding Indigenous Peoples:

- pathways to employment
- attraction and recruitment
- entry to work
- career progression
- inclusive workplace culture
- APS-wide partnerships.<sup>106</sup>

Interim Recommendation 23 has been amended to provide more specific guidance on public sector leadership.

*(s) Interim Recommendation 24: Government procurement policy*

***Interim Recommendation 24: Government procurement policy***

*The Inquiry recommends further exploration into the feasibility and impact of mandatory accessible procurement policies for government agencies. To this end the Inquiry recommends research into international procurement policies and practices.*

In *WORKability I: Barriers* the Inquiry agreed to conduct preliminary research on international approaches to government procurement policies. The results of that research are set out in Chapter 9. The Second Round Submissions are also discussed in that chapter.

*(t) Interim Recommendation 25: Reporting scheme for employers*

***Interim Recommendation 25: Reporting scheme for employers***

*The Inquiry recommends consideration of a mandatory reporting scheme regarding employment of people with disability.*

*WORKability I: Barriers* noted that some employers participating in the Inquiry's consultations suggested that compulsory reporting for the private sector might prove to be a powerful incentive to increase recruitment of people with disability.<sup>107</sup> Participants highlighted that such requirements already exist regarding the employment of women under the *Equal Opportunity for Women in the Workplace Act 1999* (Cth). They suggested adoption of a similar model for the employment of people with disability.

However, several Second Round Submissions expressed opposition to the introduction of a mandatory reporting scheme. For example the Australian Industry Group stated that:

... businesses in Australia are subject to ample reporting requirements and regulatory structures. Whilst businesses should be encouraged to hire and retain more people with disability, imposing mandatory obligations upon businesses may deter employment, drain resources and possibly foster

resentment. Furthermore, there would be difficulty in identifying and reporting on various disabilities, as not all disabilities are evident and there may be privacy issues to consider in such reporting.<sup>108</sup>

The Department of Human Services suggested that such a scheme would not necessarily result in improved recruitment and retention rates. The Department of Human Services also warned against potential breaches of the Privacy Act.<sup>109</sup>

The Recruiting and Consulting Services Association went further to suggest that a mandatory scheme might be ‘antagonistic to the aims and intentions of the national inquiry’ and suggested an alternative approach:

RCSA does not believe the most effective way to promote a genuine and sustainable commitment to best practice in disability employment and recruitment is to impose further administrative obligations upon recruiters. In contrast the RCSA would prefer to look at ways to positively engage disabled persons in the recruitment and on-hire sector and propose the promotion of embedded “disability” officers within member firms providing employment services of any kind. This could occur pursuant to a work placement or experience program allowing individuals to actively view the other side of the employment equation. Some advantages of this direct interaction are:

- Social inclusion within a workplace results in increased occupational and social acceptance and an improved understanding of some of the barriers disabled person[s] face when pursuing employment.
- An inclusive culture results in respect, acceptance and a sense of value for the work contribution and the value of diversity in all workplaces.
- Facilitates improved managerial capacity to deal with a range of issues surrounding marketing of persons with disability and debunking some of the misconceptions that may arise in client discussions.
- Broader acknowledgement of the progressive attitudes of some on-hired employee service providers and the ability to market themselves as an employer of choice.
- The recruitment industry has the capacity to influence clients and client attitudes and values and seeks to become a conduit of information on best practice recruitment and employment.<sup>110</sup>

The City of Melbourne Disability Advisory Committee notes that mandatory reporting for employers may be ‘challenging’:

...as people with disabilities have the right to not disclose their disability if they so wish. Statistics on employment rates of people with disabilities will therefore remain under-representative for some types of disabilities.<sup>111</sup>

Despite the opposition to the introduction of a mandatory reporting scheme and the difficulty of collecting accurate numbers absent an obligation to disclose a disability, the Inquiry is of the view that there should be a mechanism to collect and publish private and public sector employment statistics about people with disability.

As a result, the Inquiry has retained Interim Recommendation 25 but removed the ‘mandatory’ component regarding reporting.

*(u) Interim Recommendation 26: Award scheme for employers*

***Interim Recommendation 26: Awards scheme for employers***

*The Inquiry recommends consideration of a widely promoted national scheme of awards for best practice in furthering employment opportunities for people with disability. Any awards scheme should require sharing of expertise with the business community.*

Several First Round Submissions noted that award schemes can be a significant incentive to private employers.<sup>112</sup> This initiative was also recommended in the 2003 *Review of the Employer Incentives Strategy* which found that:

Recognition is important as it reinforces the employer’s decision to hire a person with a disability. It provides tangible evidence of their achievements ... Many of the larger businesses said gaining recognition enhances their reputation both as a good corporate citizen and an employer of choice.<sup>113</sup>

The Department of Human Services points out that the Prime Minister’s Employer of the Year Awards provides an opportunity to showcase good employers of all sizes in the private and public sector.<sup>114</sup> However, the Inquiry’s consultations indicate that this award scheme is poorly promoted amongst the disability community and results in little sharing of expertise amongst employers.

Australians for Disability and Diversity Employment recommended the development of a benchmark scheme to better evaluate best practice:

At present awards seem to be given without any understanding what constitutes achieving best practice. Sometimes perhaps these awards are “making employers feel good without some employers really deserving them”.<sup>115</sup>

Amendments have been made to Interim Recommendation 26 to ensure sharing of best practice and promotion of the benefits of employing people with disability amongst the business community.

*(v) Interim Recommendation 27: Recruitment agencies*

***Interim Recommendation 27: Recruitment agencies***

*The Inquiry recommends that employers ensure that they use recruitment agencies that have policies and practices designed to encourage hiring of people with disability.*

*WORKability I: Barriers* noted that, ever-increasingly, the private and public sector use private recruitment agencies to hire staff.<sup>116</sup> Some companies have a policy of using ‘preferred recruitment agencies’ which have the appropriate expertise and approach to ensure equality of opportunity for people with disability.<sup>117</sup> The more

recruitment agencies that have such an expertise, the greater the opportunities for people with disability.

The Inquiry's consultation with employers on 10 October 2005 revealed that at least some employers believe that recruitment agencies are the real block to hiring people with disability – in two senses. First, recruitment agencies are reluctant to place such job seekers because it takes a longer period of time to do so. Second, people with disability do not go to recruitment agencies to look for jobs – possibly because they are aware of this reluctance.<sup>118</sup>

The Recruiting and Consulting Services Association agreed that recruiters have the capacity to influence employers and recently held a symposium addressing participation and diversity in the workplace. The strategy discussed at that symposium included:

- Promote education of clients by recruitment service providers
- Establish a diversity charter for the recruitment industry
- Establish a repository of available information on diversity best practice
- Influence the make up of selection panels by incorporating diversity into recruitment panels.<sup>119</sup>

The Inquiry commends the Recruiting and Consulting Services Association for its initiatives to improve the diversity practices of private recruiting agencies and hopes that this results in improved opportunities for people with disability.

The Inquiry has amended Interim Recommendation 27 to incorporate some of the strategies mentioned by the Recruiting and Consulting Services Association.

*(w) Interim Recommendation 28: Inter-sector coalition*

***Interim Recommendation 28: Inter-sector coalition***

*The Inquiry recommends the creation of an inter-sector leadership coalition, including representatives from employers, disability groups, employment service providers and government agencies.*

*WORKability I: Barriers* noted that strategies for increasing the employment opportunities of people with disability will require ongoing development.<sup>120</sup>

The Inquiry recommended that there be a readily accessible representative group, from all sectors, which can engage in the ongoing development of strategies regarding the employment of people with disability. This group should provide leadership to all sectors.

The Association of Competitive Employment endorsed this idea in its Second Round Submission.<sup>121</sup> The City of Melbourne Disability Advisory Committee suggested that 'this role be designated as a specific project or sub-committee of the National Disability Council'.<sup>122</sup>

The Inquiry notes that the Minister for Employment and Workplace Relations gathered an Employer Roundtable for People with Disabilities to discuss the barr-

iers and solutions to employment of people with disability from the employer perspective.<sup>123</sup> The Inquiry commends the government for this initiative and recommends that this concept be extended to develop a multi-sector coalition.

The Inquiry has amended Interim Recommendation 28 by suggesting that the Department of Employment and Workplace Relations coordinate the development of an ongoing multi-sector leadership coalition.

*(x) Additional recommendations: Recommendations 29 and 30*

In addition to refining the Interim Recommendations in *WORKability I: Barriers*, the Inquiry has made two additional recommendations.

The first additional recommendation was suggested during the Inquiry's employer consultation on 10 October 2005.<sup>124</sup> Employers participating in that group noted that the private sector is much more likely to engage in innovative projects to increase employment of people with disability if there is at least partial funding and secretariat support from the government. They discussed DEWR's *Corporate Leaders for Indigenous Employment Project* and suggested that a similar model might be created with respect to people with disability.<sup>125</sup>

The Inquiry is of the view that much more needs to be done to provide incentives and support to small, medium and large businesses to increase employment of people with disability.

While the Inquiry has been unable to ascertain the effectiveness of DEWR's *Corporate Leaders for Indigenous Employment Project*, on face value it appears to be a worthwhile experiment in encouraging private sector leadership in this area. On that basis the Inquiry has made the following recommendation:

***Recommendation 29: Business leadership project***

*The Inquiry recommends that the Department of Employment and Workplace Relations, in cooperation with employer organisations, develop a business leadership project.*

*The project should incorporate the following minimum features:*

- (a) a flexible package of funding to provide incentives to businesses to engage in proactive recruitment and retention strategies regarding people with disability; and*
- (b) specialised employer support and advice to maximise the success of those strategies.*

*In designing the business leadership project, the Department of Employment and Workplace Relations should analyse the effectiveness of its 'Corporate Leaders for Indigenous Employment Project' and make any relevant improvements.*<sup>126</sup>

The second additional recommendation is in response to a suggestion from the Association of Competitive Employment (ACE) in its Second Round Submission:

...ACE is calling for the development of a **National Disability Employment Strategy** which would provide for better coordination of school to work, welfare to work, education, training and employer awareness initiatives. We believe such a strategy builds on the work done by the Commission to date and would provide a platform for future work and projects.<sup>127</sup>

The Inquiry has made a range of specific recommendations to try and address some of the weaknesses of the current system of income support, subsidies, incentives and service provision. However, in the Inquiry's view there is substantial merit in developing a national streamlined strategy to ensure a more coordinated approach to improving participation and employment of people with disability.

Commonwealth, State and Territory government agencies as well as employers, disability groups and employment service providers should be involved in developing this strategy.

The Inquiry has therefore made the following recommendation:

***Recommendation 30: National Disability Employment Strategy***

*The Inquiry recommends that the Commonwealth government lead the development of a National Disability Employment Strategy, in cooperation with the multi-sector coalition (see Recommendation 28), with a view to ensuring increased participation, recruitment and retention of people with disability in Australia.*

*Without limiting the scope of such a strategy, the Inquiry recommends that the strategy focus on at least the following issues as a matter of priority:*

- (a) developing a whole-of-government approach to ensuring appropriate financial and practical support to people with disability, including a streamlined system to provide adequate:
  - (i) income support;*
  - (ii) transport, equipment and health care subsidies and concessions;*
  - (iii) workplace supports and modifications; and*
  - (iv) personal care in the home and workplace;**
- (b) improving the effectiveness of government-funded employment service delivery to people with disability and employers (including recruitment assistance and access to supports on an as-needed basis);*
- (c) improving transition-to-work schemes for people with disability in secondary, tertiary and vocational education and training institutions;*
- (d) ensuring better relationships between private sector employers and government-funded information, recruitment and employment support services;*
- (e) increasing recruitment and retention of people with disability in the public sector (at the Commonwealth, State, Territory and local government levels); and*

(f) *developing a benchmarking, monitoring and reporting system to ensure accountability and ongoing improvement to the incentives, supports and services available to people with disability and employers.*

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### Chapter 3: Endnotes

- 1 A copy of *WORKAbility I: Barriers* can be downloaded from: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/docs/interim.doc](http://www.humanrights.gov.au/disability_rights/employment_inquiry/docs/interim.doc)
- 2 See Appendix 2 at the end of this report for a list of Second Round Submissions.
- 3 See *WORKAbility I: Barriers*, Chapters 2 and 3.
- 4 See *WORKAbility I: Barriers*, Chapter 4.
- 5 See *WORKAbility I: Barriers*, Chapter 5.
- 6 See *WORKAbility I: Barriers*, Chapter 6.
- 7 See *WORKAbility I: Barriers*, Chapter 2, section 2.2.
- 8 See for example: Submission 139, Australian National Organisation of the Unemployed; Submission 141, Blind Citizens of Australia; Submission 146, Centacare; Submission 156, Association of Competitive Employment.
- 9 See for example: Submission 136, Arts Access Australia; Submission 138, The Spastic Centre; Submission 139, Australian National Organisation of the Unemployed; Submission 140, Name Withheld; Submission 146, Centacare; Submission 148, Sydney South West Area Mental Health Service; Submission 153, People With Disability Australia; Submission 158, Fairfield Access Committee and the South West Disability Network.
- 10 Submission 153, People With Disability Australia.
- 11 Submission 148, Sydney South West Area Mental Health Service.
- 12 See Submission 152, National Ethnic Disability Alliance; Submission 158, Fairfield Access Committee and the South West Disability Network.
- 13 See for example: Submission 146, Centacare; Submission 144, Australians for Disability and Diversity Employment; Submission 158, Fairfield Access Committee and the South West Disability Network; Submission 143, Australian Industry Group.
- 14 Submission 159, Intellectual Disability Rights Service; Submission 138, The Spastic Centre; Submission 136, Arts Access Australia.
- 15 Submission 159, Intellectual Disability Rights Service.
- 16 See *WORKAbility I: Barriers*, Chapter 7, section 7.1.
- 17 See *WORKAbility I: Barriers*, Chapter 8.
- 18 See *WORKAbility I: Barriers*, Chapter 8.
- 19 See for example: Submission 139, Australian National Organisation of the Unemployed; Submission 142, Disability Council of NSW; Submission 143, Australian Industry Group; Submission 144, Australians for Disability and Diversity Employment; Submission 146, Centacare; Submission 147, Vision Australia; Submission 155, Australian Federation of Deaf Societies; Submission 156, Association of Competitive Employment.
- 20 See for example: Submission 146, Centacare. See also: Submission 156, Association of Competitive Employment; Submission 153, National Ethnic Disability Alliance.
- 21 Submission 146, Centacare.
- 22 See for example: Submission 146, Centacare; Submission 156, Association of Competitive Employment; Submission 142, Disability Council of NSW; Submission 153, People With Disability Australia.
- 23 See *WORKAbility I: Barriers*, Chapter 2, section 2.5; Chapter 3, section 3.2; Chapter 5, sections 5.2.2 and 5.2.7.
- 24 Submission 145, Department of Human Services.
- 25 Institute for Research into International Competitiveness (IRIC), *Cost Benefit Analysis of Rehabilitation Services Provided by CRS Australia*, September 2003, p5. The document can be found at: [http://www.crsaaustralia.gov.au/docs/CRS\\_Benefits\\_2004.doc](http://www.crsaaustralia.gov.au/docs/CRS_Benefits_2004.doc)
- 26 Submission 160, City of Melbourne Disability Advisory Committee.
- 27 See *WORKAbility I: Barriers*, Chapter 5, section 5.2.
- 28 See for example: *WORKAbility I: Barriers*, Chapter 4, section 4.2.4.
- 29 Submission 145, Department of Human Services.
- 30 Submission 160, City of Melbourne Disability Advisory Council.
- 31 McClure, P, (Chair), *Participation Support for a more equitable society: Final report of the reference group on welfare reform*, Department of Family and Community Services, Canberra, July 2000 (the McClure Report).
- 32 See *WORKAbility I: Barriers*, Chapter 3, section 3.2.
- 33 Submission 50, Deafness Forum Australia, p8.



- 34 Submission 49, Disability Council of NSW, pp7-8. See also: Submission 100, Brotherhood of St Laurence, p11; Submission 27, DEAC, p7.
- 35 See for example: Submission 147, Vision Australia; Submission 152, National Ethnic Disability Alliance; Submission 153, People With Disability Australia; Submission 140, Name Withheld.
- 36 Submission 160, City of Melbourne Disability Advisory Committee.
- 37 See *WORKAbility I: Barriers*, Chapter 3, section 3.2.
- 38 See for example: Submission 136, Arts Access Australia; Submission 138, Spastic Centre; Submission 140, Name Withheld; Submission 146, Centacare; Submission 152, National Ethnic Disability Alliance; Submission 160, City of Melbourne Disability Advisory Committee.
- 39 Submission 138, The Spastic Centre.
- 40 See *WORKAbility I: Barriers*, Chapter 2, sections 2.4.3-4 and 2.5.2.
- 41 See *WORKAbility I: Barriers*, Chapter 2, section 2.5.6.
- 42 Submission 144, Australians for Disability and Diversity Employment.
- 43 Submission 138, The Spastic Centre.
- 44 Submission 144, Australians for Disability and Diversity Employment. It appears that a similar system also exists in Poland.
- 45 Submission 145, Department of Human Services, referring to: <http://digitalcommons.ilr.cornell.edu/gladnet/collect/139/>
- 46 Submission 145, Department of Human Services.
- 47 Submission 139, Australian National Organisation of the Unemployed.
- 48 Submission 141, Blind Citizens Australia.
- 49 See *WORKAbility I: Barriers*, Chapter 3, sections 3.2 and 3.4.1.
- 50 Submission 107, UnitingCare Australia, p5.
- 51 Submission 136, Arts Access Australia.
- 52 *WORKAbility I: Barriers*, Chapter 4.
- 53 Submission 126, South Australian Government, p4-5.
- 54 Submission 126, South Australian Government, p4-5.
- 55 Submission 138, The Spastic Centre.
- 56 Submission 146, Centacare.
- 57 Submission 126, South Australian Government, p4-5.
- 58 Submission 100, Brotherhood of St Laurence, p9.
- 59 Submission 119, Parents and Professional Advocates, ACT, p2.
- 60 Submission 119, Parents and Professional Advocates, ACT, p11.
- 61 Submission 80, Blind Citizens Australia, p12. Similar recommendations are made in Submission 77, RBS. RVIB.VAF Limited, p2.
- 62 Submission 141, Blind Citizens Australia.
- 63 Submission 137, L Bewley.
- 64 Submission 150, Good Samaritan Industries.
- 65 Submission 159, Intellectual Disability Rights Service.
- 66 Submission 109, Waghorn and Lloyd, p27-28.
- 67 House of Representatives Standing Committee on Employment, Workplace Relations and Workforce Participation, *Working for Australia's Future: Increasing participation in the workforce*, Recommendation 21, p172 (*Working for Australia Report*). See also: Submission 86, Australian Industry Group, p5.
- 68 Submission 149, Holmesglen TAFE.
- 69 Submission 149, Holmesglen TAFE.
- 70 Submission 149, Holmesglen TAFE.
- 71 See *WORKAbility I: Barriers*, Chapter 5, section 5.2 and Chapter 6, section 6.3.
- 72 Submission 45, NSW Council for Intellectual Disability – Sweden, Oklahoma, US; Submission 32, Australian Association of the Deaf – New Zealand and the US; Submission 58, Centre of Full Employment and Equity – US; Submission 77, RBS.RVIB.VAF Limited – Canada and New Zealand; Submission 100, Brotherhood of St Laurence – UK.
- 73 Submission 114, ACROD, p3; Submission 109, Waghorn and Lloyd, p21-23.
- 74 See for example: Submission 156, Association of Competitive Employment.
- 75 Submission 138, The Spastic Centre.
- 76 Submission 138, The Spastic Centre; Submission 152, National Ethnic Disability Alliance.
- 77 Submission 140, Name Withheld; Submission 158, Fairfield Access Committee and the South West Disability Network.
- 78 Submission 152, National Ethnic Disability Alliance.

- 79 Submission 139, Australian National Organisation of the Unemployed.
- 80 Submission 144, Australians for Disability and Diversity Employment.
- 81 See for example: *WORKability I: Barriers*, Chapter 5, section 5.2.9 and Chapter 6, section 6.3.7.
- 82 Submission 109, Waghorn and Lloyd.
- 83 Submission 54, SANE, p2.
- 84 Submission 145, Department of Human Services.
- 85 Submission 148, Sydney South West Area Mental Health Service.
- 86 Submission 162, Mental Health Council of Australia.
- 87 Submission 160, Melbourne Disability Advisory Committee.
- 88 See *WORKability I: Barriers*, Chapter 3, section 3.2.4 and Chapter 4, section 4.7.
- 89 Submission 118, Equal Opportunity Commission Victoria, p15-16.
- 90 Submission 144, Australians for Disability and Diversity Employment.
- 91 Submission 160, City of Melbourne Disability Advisory Committee.
- 92 See *WORKability I: Barriers*, Chapter 2, section 2.8.
- 93 House of Representatives Standing Committee on Employment, Workplace Relations and Workforce Participation, *Working for Australia's future: Increasing participation in the workforce*, March 2005, p172-3.
- 94 See for example: Submission 141, Blind Citizens Australia; Submission 147, Vision Australia; Submission 144, Australians for Disability and Diversity Employment; Submission 138, The Spastic Centre; Submission 137, L Bewley.
- 95 Submission 144, Australians for Disability and Diversity Employment.
- 96 Submission 160, City of Melbourne Disability Advisory Committee.
- 97 Submission 144, Australians for Disability and Diversity Employment.
- 98 Submission 138, The Spastic Centre.
- 99 Submission 137, L Bewley.
- 100 Submission 152, National Ethnic Disability Alliance.
- 101 Submission 145, Department of Human Services.
- 102 Submission 151, South Australian Office of Public Employment.
- 103 Submission 151, South Australian Office of Public Employment.
- 104 Submission 151, South Australian Office of Public Employment.
- 105 Submission 21, Disability Services Commission WA, p3. See also: Submission 38, ACT Commissioner for Public Administration.
- 106 See further: <http://www.apsc.gov.au/indigenousemployment/index.html>
- 107 See notes from employer forum held on 7 July 2005 at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/forums/ceoe.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/forums/ceoe.htm)
- 108 Submission 143, Australian Industry Group.
- 109 Submission 145, Department of Human Services.
- 110 Submission 154, Recruiting and Consulting Service Association.
- 111 Submission 160, City of Melbourne Disability Advisory Committee.
- 112 See for example: Submission 34, Manpower Services Australia, p7; Submission 57, Queensland Department of Employment and Training, p1; Submission 67, Department of Consumer and Employment Protection, p7. See also: *WORKability I: Barriers*, Chapter 2, section 2.3.
- 113 FACS, *Employer Incentives Strategy Review*, 2003, Action 4: Identify mechanisms to recognise employers' performance and encourage ongoing improvement in employers' efforts to recruit people with disabilities, p45.
- 114 Submission 145, Department of Human Services.
- 115 Submission 144, Australians for Disability and Diversity Employment.
- 116 See *WORKability I: Barriers*, Chapter 5, section 5.3.
- 117 Submission 65, IBM, p2; Submission 127, National Australia Bank, p2.
- 118 See Minutes of the Employer Consultation at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/forums/neeopa.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/forums/neeopa.htm)
- 119 Submission 154, Recruiting and Consulting Services Association.
- 120 See FACS, *Employer Incentives Strategy Review*, 2003, Key Area for Action 1.
- 121 Submission 156, Association of Competitive Employment.
- 122 Submission 160, City of Melbourne Disability Advisory Committee.
- 123 See Minister for Employment and Workplace Relations Press Release, *Employer Roundtable for People with Disabilities*, 13 April 2005.
- 124 For minutes of the NSW EEO Practitioner's Association employer consultation see: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/forums/neeopa.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/forums/neeopa.htm)

- 125 For information on the Corporate Leaders for Indigenous Employment Project see: <http://www.workplace.gov.au/workplace/Category/SchemesInitiatives/IndigenousProgs/CorporateLeadersforIndigenousEmploymentProject.htm>
- 126 For information on the Corporate Leaders for Indigenous Employment Project see: <http://www.workplace.gov.au/workplace/Category/SchemesInitiatives/IndigenousProgs/CorporateLeadersforIndigenousEmploymentProject.htm>
- 127 Submission 156, Association of Competitive Employment.

# Chapter 4



## Developing government-supported work trial schemes

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## 4.1 Introduction

*WORKability I: Barriers* noted that many employers are afraid of the ‘unknowns’ that may arise when employing people with disability.<sup>1</sup> On the one hand, this is the case with any new employee and the way to deal with the risk is to have a probationary period in an employment contract. On the other hand, several First Round Submissions suggested that a ‘risk-free’ opportunity to test an employment relationship with people with disability would be an incentive to employers to take on new employees with disability.<sup>2</sup> Further, people with disability expressed eagerness for any additional opportunities to get ‘a foot in the door’.

The 2003 *Review of the Employer Incentives Strategy* conducted by Family and Community Services recommended the expansion of ‘robust government-supported work trials.’<sup>3</sup> The First Round Submissions also discussed the potential of work trials as a method to assist people with disability to re-enter the workplace.

The Inquiry made the following recommendation in *WORKability I: Barriers*:

***Interim Recommendation 15: Work trials***

*The Inquiry recommends the development of robust government-supported work trial schemes that benefit employers and people with disability.*

The Inquiry also committed to establishing an expert working group to help define the meaning of ‘robust government-supported work trial schemes’ and develop one or more models for delivering such a scheme. This chapter discusses the outcomes of the Inquiry’s working group process and the comments in the Second Round Submissions.

## 4.2 Creating an expert working group on work trials

When *WORKability I: Barriers* was published, 11 organisations had already agreed to participate in the working group on work trials. The group expanded to include representatives from the following 22 organisations:

- ACROD
- AMP
- Association of Competitive Employment
- Australian Chamber of Commerce and Industry
- Australian Council of Trade Unions
- Australian Federation of Disability Organisations
- Australian Public Service Commission
- Brotherhood of St Laurence
- Centacare
- CRS Australia
- Department of Education and Training NSW
- Department of Employment and Workplace Relations
- Disability Council of NSW
- Disability Employment Action Centre

- Diversity Council of Australia
- IBM Australia
- Job Support
- National Employment Services Association
- Office of the Australian Safety and Compensation Council
- Ostara Australia
- TAFE NSW
- Vision Australia.

The working group met on 6 September 2005 and then continued discussion through email.

### **4.3 What should 'robust government-sponsored work trial schemes' look like?**

The working group identified three general types of 'work trials' which may be of some benefit to job seekers:

1. *Job sampling*: people who want to sample a job for a learning experience
2. *Job training*: people who want a job to develop their skills
3. *Job auditioning*: people who are ready to work at capacity but need an opportunity to demonstrate their ability when the necessary adaptations and supports are in place.

The group agreed to start the process of developing a 'job auditioning' model, with a view to adapting that model for the other two types of trials at a later stage.

The group noted that the precise structure of any specific work trial would depend on the circumstances of the individual and the end goal. For example the model may vary depending on the disability, the person's skills and qualifications, whether the person needs workplace accommodations and/or ongoing supports, whether the person is entering the workforce for the first time, whether the employer hopes to employ the person or is simply providing a work experience or training opportunity and so on.

#### **4.3.1 CRS Australia Work Training Scheme**

The group generally agreed that the Work Training Placement Scheme currently operated by CRS Australia was a good model to use as a starting point.

CRS Australia provided the following summary of that scheme to the working group:

*The CRS Australia Work Training Scheme and how it operates*

CRS Australia is able to offer work training placements to clients participating in vocational rehabilitation programs under Part III of the *Disability Services Act 1986 (Cth)*. Clients undertaking a CRS Australia

work training placement receive a training allowance under Section 24 of the Act. This allowance is an incentive payment. Clients may also receive an allowance to cover travel to and from the work training and can be funded for other essential work requirements such as equipment and workplace accommodations. Clients do not receive payment from host employers during their work training placement.

Prior to considering the provision of a work training, CRS Australia clients are supported to identify appropriate and sustainable employment goals. CRS Australia rehabilitation consultants assist clients to identify their vocational goal through a process of vocational assessment and vocational counselling. When identifying the client's vocational goal consideration is given to the client's employment skills; experience and preferences; functional capacity for different types of employment; along with relevant information provided by their treating practitioner or other key stakeholders.

Once an appropriate vocational goal is identified with the client, a work training may be considered to achieve particular objectives. These objectives are negotiated with the client and may include:

- explore and clarify their vocational goals within a safe work environment;
- assess their capacity to participate in employment in different work environments and industries;
- develop employment skills, including technical skills and confidence in the workplace;
- obtain recent work experience to improve prospects for employment;
- establish contacts with potential referees and develop important networks within industry; and
- demonstrate their capacity for work to potential employers.

CRS Australia works with the client to identify a suitable employer who can offer the required work experience to meet their goal. Potential placements may be identified as a result of cold-cavassing, CRS Australia's knowledge of the local employment market, or the client's own employment networks.

Once an appropriate workplace has been identified, the CRS Australia rehabilitation consultant and client reach a mutual agreement with the employer about the purpose of the work training placement, duration, duties the CRS Australia client will complete and roles of each of the parties during the placement. CRS Australia may conduct a work site assessment to assist in determining suitable duties and any additional support strategies, equipment or modifications that the client will require to complete the placement. The work training placement may be for a period of up to 13 weeks depending on the objectives of the placement.

Where an employee would usually be responsible for providing their own tools or equipment, such as safety boots, CRS Australia can provide these for the client. If more significant items of equipment or workplace



modifications are required, CRS Australia may provide financial assistance for these items. Any decision regarding funding of these items would include discussions with the host employer and would consider CRS Australia's legislative guidelines for expenditure and service provision.

During the work training placement, CRS Australia monitors the client's performance, provides ongoing support and develops and implements employment strategies to address any client and employer support needs. The client's support needs may vary depending on the objectives of the work training and any restrictions imposed by their disability. Support for host employers will be influenced by the extent of their understanding of disability and injury. CRS Australia assistance to clients and employers may involve education on safe working practices, information for work colleagues regarding the client's disability, on and off the job support for clients and any other strategies to address a particular need.

Whilst participating in a work training placement, CRS Australia clients are deemed to be Commonwealth employees for the purposes of the *Safety Rehabilitation and Compensation Act*. This means that clients are covered by a "no fault" workers compensation system. Additionally, CRS Australia may reimburse host employers for any additional costs of including the client on their public liability or other insurance policies. CRS Australia does not directly provide any insurance coverage for clients other than worker's compensation coverage.

On completion of the work training placement an evaluation is undertaken of its effectiveness but there is no obligation on the employer to offer the client ongoing employment. As detailed above, CRS Australia's work training scheme offers many benefits for clients in addition to successful employment and is utilised in a strategic manner to meet certain objectives within a program.

CRS Australia work training placements are voluntary and can be terminated at any time at the request of any of the parties involved. When establishing and monitoring work training placements, CRS Australia is mindful of its obligations under the *Disability Services (Disability Employment and Rehabilitation Program) Standards 2002* and endeavours to ensure that clients are not put in a position where they or the work training scheme can be exploited by other parties.

#### *Employers Perspective on the Work Training Scheme*

As highlighted above, CRS Australia identifies potential work training placements through either cold canvassing, our contacts in the employment market or client's networks. This process results in the identification of employers that have an interest in or positive association with working with people with disability and injuries.

Even when negotiating with employers that already have positive expectations, CRS Australia acknowledges that employers raise a number of concerns in relation to work trainings including:

- Are they responsible for injuries to clients during the work training placement?

- Are they responsible for damage to third parties or property during the work training?
- Is there a requirement to employ the client at the end of the work training?
- Is the client safe in the workplace?
- What support will CRS Australia offer?
- What costs will the employer incur?

CRS Australia manages these concerns by:

- Assuring employers that the client's disability, injury or health condition can be managed successfully in the workplace and that the client will have appropriate monitoring and support during the work training placement;
- Explaining what insurance coverage is provided to employers during the placement and what areas remain their responsibility;
- Offering to cover an increase in premium which may result from the employer including the client on existing insurance policies public liability insurance policies; and
- Assuring employers that there is no obligation to employ the client at the end of the work training placement.

CRS Australia stressed that its scheme is only available to people participating in a comprehensive vocational rehabilitation program under Part III of the *Disability Services Act 1986* (Cth).

#### **4.3.2 Parameters for new work trial models**

The working group discussed a series of issues to be addressed when developing models for various work trial schemes:

1. *Purpose of work trial*
  - (a) To fill a job vacancy? (job audition)
  - (b) To provide a training opportunity? (job training)
  - (c) To provide work experience? (job sampling)
2. *Eligibility for work trial*
3. *Defining the conditions of a work trial*
4. *Length of a work trial*
5. *Payment during a work trial*
  - (a) Is there payment?
  - (b) Who pays?
  - (c) Is there a government subsidy?
  - (d) For how long?
  - (e) How much?

6. *Insurance coverage during a work trial*
  - (a) What is the employment relationship?
  - (b) What sort of insurance is needed?
    - Workers compensation insurance?
    - Public liability insurance?
  - (c) Who will pay for it?
7. *Supports provided to 'employers' and 'employees' prior to and during a work trial*
  - (a) What sort of supports are provided?
    - OHS assessments?
    - Workplace accommodations and reasonable adjustments?
    - On the job support?
  - (b) Who are the supports provided to?
    - Employers?
    - Job audition participant?
    - Colleagues?
  - (c) Who provides the supports?
  - (d) When are they provided?
  - (e) For how long are they provided?
8. *Employer obligations at the end of a work trial*
9. *Possible agencies to coordinate a work trial*
  - (a) Greater funding for work trials run by CRS Australia?
  - (b) Open up to tender for all types of organisations including employment services?
  - (c) Funding for independently created 'job trials' and private employers operating without contact with employment service providers?

10. *Encouraging participation in work trials*

As mentioned above, the group focussed on developing the 'job auditioning' model of work trials; that is, where the primary purpose is to fill a job vacancy.

As a result, it was assumed that the work trial participant was filling an employer's need and therefore should receive some form of remuneration.

There was a great deal of discussion about the appropriate length of a possible job audition and the implications that the length would have on the amount the participant would be paid and the employer commitment to hiring that person at the end.

Several members of the working group also emphasised that any necessary workplace adjustments must be made during the trial so that the participants have a true opportunity to prove themselves.

As no agreement was reached on the most appropriate length of the ‘job audition’, two alternative models were put forward. One model where the audition was for three months or less and a second model where the trial was between three and twelve months.

### **4.3.3 Alternative 1: Three month ‘job auditioning’ work trial**

The following model has not been endorsed by the group as a whole or the Inquiry. However it does represent the first stage of a considered discussion about the features of a possible three month government-sponsored ‘job auditioning’ work trial.

#### *1. Purpose of job audition*

To fill a genuine job vacancy but give both the employer and employee the necessary supports and time to assess whether the job will work out (‘try before you buy’).

#### *2. Eligibility for job audition*

Any person with disability.

#### *3. Definition of job audition*

A Memorandum of Understanding (MoU) should clearly define the purpose and terms of the trial, and the rights and obligations of the ‘employer’, ‘employee’ and supporting agency. It is important to ensure that all parties have clear expectations.

For example the MoU might include the following minimum information:

- length of audition
- payment during audition
- insurance coverage during audition
- supports and adjustments to be provided during audition (and upon successful employment)
- conditions under which the employer will offer the person a job at the end of the trial
- description of the job available to the person if the trial is successful.

#### 4. *Job audition length*

- three months or less depending on the position and the individual
- possibility of seeking an extension (as currently permitted under the CRS Australia model).

#### 5. *Payment during job audition*

Payment options include:

- where the person receives the Disability Support Pension, that pension continues
- an additional allowance to be paid by a government-funded agency to cover sundry costs
- where the person does not receive a pension, a training allowance might be paid by a government-funded agency
- the award wage
- a wage commensurate with other employees on probation.

#### 6. *Insurance coverage during job audition*

Workers compensation insurance should be covered by any of the following:

- Comcare (this will require a change to legislation unless the trial is run through CRS Australia)
- State workers compensation authorities
- private insurance companies paid by a Commonwealth government authority.

#### 7. *Supports provided to employers and employees prior to and during the work trials*

Supports to be provided whenever needed, for as long as needed, by an appropriately resourced government-funded agency.

Supports might include, but not be limited to, the following:

- administrative assistance so that all arrangements are made by the relevant government agency
- workplace and medical/functional assessments are conducted by appropriately qualified professional prior to the trial to ensure a safe job match, safe working conditions, appropriate employer awareness and co-worker safety
- implementation of modifications as recommended by the workplace assessment
- implementation of any necessary workplace accommodations and adjustments (including adaptive technology)

- assistance to ensure appropriate job design
- provision of ongoing job support, including on-the-job training and regular on-site monitoring
- access to immediate expert advice throughout the work trial.

#### 8. *Employer obligations at the end of the job audition*

- no absolute obligation to hire at the end of the audition. However, the MoU should define the circumstances under which a job would be offered (see item 3 above)
- an employer might also commit to providing a reference to the participant.

#### 9. *Possible agencies to run the trial*

- CRS Australia (CRS Australia notes that it currently does not have the infrastructure to provide the expanded ‘job auditioning’ services as discussed by the working group)
- other agencies that tender for this role.

#### 10. *Encouraging participation in work trials*

- central point of information for all those interested
- simple administration for employers
- Commonwealth government promotion to people with disability, community groups, employment services and employers
- employer peak body promotion of the trials to large, medium and small business
- employment services promotion of the trials to all agencies servicing clients with disability
- community promotion.

### **4.3.4 Alternative 2: Three to twelve month ‘job auditioning’ work trial**

There was substantial disagreement about whether a work trial longer than three months provided any added value. However, if there were such a need, the following changes would need to be made to the model described above.

Please note that, like the model above, this model has not been endorsed by the group as a whole or the Inquiry in particular. It simply reports the progress of an ongoing discussion about the features of a possible longer-term government-sponsored ‘job auditioning’ work trial.

### *1. Purpose of job audition*

As above.

### *2. Eligibility for job audition*

As above.

### *3. Definition of job audition*

As above.

### *4. Job audition length*

Between three and twelve months.

### *5. Payment during job audition*

Where a person is in a job audition for more than three months he or she should be paid at least the award wage. There are various ways this might be done:

- where the person receives the Disability Support Pension that pension might continue. An additional amount could be paid by the employer to meet at least the award wage. However, ideally the person should be paid the wage the employer would normally pay for that job
- where the person does not otherwise receive a pension the government could subsidise the salary to that amount or greater
- there may be provision for decreasing the government subsidy as time goes on. For example, 100% of the award wage for the first three months, 50% for the next three months and 25% for the next six months.

### *6. Insurance coverage during job audition*

As above.

DEWR notes that from an occupational health and safety perspective, funding insurance coverage for a 12 month period may reduce the incentive that premiums provide to prevent injuries in the workplace.

### *7. Supports provided to employers and employees prior to and during the work trials*

As above.

### *8. Employer obligations at the end of the job audition*

- no absolute obligation to hire at the end of the audition, however the longer the audition the greater the obligation to consider permanent or long-term placement

- MoU should define the circumstances under which a job would or would not be offered
- an employer should commit to providing a reference to the participant
- the employer should agree to waive any further interview process.

#### *9. Possible agencies to run the trial*

As above.

#### *10. Encouraging participation in work trials*

As above.

### **4.4 Comments in further submissions to the Inquiry**

In addition to the discussions that took place in the context of the working group, there were a number of Second Round Submissions responding to the Inquiry's recommendation about work trials.

The mother of a boy with Asperger's Syndrome suggests that work trials are only useful for people with disability who can be as productive as people without disability:

In my son's experience, work trials did not lead to offers of permanent employment because, although his employers were happy with the quality of his work, they were unwilling to employ someone who was not as fast as other employees could be.

Work trials can only be of advantage to people with a disability such as my son's if coupled with ongoing government wage subsidies or tax incentives for the employment of such people.<sup>4</sup>

The City of Melbourne Disability Advisory Committee supported the idea of work trials as long as they were for a minimum of 12 weeks.<sup>5</sup>

The Australian National Organisation of the Unemployed was concerned to ensure that work trials pay and provide award wages and conditions and that there is a job guarantee for those who successfully complete the trial.<sup>6</sup> Similarly, Blind Citizens Australia state that work trial participants should be paid wages in accordance with the appropriate award or relevant workplace agreement.<sup>7</sup>

Blind Citizens Australia also point out that the work trial must ensure that the appropriate workplace modifications are in place in order to test a 'true workplace scenario. For people who are blind or vision impaired this would include the provision of specific adaptive equipment.'<sup>8</sup>



Centacare describes its voluntary work experience scheme, which has resulted in longer-term employment. In discussing this program, Centacare is careful to distinguish ‘work experience’ (unpaid) from a ‘work trial’ (paid):

During the work experience placement, our staff use a standard industry measure (the Standards of Work Performance questionnaire) to assess both a client’s work skills and other work related behaviours such as work ethics (for example punctuality), responsiveness to supervision and the ability to carry out instructions. The assessment is conducted in conjunction with the Training and Placement Officer and the supervisor/employer. The limitations of the current system as outlined in the Report are that work trials/volunteer work does not provide any remuneration to the client. Services are not funded for providing the resources that would be available for a job placement. Nor is it appropriate that a client continue in a work experience placement for a considerable period of time under the current system without remuneration. What is required is a system of government funded work trials, where Service Providers can offer the full range of support that they currently provide for workers such as intensive on the job training and support, maintenance including site visits and telephone calls to assess progress and a structured comprehensive system of assessment of both skills and work related behaviour. The development of a Work Trial model would need to ensure that employers have adequate insurance to undertake such work trials.

...Minimising any risk of employee exploitation would be key to the development of a Work Trial model. Centacare recommends that careful consideration be given to the duration of the trial and the possibility of a system of outcome based payments to ensure that service providers are educating employers throughout the trial and that a good job match occurs.<sup>9</sup>

#### **4.5 Issues for further discussion**

As already noted, the models described above have not been endorsed by the working group as a whole or the Inquiry. Rather they reflect the results of preliminary discussions on the issue.

There are several questions that remain unanswered in the context of the discussion, including:

- Is there value in a ‘job audition’ scheme that lasts more than three months?
- If the ‘job audition’ is longer than 3 months should there be a greater obligation to hire at the end?
- What should be the payment level for participants in a ‘job audition’? Does it depend on the length of the audition?
- Who should pay the participant in a ‘job audition’? Does it depend on the length of the audition?

- How will insurance be covered if CRS Australia is not the managing agency?
- What agencies have the capacity to manage work trial schemes along the lines discussed by the group?
- What funding would be needed to support such a scheme on a broad scale?
- What sort of promotion schemes would work best to encourage participation of employers and people with disability in work trial schemes?

It is also worth noting that there was limited employer representation on the working group. As the primary purpose of the job audition scheme is to provide an incentive for employers to give people with disability an opportunity to prove their abilities, it will be important to consult more directly with employers on the design of the scheme.

At this stage the Australian Chamber of Commerce and Industry suggests that the scheme would need to be voluntary, cost neutral, terminable at any time and without any obligation to employers. Some of these conditions may be at odds with those discussed above. There clearly needs to be further discussion on these and other issues.

Further, there needs to be more detailed discussion with Federal and State governments about the feasibility of developing, encouraging, managing and funding such work trial schemes.

It is also important to emphasise that the model discussed by the working group focussed solely on the type of trial that is intended to lead to an individual filling an existing job vacancy. Different considerations may come into play when considering work trials as work experience and work training options for people with disability. Many submissions note the importance of such opportunities as a way to encourage participation and employment (see especially Chapter 3, section 3.3.3(l)).

These are just some of the issues that need to be focussed upon in the future.

## **4.6 Recommendation regarding work trials**

The Inquiry has amended Interim Recommendation 15 to reflect the discussion of the working group so far. The final recommendation is as follows:

### ***Recommendation 15: Work trials***

*The Inquiry recommends that the Department of Employment and Workplace Relations develop robust government-supported work trial schemes that benefit employers and people with disability.*

*The following issues should be addressed in developing such schemes:*

- (a) *the purpose of the work trial scheme (is it to fill a job vacancy, provide a training opportunity or provide work experience?);*
- (b) *eligibility for the work trial;*
- (c) *a mechanism to define the rights, obligations and expectations of all parties before, during and on completion of the work trial;*
- (d) *length of the work trial;*
- (e) *payment during the work trial (how much and by whom);*
- (f) *insurance coverage during the work trial;*
- (g) *supports provided to employers and people with disability prior to and during the work trial;*
- (h) *employer obligations at the end of the work trial;*
- (i) *agencies to run and support work trials; and*
- (j) *a strategy to encourage participation by employers and people with disability in work trials.*

The Human Rights and Equal Opportunity Commission intends to continue working with the Department of Employment and Workplace Relations and the working group to ensure ongoing development of these ideas (see further Chapter 12).

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#### **Chapter 4: Endnotes**

- 1 See *WORKability I: Barriers*, Chapter 2, section 2.6.
- 2 See *WORKability I: Barriers*, Chapter 2, section 2.6.3.
- 3 Family and Community Services, *Employer Incentives Strategy Review*, 2003, Action 6 – Develop a robust platform for work trials, p47.
- 4 Submission 137, L Bewley.
- 5 Submission 160, The City of Melbourne Disability Advisory Committee
- 6 Submission 139, Australian National Organisation of the Unemployed.
- 7 Submission 141, Blind Citizens Australia.
- 8 Submission 141, Blind Citizens Australia.
- 9 Submission 146, Centacare.

# Chapter 5



## Strategies to address perceptions about occupational health and safety, disability discrimination and unfair dismissal laws

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## 5.1 Introduction

*WORKability I: Barriers* noted that one of the main impediments to the employment of people with disability lies in employer concerns about increased exposure to legal and financial risks related to occupational health and safety, disability discrimination and unfair dismissal laws.<sup>1</sup>

The primary concern appears to be the belief that there are higher health and safety risks when there are people with disability in the workplace, and therefore greater exposure to workers compensation claims. While the Inquiry has not received any clear evidence that there is, in reality, a generally higher safety risk, the perception appears to be strong enough to have a significant impact on hiring decisions by employers.

Employers also seem concerned about increased exposure to legal action in the form of disability discrimination claims and unfair dismissal claims when hiring people with disability. As with health and safety risks, there is no evidence available to help distinguish between the perceived and actual risks associated with these types of claims.

The Inquiry recommended research to clarify the real financial and legal risks associated with employing people with disability.

***Interim Recommendation 13: Occupational health and safety, industrial relations and disability discrimination laws***

*The Inquiry recommends gathering clear and practical information about the financial impact of, and legal risks created by:*

- (a) occupational health and safety laws;*
- (b) disability discrimination laws;*
- (c) industrial relations laws; and*
- (d) the interaction between those laws*  
*on employers who hire people with disability.*

The Inquiry also created a working group to commence the implementation of that recommendation and to identify other possible strategies for addressing this barrier to employment of people with disability.

This chapter discusses the outcomes of the working group and the comments contained in the Second Round Submissions regarding this issue.

## **5.2 Creating an expert working group to discuss the impact of occupational health and safety, disability discrimination and unfair dismissal laws**

When *WORKability I: Barriers* was published, 10 organisations had already agreed to participate in the working group on work trials. The group expanded to include a barrister and representatives from the following 21 organisations:

- ACROD
- AMP
- Australian Chamber of Commerce and Industry
- Australian Council of Trade Unions
- Australian Industry Group
- Centacare
- Department of Education and Training NSW
- Department of Employment and Workplace Relations
- Disability Council of NSW
- Disability Employment Action Centre
- Diversity Council of Australia
- Diversity@Work
- Employers Making a Difference
- IBM Australia
- National Employment Services Association
- NSW Disability Discrimination Legal Centre
- Office of the Australian Safety and Compensation Council
- People With Disability Australia
- Regional Disability Liaison Officer Western Sydney
- TAFE NSW
- Workcover South Australia.

The working group met on 6 September 2005 and then continued discussion through email.

The members of the working group confirmed the premise that the actual or perceived application of occupational health and safety, disability discrimination and industrial relations laws to people with disability operates as a serious impediment to an employer's willingness to hire.

The group tried to identify why these three areas of law create such a high barrier and develop ways to address these concerns.

## **5.3 What are the possible risks associated with these laws?**

The group had difficulty in distinguishing between the real and perceived risks. This is most likely because, in practice, the impact of any perceived risks appears to be as great as the impact of any real risks. Further, the difference between perceived

and real risks will vary depending on the specific disability, job description and workplace.

Nevertheless, the group tried to identify the prevailing concerns and developed the following lists.

### **5.3.1 Occupational health and safety risks – real and perceived problems**

The group identified the following concerns regarding occupational health and safety regulations:

- prevailing assumption that people with disability are a higher safety risk than others, despite the absence of proof
- assumptions about an increased safety risk result in concerns about increased insurance premiums, despite the absence of proof
- State workers compensation authorities provide extremely poor information
- difficulties in accessing information and advice as to how to manage safety risks for anyone, including people with disability
- difficulties in identifying any additional risks created (or not) by a person's disability
- amount of time and cost involved in making adjustments for a person with disability to do a job properly and manage the risk appropriately
- perception that there is a non-delegable duty of care and that the duty is higher regarding employees with disability
- perception that risk must be completely eliminated for people with disability – 'zero tolerance' approach rather than 'reasonable and practical measures'
- difficulties in getting someone to say that the appropriate measures have been taken to provide a safe working environment
- even if it were possible to get 'sign-off' on a safe environment, it may not provide legal protection
- serious financial and personal liability consequences for any problem that arises
- failure of an employee to disclose a disability can mean that appropriate steps are not taken and liability is incurred
- confusion about the interaction between occupational health and safety legislation and disability legislation.



### **5.3.2 Disability discrimination risks – real and perceived problems**

The group identified the following concerns regarding disability discrimination laws:

- confusion about the meaning of discrimination and a general lack of understanding about what discrimination laws require
- confusion about whether and when an employer can ask a potential employee whether he or she has a disability
- concern about the cost of making reasonable adjustments (even though the obligation may be no different regarding other employees)
- concern about whether measures to protect employees with disability may be regarded as unfair by other workers
- concern about whether adjustments made for employees with disability may deprive them of opportunities
- concern about the time involved in addressing any discrimination claims – be they justified or not
- little incentive to comply with legislation because consequences are light.

### **5.3.3 Industrial relations risks – real and perceived problems**

The group identified the following concerns regarding industrial relations laws:

- concern about the increased prospect of an unlawful dismissal claim on the basis of an employee's disability
- concern about the time involved in addressing any unfair dismissal claims
- concern about differing treatment in unfair dismissal claims when they involve people with disability
- confusion about whether a failure to disclose a disability permits an employer to dismiss on the basis of false and misleading information
- concern about informed consent for employees with disability negotiating their own agreements
- concern about a possible increase in internal disputes due to friction involving employees with disability or differing treatment of people with disability.

### 5.3.4 Interaction between laws – real and perceived problems

The group identified the following concerns regarding the intersection of laws:

- concern about the complexity of interaction between laws
- confusion about the hierarchy between the laws in the event of conflict
- additional confusion caused by privacy legislation (for example, whether an employment services provider can disclose a disability to employers).

The Australian Chamber of Commerce and Industry provided some additional examples of the areas of risk about which employers may be concerned:

- personal risk with respect to recurrence of a condition, where an individual may be prone to such a recurrence. These include the recurrence of a depressive episode; psychological stress; bipolar condition; a schizophrenic episode; or physical condition (eg bad back, tendonitis);
- injury to an individual as a result of a person's disability that contribute to a work injury. Examples could include repetitive strain injury through adapting to work in instances of an individual with a bad back, missing limb or other physical disability; and other injuries to individuals or other workers as a result of practices associated with a persons disability;
- injury to the individual and/or to other employees as a result of behaviours associated with an episodic or acute recurrence of a condition, mental or physical;
- complications created where an employee has not fully disclosed their known condition to the employer, and the employer has not had the opportunity to make an appropriate analysis of risk and apply effective workplace adjustment...;
- the additional cost of workplace adjustments including access, seating, toilet facilities, hours of work, and training of the person with disability and co-workers; and
- the extent of 'reasonable accommodations' under DDA and OH&S legislation.

Regarding industrial relations risks, the Australian Chamber of Commerce and Industry adds that there is also concern about differing treatment in unfair dismissal claims by people with disability. Further there should be room for longer reasonable probationary periods for employees with disability.

## 5.4 How might these risks and concerns be addressed?

The group suggested that many of these concerns could be addressed through better understanding about the *real impact* of these laws, as opposed to the *assumed impact* of these laws.

The working group sought to identify ways to collect information that addressed employer fears regarding these laws. The group focussed more on the actual and perceived risks created by occupational health and safety and workers compensation requirements, than on the disability discrimination and unfair dismissal issues.

The group discussed the following five strategies, each of which are described in the sections below:

- government-sponsored personal and workplace assessments and risk management strategies
- government-sponsored program to cover the first year of insurance premiums, coupled with a data analysis project
- engagement of State workers compensation authorities
- capacity building for employment service providers
- awareness raising through ‘myth buster’ fact sheets, ‘how to’ information sheets and business-to-business promotion.

### 5.4.1 Government-sponsored personal and workplace assessments and risk management strategies

It appears that one of the main problems faced by employers is uncertainty about the appropriate steps to take in order to address personal and workplace safety risks (whether the employee has a disability or not).

Some members of the working group suggested that this uncertainty might be addressed by providing easy access to government-funded experts who can assist employers to identify what needs to be done to create a safe workplace.

Other members went a step further to suggest that the advice provided by such experts might be part of a ‘certification’ or ‘compliance’ model. While the idea behind this type of model is to ensure that the assessment carries the authority that employers are looking for, it was acknowledged that there may need to be some investigation regarding the legal barriers to ‘certification’.

Workcover South Australia pointed to the checklists available on its website as a guide to what might be included in worksite assessments under this scheme.

Other participants made suggestions about who might be best placed to conduct the assessments, including:

- a party independent of government (to reduce employer sensitivity to compliance and regulation issues)

- employment services (to reduce the number of agencies involved in the employment process)
- government-funded consultants.

The Regional Disability Liaison Officer, Western Sydney, went into greater detail and suggested that the assessments should be conducted by an accredited service with the capacity to assess a workplace, identify strategies and implement any modifications necessary to ensure a safe work environment. Such a service must be able to demonstrate occupational health and safety awareness for the employee, employer and the organisation as a whole, irrespective of whether the employee is unskilled or highly skilled. The services could be an employment service, rehabilitation service or a newly created specialised service.

Several members of the working group expressed some concern that providing government-funded experts *only* for employees with disability may perpetuate the perception that they are an increased safety risk, despite the absence of evidence to this effect.

In view of this concern, the NSW Disability Discrimination Legal Centre suggested that a program to provide workplace assessments for employees with disability (and the model discussed in section 5.4.2 below) should be developed within the following parameters:

1. The object of the program should be to encourage improved and *permanent* opportunities in the workforce. This means that the program should be developed through active consultation with employers, employees and disability groups.
2. The program should be viewed as a transitional step in changing community attitudes rather than a long-term solution to the problem. The program should be regularly reviewed and strive to make itself unnecessary.
3. The collection and dissemination of reliable data should be a primary focus of the program. This is a fundamental step in reducing stereotypes about the cost and risks associated with employees with disability.

The NSW Disability Discrimination Legal Centre also highlighted that there are already mechanisms in place to manage risks, including the development of Disability Action Plans as a means to ensure compliance with the *Disability Discrimination Act* 1992. This may be a useful model in the occupational health and safety context.

The Department of Employment and Workplace Relations (DEWR) is currently in the process of developing a one-stop-information-shop (see further Chapter 10). DEWR reports that it is considering the incorporation of a government-sponsored worksite assessment scheme for inclusion in its one-stop-information-shop. DEWR describes the possible worksite scheme as follows:

### **Worksites Assessment**

It is envisaged that the worksite assessment would be organised through the Australian online information and advice service. This would complement the streamlining of the Workplace Modifications Scheme through the site from July 2006.

#### *Potential Users*

It is envisaged that worksite assessments would be available for new and existing employees with disabilities.

Existing employees may include people who have returned to work after an accident or injury, or existing employees whose needs or job requirements have changed.

#### *Potential Services Offered*

The worksite assessment could provide a mechanism for identifying strategies to manage OHS risks for the employer. The assessment could include the employee's work fit and the need for workplace or job-task modification. It is envisaged that this assessment could form part of the workplace modifications worksite assessment.

#### *Benefits of Worksite Assessments*

Worksite assessments would assist employers take appropriate steps to manage OHS risks when employing people with disabilities.

The Regional Disability Liaison Officer, Western Sydney, commented that the 'Potential Users' under such a scheme should also include:

- existing employees whose job may not have changed, but who disclose their disability at a later point in time
- students with disabilities and post secondary education providers who may face occupational health and safety concerns in the context of field trips and work placements
- apprentices and trainees with disability and their employers.

### **5.4.2 Government-sponsored program to cover the first year of insurance premiums, coupled with a data analysis project**

Employers Making a Difference and the National Employment Services Association proposed a three-year pilot project which aims to simultaneously provide an incentive for employers to take on employees with disability and an opportunity to prove – or disprove – whether or not the perceived risks are in fact real.

The main features of the project are:

1. the government would cover the first year of insurance premiums as an incentive to employers to hire people with disability. For example, where the premium is calculated as a percentage of salary, that amount is covered by government
2. all businesses and individuals participating in this program would be part of a data collection project that tracks the impact of an employee with disability on workplace safety and insurance premiums.

A diagrammatic model of the project can be found at the end of this chapter in Appendix 5A.

The stated goals of this project are to:

- eliminate the perception of risk (and any real risk) by providing a government-funded scheme to cover workers compensation insurance for jobseekers with disability. Employers Making a Difference and the National Employment Services Association suggest that this coverage would apply to clients of government-funded employment services only
- systematically collect and analyse large quantities of information about any workers compensation claims, with a view to informing the debate about occupational health and safety risks
- educate on risk assessment and reduction. The data collected would provide a solid basis for an education programs aimed at both employment service providers and employers.

Some working group participants suggested extending the government-sponsored workers compensation coverage to the full tenure of a person's employment and/or extending the project to 10 years to obtain more accurate and comprehensive data.

Workcover South Australia suggests that its RISE program might be of some assistance in developing a project of this kind.<sup>2</sup>

Once again, some members expressed concern that the 'insurance holiday' might perpetuate the perception that employees with disability cost more, despite the absence of evidence to this effect. Nevertheless, there was general support for a project like this given its triple purpose of providing incentives to employers, collecting reliable information and educating employers and the community about any risks on the basis of that information.

The parameters suggested by the NSW Disability Discrimination Legal Centre in relation to the worksite assessment program above (see section 5.4.1), also apply to the development of this project.

### **5.4.3 Engagement of State workers compensation authorities**

The working group noted that State workers compensation authorities are often the primary source of information for employers regarding occupational health and safety. It is therefore vital that they have appropriate information about the way occupational health and safety legislation does – and does not – impact on people with disability. They also need to understand the interaction between occupational health and safety and disability legislation.

The group suggested that Workcover authorities across Australia be encouraged to promote a positive model of managing health and safety, including for people with disability. In particular the group emphasised that authorities should not just concentrate on the ‘stick approach’ to managing health and safety.

Further, the authorities themselves should be better informed about whether or not there are different risks associated with disability. If there are additional risks they should know how to manage those risks. If not, they should debunk the prevailing belief that people with disability are a higher safety risk than anyone else.

One strategy of building this expertise is that used by Workcover South Australia, which engages a consultative committee – the Disability Focus Group – dedicated to developing an occupational health and safety and disability strategy. The detailed strategy of this focus group can be found on Workcover South Australia’s website.<sup>3</sup>

### **5.4.4 Capacity building for employment service providers**

The working group noted that employment service providers are often the gateway to the workplace for people with disability, and a major source of information for both employees and employers.

Education and training needs to be provided to employment service providers to improve understanding of occupational health and safety risks, obligations and management strategies. The group stressed that the goal would be ‘capacity building’, not just providing information via kits and websites.

Workcover South Australia has already developed some training programs and materials which might assist employment agencies in the area of occupational health and safety.<sup>4</sup> These materials were developed in consultation with its Disability Focus Group.

One member of the working group commented that if professional personal and workplace assessments are incorporated into the operations of employment service providers, this may have a direct and positive impact on the capacity of those services to provide advice to employers.

The Regional Disability Liaison Officer, Western Sydney, suggested that capacity building would also be useful for private employment agencies, employment services, rehabilitation services, post secondary vocational education and training

institutions, and services associated with apprenticeships and traineeships for people with disability.

#### **5.4.5 Awareness raising through ‘myth buster’ fact sheets, ‘how to’ information sheets and business-to-business promotion**

The working group discussed the need for a general awareness-raising campaign for all parties involved in the employment process, and the community more generally. The three types of materials suggested were:

1. *‘Myth-buster’ pamphlets*: ten to twelve points including, for example, information that disability is *not* a factor in the calculation of insurance premiums. These pamphlets could include case studies
2. *‘How-to’ ensure a safe working place*: information sheets setting out key principles and information about ‘how to’ comply with the various laws. These should also include case studies
3. *Business-to-business promotion of the benefits of hiring people with disability*: this needs business leaders to outline the financial and business benefits that come from hiring people with disability and provide success stories.

The working group again emphasised that it is insufficient to just produce information, there must be a way to ensure understanding. Thus, any new literature should be accompanied by a long-term multifaceted approach to education – including media and business champions. Information must be easily accessible and broadly disseminated. Positive experiences of employers should be widely promoted.

The education campaign should be comprehensive, clear, accurate and energetic. At the same time the campaign should be cognisant of the possibility that it might inadvertently foster unhelpful stereotypes.

Various participants provided starting materials for the development of user-friendly fact sheets:

- Workcover South Australia has produced various forms of useful material including an occupational health and safety welfare kit for employment placement agencies,<sup>5</sup> employers<sup>6</sup> and employees,<sup>7</sup> a safe work checklist,<sup>8</sup> occupational health and safety training kits,<sup>9</sup> workplace injury management resources<sup>10</sup> and an occupational health and safety claims management checklist for employers<sup>11</sup>
- The Australian Industry Group refers to information available on JobAble about ‘Common Employer Concerns’<sup>12</sup>



- The NSW Disability Discrimination Legal Centre refers to its publication *Using Disability Discrimination Law in New South Wales* and offered to help develop further materials.<sup>13</sup> The NSW Disability Discrimination Legal Centre also highlights the following priorities:
  - The rights and obligations of employers and employees in disclosing disability and the relevance of privacy laws
  - Assessing and identifying the *real* occupational health and safety risks that apply to *all* employees in the workplace
  - Achieving transparent and balanced negotiation and consultation between employers and employees regarding reasonable adjustments in the workplace
  - Creative response to making reasonable adjustments and debunking the myth that such adjustments lead to financial hardship
- The Regional Disability Liaison Officer, Western Sydney, provided information that could be adapted into simple information sheets and refers to a website that discusses disclosure of disability in the employment context.<sup>14</sup>

## 5.5 Comments in further submissions to the Inquiry

Second Round Submissions also contained several suggestions about addressing the ‘fear factor’ associated with the occupational health and safety, disability discrimination and unfair dismissal risks.

The Australian Industry Group stresses that the best approach is to focus on education and awareness for employers rather than regulation:

The interaction of OHS, disability discrimination and industrial relations requirements does indeed pose a barrier to the employment of people with a disability, whether this is based on perceived risks, or actual risks. Schemes like the availability of Government-funded consultants offering assistance to employers and employees with disability, is a sensible suggestion to encourage increased engagement of people with disability.<sup>15</sup>

Regarding occupational health and safety, the Australian Industry Group provides some statistics suggesting that the risks are not as high as some might believe them to be:

With regard to occupational health and safety, Ai Group is supportive of education campaigns to demystify preconceptions in relation to the safety levels of employees with disability. While care needs to be taken with aggregate data in view of the wide occupational variations in claims, some preliminary research suggests that people with disabilities may be statistically less likely to be involved in workplace accidents.<sup>16</sup> One study found that 98% of employees with a disability have a better or similar

accident record compare to their co-workers without a disability. These campaigns should also engage state workers compensation authorities and promote greater understanding of the relationship between disability and workers compensation claims. Further preliminary research suggests that only 4% of employees with a disability claimed for workers compensation, compared with 14.7% claimed by employees without disabilities.<sup>17</sup>

Vision Australia and Blind Citizens Australia note that visually impaired and blind people are often retrenched due to perceived occupational health and safety concerns. They warn against any strategy that may perpetuate rather than eliminate the myths about occupational health and safety risks.<sup>18</sup>

One individual with disability suggested that the government should cover the first three months of workers compensation premiums to combat this barrier.<sup>19</sup>

On disability discrimination, People With Disability Australia suggested a greater focus on how occupational health and safety and unfair dismissal fits within the rights framework set up by the *Disability Discrimination Act 1992* (DDA). People With Disability Australia also recommended the development of clearer DDA compliance and decision-making models, as follows:

- *Recommendation 7:* An appropriate authority must be charged with responsibility for developing readily implementable *Disability Discrimination Act* compliance program models that can be provided to small-medium sized employers free of charge, along with the services necessary to support implementation of such programs including information, support, training and face to face assistance.
- *Recommendation 8:* An appropriate authority must be charged with responsibility for developing readily implementable *Disability Discrimination Act* compliant human resources decision-making models for effective and procedurally fair decision-making processes in recruitment, retention, return-to-work and termination. Such models may be provided to small-medium sized employers free of charge along with the services necessary to support implementation of such models including information, support, training and face to face assistance.<sup>20</sup>

Regarding unfair dismissal, Australians for Disability and Diversity Employment referred the Inquiry to laws in the United Kingdom where the onus is on the employer to refute a breach of unfair dismissal in the case of an employee with disability.<sup>21</sup>

## **5.6 Issues for further discussion**

The suggestions described above have not been endorsed by the working group as a whole or the Inquiry. Rather they reflect the results of preliminary discussions on the issue.

The Inquiry suggests the following steps regarding the five strategies discussed above.

### **1. Government-sponsored personal and workplace assessments and risk management strategies**

The Department of Employment and Workplace Relations (DEWR) should provide updates to the working group and keep the following factors in mind when developing its worksite assessment model:

- participants of the working group may be willing to offer some assistance and suggestions to DEWR in the development of this model
- not all employers seeking a personal and worksite assessment will access the Workplace Modifications Scheme (WMS)
- while the occupational health and safety service may be aligned with the WMS it should not be part of it – some modifications may not require funding from WMS
- some employers may be seeking some certainty as to the legal effect of carrying out the suggestions made by a personal and workplace assessor (for example, through certification)
- it may be useful to provide lists of agencies that can provide personal and workplace assessments so that employers can seek assistance independently of government
- guidance as to the issues that will be addressed by the personal and workplace assessment (for example, checklists that may be used by assessors).

### **2. Government-sponsored program to cover the first year of insurance premiums, coupled with a data analysis project**

The first draft model project designed by Employers Making a Difference and the National Employment Services Association should be further developed. Some of the areas needing clarification include:

- identifying a government agency to manage and fund the project
- developing a strategy for promoting participation in the project
- determining how workers compensation cover will be provided (Comcare? State workers compensation authorities? Reimbursement of any increased premiums paid to private insurers?)
- identifying the specific data sought, the method for collecting it and the way it will be analysed

- identifying the types of risk management models that might be trialled within the project
- determining who will be eligible to participate in the project (for example, all people with disability starting or moving to a new job? All people with disability who have been out of the workforce for a certain period of time? All people with disability who seek employment assistance from Job Network or Disability Open Employment Services? Will all employers be eligible or just employers under/over a certain size or in certain industries? Will there be limitations on the number of participants?)
- determining the design and funding for the education scheme to accompany the project.

In order to develop a comprehensive design for this project it may be useful to gather a small group, including DEWR, to address these and other issues. This group might include Workcover authorities, employer representatives, Disability Open Employment Service representatives, educational authorities involved in work placements and DEWR.

### **3. Engagement of State workers compensation authorities**

The Inquiry suggests that DEWR convene a roundtable with all State workers compensation authorities to discuss and document:

- Workcover SA's disability strategy
- the disability strategies of other State authorities
- the need for State workers compensation authorities to develop a clear operations and education (internal and external) strategy regarding employees with disability
- linking those authorities to DEWR's one-stop-information-shop (see Chapter 10).

It may also be worth including representatives from the disability and employment services sectors in these discussions.

### **4. Capacity building for employment service providers**

The Inquiry suggests the following steps:

- develop a short- and long-term capacity building strategy for employment service providers using the Workcover SA program and materials as a starting point. This should be a collaborative effort including employment service peaks, individual employment services, State workers compensation authorities and disability peaks

- consider the incorporation of professional worksite assessments into the range of services for which employment services are funded
- provide comprehensive occupational health and safety information geared to assisting employment service providers and employers on a one-stop-information-shop. This information could include training materials.

## **5. Awareness raising through ‘myth buster’ fact sheets, ‘how to’ information sheets and business-to-business promotion**

The Inquiry suggests the following steps to begin implementing this suggestion:

- identify business champions through employer peak bodies and engage those businesses in employer-to-employer promotion
- develop simple materials regarding occupational health and safety, disability discrimination and unfair/unlawful dismissal to form the basis of a broad information campaign
- develop an awareness raising strategy that involves the following bodies (both as the object of the campaign and as participants):
  - State workers compensation authorities
  - employer bodies
  - employer champions
  - Commonwealth government agencies
  - employment service providers
  - unions
  - disability community groups
  - community legal services
- include all information on DEWR’s one-stop-information-shop and coordinate with any information campaigns associated with that initiative (see Chapter 10).

### **5.7 Recommendation regarding occupational health and safety, disability discrimination and industrial relations laws**

The main goal of the working group was to develop strategies to address employer perceptions that the risks associated with occupational health and safety, disability discrimination and unfair dismissal laws are unacceptably high.

Interim Recommendation 13 has been amended to reflect outcomes of the working group process as follows:

***Recommendation 13: Occupational health and safety, industrial relations and disability discrimination laws***

*The Inquiry recommends development of the following strategies to address concerns about the potential financial impact of, and legal risks created by, occupational health and safety laws, disability discrimination laws, industrial relations laws, and the interaction between those laws, on employers who hire people with disability:*

- (a) government-sponsored personal and workplace assessments (which also recommend risk management strategies);*
- (b) a government-sponsored trial program that simultaneously covers insurance premiums and ensures the collection, analysis and dissemination of reliable data about the true impact of those laws on employers;*
- (c) engagement of State workers compensation authorities in disseminating information and developing disability employment strategies;*
- (d) capacity building for employment service providers; and*
- (e) a multifaceted awareness raising campaign through 'myth buster' fact sheets, 'how to' information sheets and business-to-business promotion.*

The Human Rights and Equal Opportunity Commission intends to continue working with the working group to ensure ongoing development of these ideas (see further Chapter 12).

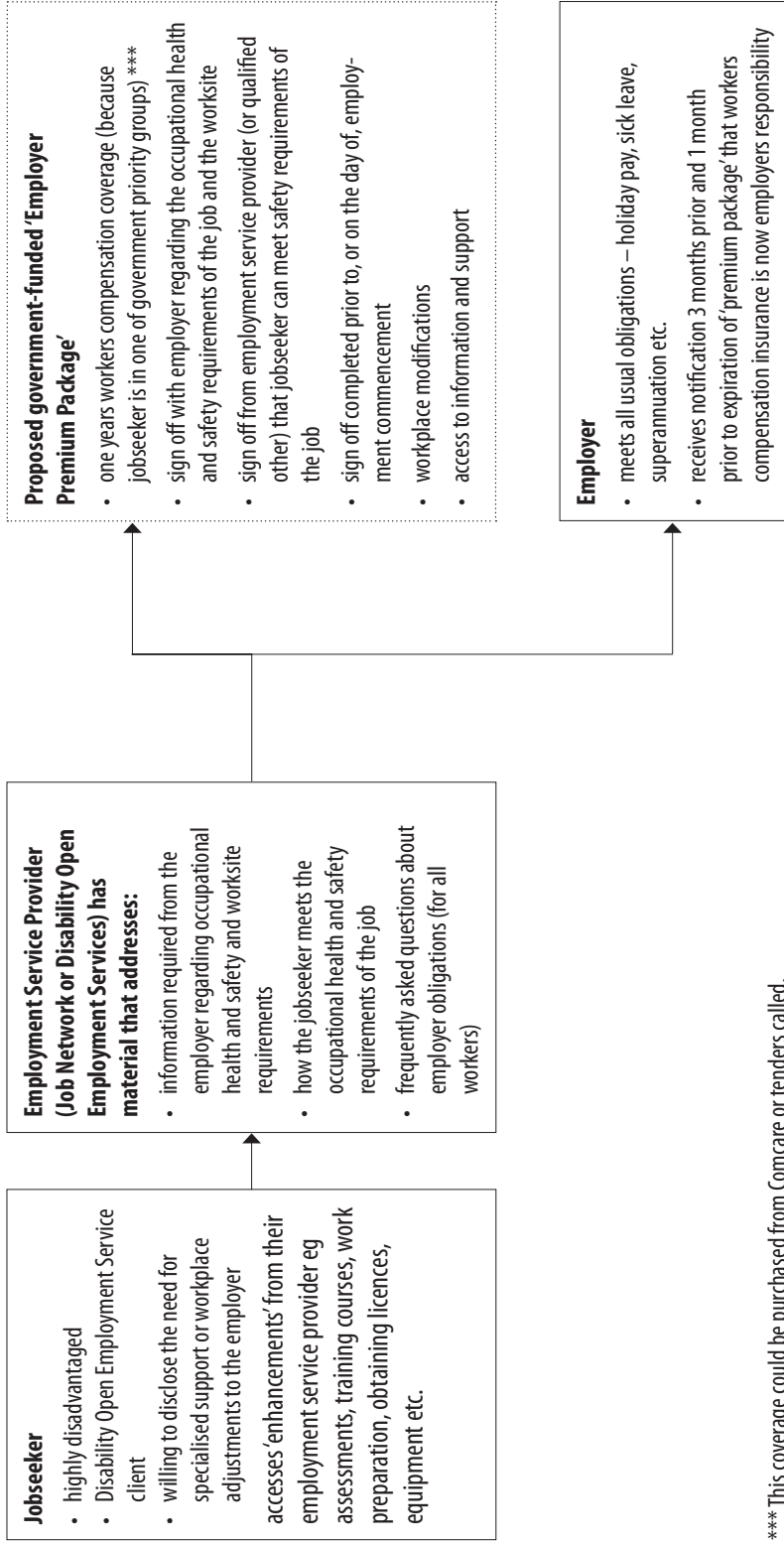
---

## **Chapter 5: Endnotes**

- 1 See *WORKability I: Barriers*, Chapter 2, section 2.6.2.
- 2 For further information about the RISE program see: <http://www.workcover.com/InjuryClaims/RISE/RISE/riseScheme.htm>
- 3 For information about the Disability Focus Group see: <http://www.workcover.com/AboutUs/AccessEquityProgram/FocusGroups/aeFocusDisability.htm>. For information about the Access and Equity Strategic Plan see: <http://www.workcover.com/NR/rdonlyres/48E36619-F673-4CA6-ACBC-B2C70156F949/0/aeStrategicPlanJune2005.pdf>
- 4 <http://www.workcover.com/AboutUs/AccessEquityProgram/FocusGroups/aeFocusDisability.htm>
- 5 <http://www.workcover.com/NR/rdonlyres/31BB10E2-860F-4ECC-874C-BE22F38B5E08/0/aeOHSWKitPlacementAgency.pdf>
- 6 <http://www.workcover.com/NR/rdonlyres/78EE786D-B10F-4926-836A-0B992A52293F/0/aeOHSWKitEmployerinformation.pdf>
- 7 <http://www.workcover.com/NR/rdonlyres/B479CC0E-E4E8-4A86-A2C0-14731B533EE8/0/aeOHSWKitParticipantsBooklet.pdf>
- 8 <http://www.workcover.com/NR/rdonlyres/E3D9BB76-D386-4A81-BC50-196F310D165B/0/aeSafeWorkChkfst.pdf>
- 9 <http://www.workcover.com/NR/rdonlyres/AFA87141-BB9D-4714-998C-65BE616D36A7/0/aeOHSWKitTrainerNotes.pdf>
- 10 <http://www.workcover.com/NR/rdonlyres/F0179BF2-38AC-4095-93DB-8318D3F0EEE4/0/aeDiverseWorkforce.pdf>
- 11 <http://www.workcover.com/NR/rdonlyres/4941C619-444E-4155-9E70-11656EAEC01F/0/aeOHSClaimsChecklist.pdf>
- 12 [http://jobable.gov.au/handy\\_tips/general\\_common\\_employer\\_concerns.asp](http://jobable.gov.au/handy_tips/general_common_employer_concerns.asp)

- 13 [http://www.ddlcnsw.org.au/NSW\\_Guide\\_FINAL.pdf](http://www.ddlcnsw.org.au/NSW_Guide_FINAL.pdf)
- 14 <http://sites.uws.edu.au/rdlo/disclosure/index2.htm>
- 15 Submission 143, Australian Industry Group.
- 16 JobAble, *Common Employer Concerns*, available at: [http://jobable.gov.au/handy\\_tips/general\\_common\\_employer\\_concerns.asp](http://jobable.gov.au/handy_tips/general_common_employer_concerns.asp)
- 17 JobAble, *Common Employer Concerns*, available at: [http://jobable.gov.au/handy\\_tips/general\\_common\\_employer\\_concerns.asp](http://jobable.gov.au/handy_tips/general_common_employer_concerns.asp) referred to in Submission 143, Australian Industry Group.
- 18 Submission 147, Vision Australia; Submission 141, Blind Citizens Australia.
- 19 Submission 157, Name Withheld.
- 20 Submission 153, People With Disability Australia.
- 21 Submission 144, Australians for Disability and Diversity Employment.

**Appendix 5A: Employers making a difference/National Employment Services Association**  
**Draft pilot project to motivate employers and collect reliable data on occupational health and safety risks**



\*\*\*This coverage could be purchased from Comcare or tenders called.





# Chapter 6



## Strategies to encourage the adoption of flexible workplaces

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## 6.1 Introduction

There are many aspects of day-to-day living that require some degree of flexibility in the working environment. In particular there is much discussion about creating family-friendly workplaces and workplaces that take account of the needs of the maturing workforce.<sup>1</sup> However, there has been less discussion about the needs of people with disability despite the fact – or perhaps because of the fact – that those needs are often quite similar to the rest of the population in this context.

A large number of First Round Submissions stressed the vital importance of a flexible workplace to the successful recruitment and retention of all employees, including employees with disability.<sup>2</sup>

The Inquiry made the following Interim Recommendation regarding the creation of flexible workplaces:

### *Interim Recommendation 19: Flexible workplace*

The Inquiry recommends the development of guidelines for creating a flexible workplace for employees with disability. It may be useful to coordinate such efforts with people designing family-friendly workplaces.

Given the importance of this issue, the Inquiry established a working group to assist in developing guidelines and strategies for promoting flexible workplaces.

## 6.2 Creating an expert working group on flexible workplaces

When *WORKability I: Barriers* was published, 13 organisations had already agreed to participate in the working group on work trials. The group expanded to include representatives from the following 24 organisations:

- ACROD
- AMP
- Association of Competitive Employment
- Australian Chamber of Commerce and Industry
- Australian Council of Trade Unions
- Australian Federation of Disability Organisations
- Australian Public Service Commission
- Blind Citizens Australia
- Brain Injury Australia
- Carers Australia
- Centacare
- Department of Employment and Workplace Relations
- Disability Coordination Officer, Northern, Central and Southern Sydney
- Disability Council of NSW
- Disability Employment Action Centre
- Diversity@Work
- Employers Making A Difference

- Mental Health Council of Australia
- National Association of People Living with HIV/AIDS
- National Employment Services Association
- People With Disability Australia
- Physical Disability Council of Australia
- SANE Australia
- Women With Disabilities Australia

The working group met on 14 September 2005 and then continued discussion through email.

The group was generally of the view that the types of flexibilities that an employee with disability might need to work effectively are not substantially different to the types of flexibilities that any other employee might, for a variety of reasons, need at different times of life. However, while the group recognised the similarities, it also saw advantages in adding the disability argument for workplace flexibility.

The group also spent some time discussing ways that the idea of workplace flexibility might be ‘sold’ to employers.

### **6.3 What are some of the features that might make up a flexible workplace for employees with disability?**

The group noted that a ‘flexible workplace’ is not about a static set of conditions but an ability to respond to the needs of individual employees in terms of working hours and location.

The following are some ideas about how an employer might cater to those issues. However the group was adamant that this list be read as a range of options rather than a menu of minimum conditions. The group also noted that these types of conditions may benefit any employee – whether or not they have a disability:

- flexible working hours
- part time work
- job sharing
- flexible use of annual leave
- access to single days leave
- purchased leave
- home-based work
- teleworking
- makeup time
- time off in lieu
- hours averaged over an extended period
- compressed working hours
- flexible start and finish times
- flexi time
- banking and accrual of rostered days off

- staggered hours
- shift swapping
- self rostering
- annualised hours
- paid and unpaid carers leave
- periods of respite during the day (which can be made up at other times)
- accumulation of long service and sick leave between employers (for example, the building industry)
- personal leave for medical appointments
- availability of short periods of leave (for example, a few hours for medical appointments)
- special leave for rehabilitation.

The Department of Employment and Workplace Relations (DEWR) provided an adaptation of its Fact Sheet entitled ‘20 cheap and easy ideas for a family friendly workplace’ for discussion amongst the group. The group agreed that it contained useful ideas and should be reviewed further (see Appendix 6A at the end of this chapter).

The group distinguished between the types of ‘workplace flexibilities’ listed above and the ‘workplace accommodations’ that may be needed by an employee with certain disabilities. For example, the group suggested that the following types of features were ‘workplace accommodations’ rather than ‘workplace flexibilities’:

- careful job design to take account of a person’s disability (for example, less travel for people with mobility limitations)
- job renegotiation or redesign in the event of newly acquired or changing conditions
- negotiation of extended periods of leave to take into account episodic needs (for example, serious mental health episodes)
- provision of a room for taking periods of respite during the day
- provision of additional administrative support for people with certain disabilities
- personal and peer support in the workplace
- improved communication strategies between people with sensory impairments and/or intellectual disability and their work colleagues
- better lighting and markings at workplaces.

While noting that these ‘accommodations’ might also benefit people without disability, it is more likely that people with disability will need such changes to work to their full capacity in the workplace.

Some of the advantages of making a distinction between ‘workplace flexibility’ and ‘workplace accommodation’ might include:

1. there are mechanisms already in place to assist employers with workplace accommodations and supports (although that assistance may require some expansion if these types of things are to be incorporated)
2. there may be reduced stigma attached to requests by employees with disability regarding flexible working hours and location, if all employees are entitled to such flexibilities.

## **6.4 What strategies might assist in encouraging the adoption of flexible workplaces for employees with disability and others?**

The working group discussed two aspects to advancing the implementation of workplace flexibilities:

- availability of clear **information** and **guidelines** on how to create a flexible workplace
- **promotion** of the business benefits of a flexible workplace.

In that context, the Inquiry made the following suggestions to the working group.

### **6.4.1 Creation of a multi-sector coalition focussed on the promotion of flexible workplaces**

Much of the promotion work in the context of flexible workplaces is already being carried out in the context of ‘work and family’ and ‘work and ageing’. While the working group was eager to add the disability perspective to this debate, it was wary of creating a perception that employees with disability have additional ‘special needs’.

One way to balance these goals would be to join other groups (for example, family, ageing, carers, unions) in their efforts to promote flexible workplaces and ensure that the disability perspective is included.

For example, case studies regarding employees with disability could be added to the general discussion about workplace flexibility. SANE Australia has already done some work on adapting the workplace to take account of general mental health concerns.

DEWR has indicated its interest in broadening the application of its ‘family friendly’ guidelines and incorporating the disability perspective.

## 6.4.2 Collect information and develop materials that highlight the general benefits of workplace flexibility

The group suggested that it would be helpful to have information that demonstrates the benefits of workplace flexibility in both an economic and social sense. The following types of information and materials may assist in this regard:

- general fact sheet: ‘Why does a flexible workplace make it easier to recruit and retain employees?’, followed by a series of specific fact sheets addressing the interests of the following groups (the content is likely to be similar between sheets):
  - employees with disability (pre-existing or acquired while in a job)
  - employees with children
  - employees with sick or ageing parents and other family members
  - employees who are getting older
  - employees with workplace stress
  - employees who live a long way from the workplace
- general fact sheet: ‘The business case for a flexible workplace’, with additional specific fact sheets addressing the interests of large, small and medium sized businesses
- collection of data from surveys demonstrating the positive impact of a flexible workplace across different industries
- identify any economic analysis showing the negative impact of rejecting people who need flexible working arrangements (ACCESS Economics)
- identify and publish case studies showing the benefits of a flexible workplace (for example, winners of the Prime Minister’s Employer of the Year Awards should be required to share their stories and expertise)
- identify and publish case studies showing how flexibility helps to ‘get the job done’
- ensure easy accessibility to this material. For example, links between [www.jobable.gov.au](http://www.jobable.gov.au) (employer information),<sup>3</sup> [www.workplace.gov.au](http://www.workplace.gov.au) (create a ‘work and disability’ section under ‘work and family’ in the Fact Sheets employer section)<sup>4</sup> and DEWR’s new one-stop-information-shop.<sup>5</sup>



### **6.4.3 Develop tools that assist employers to create a flexible workplace**

Once a business is convinced about the benefits of a flexible workplace it may look for guidelines on how to create such an environment. The following materials may be of some use in this regard:

- general fact sheet: ‘20 cheap and easy ideas to attract and retain staff’ highlighting that people from all groups in society benefit from flexibility. This should be followed by a series of specific fact sheets highlighting the benefits for different groups (even though the content might be similar). For example:
  - ‘20 ways to attract and retain staff with disability’
  - ‘20 ways to attract and retain staff with family responsibilities’
  - ‘20 ways to attract and retain staff with carer responsibilities’
  - ‘20 ways to attract and retain ageing staff’
  - ‘20 ways to attract and retain young staff’
- information sheet demonstrating the different ways to introduce a flexible workplace. For example: formal policy vs informal arrangements; big business vs small business approaches
- showcase best practice policies and practices
- ensure easy accessibility to this material. For example, links between [www.jobable.gov.au](http://www.jobable.gov.au) (employer information),<sup>6</sup> [www.workplace.gov.au](http://www.workplace.gov.au) (create a ‘work and disability’ section under ‘work and family’ in the Fact Sheets employer section)<sup>7</sup> and DEWR’s new one-stop-information-shop.<sup>8</sup>

### **6.4.4 Engage in a campaign to demonstrate the benefits to business and assist in creating flexible workplaces**

The provision of information is never enough. There needs to be a multifaceted campaign to promote the benefits of a flexible workplace and the availability of assistance for those who need it, if there is to be any progress. Some ideas include:

- use the information created above to market the idea of workplace flexibility for all groups in society – including employers, employment services and people with disability
- provide easy access to customised advice for employers on how to create a flexible workplace for all employees (including employees with disability)
- develop projects designed to prove the benefits to business of flexible workplaces (for example, DEWR is engaged in two industry projects focussing on promoting flexible and family

friendly workplace arrangements in the retail industry and in the restaurant and catering industry)

- employer award schemes accompanied by a sharing of expertise amongst the business community
- team up with groups lobbying for workplaces that are friendly to people with disability, families, carers and the elderly
- joint pressure from employer representative groups (for example, the Australian Chamber of Commerce and Industry, Business Council of Australia, Council of Small Business Organisations Australia, Australian Industry Group, Australian Business Limited) to develop workplaces that are friendly to employees with varying needs
- government incentives.

## 6.5 Comments in further submissions to the Inquiry

The First Round Submissions suggested a range of conditions that might be considered in developing a flexible workplace for all employees, and people with disability in particular.<sup>9</sup> Many of these ideas were adopted by the working group.

Several Second Round Submissions endorsed the importance of flexible workplaces.<sup>10</sup> The following additional comments were made:

- flexible workplace models should allow workers with a disability to work remotely from home and ensure that any modifications required to the workers home-office be funded through government grants<sup>11</sup>
- flexible working hours is very important for some individuals with a psychiatric disability<sup>12</sup>
- a slight change in a duty description might result in a big difference for people with an intellectual disability. Sometimes a small revision of duties can make the difference between whether the person with the disability will be able to maintain a position<sup>13</sup>
- CRS Australia offers considerable expertise to employers in the arrangement of job accommodation options for employees with a disability and injured employees. Fact sheets for employers and job seekers can be found at: [www.jobable.gov.au](http://www.jobable.gov.au)<sup>14</sup>
- workplaces need to create awareness among staff about issues affecting people with disability. They should also make provision for training and education in the workplace to avoid prejudice or judgmental attitudes when they see that people with disability are given flexible treatment<sup>15</sup>
- business services can play a role in defining a flexible workplace.<sup>16</sup>

During the Inquiry's employer consultations on 10 October 2005, participants noted that many companies have workplace policies that allow for flexibility but there is often a gap between the policy and the practice. Employers also suggested that 'singling out' the needs of people with disability in the context of flexible workplaces can reinforce the cultural reluctance of managers to hire people with disability.<sup>17</sup>

## **6.6 Issues for further discussion**

Due to the short period of time available, the group was unable to settle on a comprehensive strategy for the promotion and adoption of flexible workplaces that would benefit people with disability without further stigmatisation.

It seems to the Inquiry that one way forward is to gather a coalition of groups that can identify existing materials, develop new materials and promote the general benefits of workplace flexibilities (noting the need to ensure that minimum conditions are protected and the flexibility is not abused).

The Inquiry also recommends close consultation with the Department of Employment and Workplace Relations (DEWR). DEWR has indicated to the Inquiry that it is in the process of developing materials on flexible workplaces which will apply to employees with disability. DEWR intends to link their family friendly workplace material to the one-stop-information-shop to be launched in July 2006.<sup>18</sup>

## **6.7 Recommendation regarding flexible workplaces**

While there was insufficient time to develop a comprehensive strategy, the group did agree that the flexibilities required by people with disability were not substantially different to those required by working parents, ageing employees and many others in the workplace.<sup>19</sup> There is therefore great merit in joining other representative groups in developing guidelines and campaigns to encourage the adoption of workplaces that can cater to the needs of different employees.

Interim Recommendation 19 has been amended to reflect the discussion as follows:

### ***Recommendation 19: Flexible workplace***

*The Inquiry recommends the creation of an inter-sector coalition focussed on developing guidelines and strategies for promoting workplaces that can respond to the varying needs of different employees. The coalition might include groups representing people with disability, ageing workers, parents and carers as well as unions, employment services, employer peaks and relevant government agencies.*

The Human Rights and Equal Opportunity Commission intends to continue working with the working group to ensure ongoing development of these ideas (see further Chapter 12).

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## **Appendix 6A: Disability-friendly workplace flexibility ideas adapted from '20 cheap and easy family friendly ideas'<sup>20</sup>**

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1. Negotiate flexible start and finish times
2. Provide an emergency phone for employees to contact family members or carers
3. Allow staff to take annual leave in single days
4. Allow staff to use work mobile phones for emergency reasons
5. Allow staff to have a say in rostering arrangements
6. Allow leave without pay for personal reasons
7. Develop a home-based work or telework policy to accommodate staff who would like to work either a few days a week or full-time from home
8. Introduce make-up time so staff can make up hours if they need to attend medical or other appointments
9. Ensure people are taking adequate breaks
10. Ensure a safe working place for all employees, including written instructions and pictorial checklists for manual operations
11. Provide information on local contacts to help staff find disability support services or networks
12. Provide information on employment initiatives for people with disability (such as the Workplace Modifications Scheme) for both employees and managers
13. Introduce a 'keep in touch' plan for staff who are on extended leave or working away from the office
14. Have a staff induction programme which emphasises the importance of diversity in the workplace and the need to accommodate people of diverse backgrounds, including those with a disability
15. Consider social events which accommodate the diverse needs of staff, in order to create an inclusive environment
16. Consider the needs of people with disability in any relocations and movements
17. Consider using accessible and diverse forms of communication
18. Include a summary of your company's workplace flexibility, EEO or diversity policy in a letter of offer to new employees
19. Put equal employment opportunity and diversity issues on the agenda to discuss at the next round of negotiations for your workplace agreement
20. Check out other flexible work ideas by visiting the Family Friendly Agreement Clauses Database.<sup>21</sup>

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## Chapter 6: Endnotes

- 1 See for example: House of Representatives Standing Committee on Employment, Workplace Relations and Workforce Participation, *Working for Australia's future: Increasing participation in the workforce*, March 2005, p66-67, 134-7, 162.
- 2 See *WORKAbility I: Barriers*, Chapter 6, section 6.5.
- 3 <http://www.jobable.gov.au/employer.asp>
- 4 <http://www.workplace.gov.au/workplace/Category/SchemesInitiatives/WorkFamily/Factsheets.htm>
- 5 See Chapter 10 for more information on the one-stop-information-shop.
- 6 <http://www.jobable.gov.au/employer.asp>
- 7 <http://www.workplace.gov.au/workplace/Category/SchemesInitiatives/WorkFamily/Factsheets.htm>
- 8 See Chapter 10 for more information on the one-stop-information-shop.
- 9 See *WORKAbility I: Barriers*, Chapter 6, section 6.5.2.
- 10 See for example: Submission 141, Blind Citizens Australia; Submission 146, Centacare; Submission 137, L Bewley; Submission 150, Good Samaritan Industries; Submission 158, Fairfield Access Committee and the South West Disability Network; Submission 144, Australians for Disability and Diversity Employment; Submission 147, Vision Australia; Submission 148, Sydney South West Mental Health Service; Submission 152, National Ethnic Disability Alliance.
- 11 Submission 141, Blind Citizens Australia.
- 12 Submission 146, Centacare; Submission 148, South West Sydney Mental Health Service.
- 13 Submission 146, Centacare; Submission 137, L Bewley.
- 14 Submission 145, Department of Human Services.
- 15 Submission 158, Fairfield Access Committee and the South West Disability Network.
- 16 Submission 150, Good Samaritan Industries.
- 17 Minutes of the Inquiry's Employer Consultation are available at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/forums/neeopa.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/forums/neeopa.htm)
- 18 See Chapter 10 for more information on the one-stop-information-shop.
- 19 In coming to this conclusion, the group made a distinction between workplace flexibility and workplace accommodation. See further section 6.3 above.
- 20 <http://www.workplace.gov.au/workplace/Category/SchemesInitiatives/WorkFamily/20cheapandeasyfamilyfriendlyideas.htm>
- 21 <http://www.wagenet.gov.au/FFAC/Main/Default.aspx>

# Chapter 7



## Improving delivery of ongoing supports in the open workplace

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## 7.1 Introduction

As discussed in some detail in *WORKability I: Barriers*, employer and employee access to support throughout an employment relationship can be critical to its success.<sup>1</sup>

The First Round Submissions raised concerns about the quality and range of job support services provided by the primary Commonwealth government-funded post-placement support services namely, Disability Open Employment Services, Job Network and the vocational rehabilitation services provided by CRS Australia.<sup>2</sup>

There were also concerns about time restrictions on when a person can access support from a government-funded service provider. For example, people with mental illness or other episodic health conditions argue that it is extremely difficult to predict when support will be needed. They may therefore be unable to fit within defined time frames. Further, groups representing people with intellectual disability suggested that support needs can continue indefinitely.<sup>3</sup>

The First Round Submissions also noted concerns about accessing ongoing job support when people with disability find their job independently of Disability Open Employment Services or CRS Australia.<sup>4</sup> For example, some people may acquire a disability while in employment, some people may get a job through a private recruitment agency and others may just answer an advertisement. It is currently unclear whether, and from whom, these people can access government-funded supports.

The Inquiry made two interim recommendations regarding the provision of ongoing supports on the basis of the First Round Submissions:

***Interim Recommendation 17: Government-funded post-placement support***

*The Inquiry recommends a review of the post-placement support services offered by the Commonwealth government, including consideration of the following issues:*

- (a) funding levels for Disability Open Employment Services (DOES), Job Network (JN) and Commonwealth Rehabilitation Services (CRS) to provide on-the-job post-placement support;*
- (b) scope of services provided by DOES, JN and CRS;*
- (c) the appropriateness of time limitations on post-placement support; and*
- (d) access to the Jobs in Jeopardy program.<sup>5</sup>*

***Interim Recommendation 18: Other ongoing support services***

*The Inquiry recommends investigation into the following matters regarding people who obtain a job outside government-funded employment services, or who acquire a disability while on the job:*

- (a) where employees with disability and their employers currently access ongoing support services;*
- (b) who pays for those services;*



(c) whether those services are sufficient; and

(d) any recommendations for improvements.

The Inquiry also established a working group to begin exploring how to provide more comprehensive ongoing support services to all people with disability and their employers.

## **7.2 Creating an expert working group to improve delivery of supports in the workplace**

When *WORKability I: Barriers* was published, 19 organisations had already agreed to participate in the working group on ongoing supports. The group expanded to include representatives from the following 30 organisations:

- ACROD
- AMP
- Association of Competitive Employment
- Australian Association of the Deaf
- Australian Chamber of Commerce and Industry
- Australian Federation of Disability Organisations
- Australian Public Service Commission
- Blind Citizens Australia
- Brain Injury Australia
- Brotherhood of St Laurence
- Centacare
- CRS Australia
- Deafness Forum
- Department of Employment and Workplace Relations
- Disability Coordination Officer, Northern, Central and Southern Sydney
- Disability Council of NSW
- Disability Employment Action Centre
- Diversity@Work
- Job Futures
- Macquarie Customised Accessibility Services
- Mental Health Council of Australia
- National Association of People with Living with HIV/AIDS
- National Employment Services Association
- NSW Council for Intellectual Disabilities
- Ostara Australia
- People With Disability Australia
- Physical Disability Council of Australia
- Regional Disability Liaison Officer, Western Sydney
- SANE Australia
- Vision Australia.

The working group met on 14 September 2005 and then continued discussion through email.

The working group started the process of developing a model for providing improved ongoing supports to people with disability in the workplace and their employers. The following describes the progress of those discussions.

### **7.3 What does ‘ongoing supports’ mean?**

The working group was of the view that there was little value in attempting to provide a ‘menu’ of the possible supports required by people with disability and employers as there are too many variables. For example, the support needs will vary depending on an individual’s disability or disabilities, the severity of those disabilities, the nature of the workplace and the nature of the job. Thus, the important thing is to ensure high quality individual assessments and the provision of supports according to those assessments.

Nevertheless the group did consider the range of supports that should be available to both employees with disability and their employers, as a minimum. This is discussed further in section 7.4.4.

### **7.4 What should be the parameters for a model to deliver improved ongoing supports?**

The group discussed that any system for providing on-the-job supports for people with disability, and their employers, needed to have the following *minimum* features:

- *individualisation of supports* – ability to assess and provide for the individual needs of each employee with disability, and his or her employer, in relation to the requirements of the job and the workplace
- *time flexibility* – ability to provide timely supports when they are needed, for as long as they are needed
- *scalability* – ability to vary the level and scope of supports as a workplace, job or disability changes over time
- *quality control* – consistent provision of high quality, comprehensive, practical and appropriate advice and support. Special efforts may need to be taken to ensure an employer perspective is incorporated.

In commencing the process of designing the model, the group discussed the following questions:

1. Who should be able to access the supports?
2. Who might be best placed to provide the support services?

3. When and for how long should the services be available?
4. What is the scope of services that should be available?

The following text sets out the results of the working group's early discussions. It does not represent the concluded view of the group as a whole or the Inquiry.

#### **7.4.1 Who should be able to access the supports?**

The following groups of people should be able to access support services:

- any person with disability needing support to obtain and retain a job, as determined by any of:
  - an independent assessment agency
  - pre-existing assessments
  - self-assessment
- people with disability who obtain a job through government-funded employment services including Job Network, Disability Open Employment Services and vocational rehabilitation services (currently provided by CRS Australia)
- people with disability who obtain a job other than through a government-funded employment agency (for example through private recruitment agencies, job advertisements etc)
- people with disability who may have been in a job for an extended period but have not previously accessed any supports
- people with disability in self-employment or working as consultants or contractors (or who want to establish themselves in these roles)
- people with disability in full-time, part-time and casual positions
- people who acquire a disability while in a job and are not otherwise covered by State or private workers compensation rehabilitation and support services
- employers of people with disability (irrespective of the recruitment mechanism).

#### **7.4.2 Who might be best placed to provide the supports?**

Support services could be offered by any of the following agencies, as long as they comply with a quality controlled accreditation scheme:

- Job Network (JN)
- Disability Open Employment Services (DOES)
- Commonwealth vocational rehabilitation services (currently provided by CRS Australia)

- community organisations and non government organisations (NGO)
- private support service agencies (Private).

Participants noted that Disability Open Employment Services and CRS Australia must already comply with the *Disability Services Amendment (Improved Quality Assurance) Act 2002*. Further Job Network and Disability Open Employment Services must already comply with the Commonwealth Service Guarantee. However there needs to be more rigorous training in the requirements of the *Disability Services Act 1986* (Cth) for all service providers and case managers.

Some participants expressed concern about spreading the provision of supports across too many providers. It was emphasised that there needs to be a way to maintain quality across a range of providers and service types and build industry expertise.

Regarding private support agencies, the Inquiry's consultation with employers on 10 October 2005 revealed that some large companies have in-house health centres and support services. Others pay external companies to provide counselling services to staff, management and families.<sup>6</sup>

### **7.4.3 When and for how long should the supports be available?**

Support services should be available whenever needed, for as long as needed:

- the model should respond to varying needs that arise due to the changing nature of disabilities, changing severity of disabilities, changing workplace, changing job descriptions and different phases in the work relationship
- supports should be available through the recruitment and interview stage, post-placement period, promotion periods or any other time in an employment cycle
- people should be able to 'dip in and out' of the services as episodes occur, the disability changes or needs change (related either to the person with disability or the job).

The Department of Employment and Workplace Relations noted that while supports should be available when needed, support services should also aim to develop independence. Further, where there is a poor job match, it may be better for support to be directed to finding alternate work.

#### 7.4.4 What range of supports should be available?

Supports should have the capacity to meet each individual's and employer's needs as determined by a workplace assessment. The group discussed that workplace assessments should examine, amongst other things:

- previous assessments and self-assessments
- what the problem is
- what a person's work capacity is
- how to adapt the workplace
- how to adapt a job description
- what supports will be needed
- who will provide the relevant assistance and supports.

CRS Australia provided some more detail about what elements the assessments might encompass:

- an identification of supports the person needs to manage tasks and to manage effective workplace personal interactions so that they can be a productive and satisfied employee, can manage workplace (task and personnel) changes and can obtain a suitable promotion if available;
- an identification of disability management supports including pain and fatigue management, problem solving supports, debriefing, medical management;
- where supports are required, what type and amounts are on or off the job; what amount and type of support to the employer (managers and work colleagues) is required as well as the worker with a disability.

Some members of the group suggested that the assessment tool be holistic and include all aspects of a person's life including cognitive skills, personal home life, medical needs, confidence levels, life history and prior assessments.

The Disability Coordination Officer for Northern, Central and Southern Sydney suggested that assessments should be conducted by a multi-disciplinary team. CRS Australia suggested that assessments be conducted by people with knowledge and experience in:

- disability and its physical and psychosocial impact on employability
- the labour market and what skills (task skills and behavioural skills) are required to be employable
- workplace accommodations that promote durability of employment.

The Mental Health Council of Australia argued that a specialist in mental health should be included in any assessment team, given the high number of people with psychiatric problems.

The range of services available (not necessarily from any one agency) should include the following as a minimum:

- technological and modifications assistance for the workplace (including funding for education to use any technology, advice regarding which technology to purchase, maintenance of modifications and technology, other modifications relevant to the workplace)
- training and support for employees with disability, colleagues, managers
- administrative assistance for employers and employees in negotiating access to supports and completion of paperwork
- a single personal contact to ask for information and ongoing advice
- referral service
- inquiry service
- mentoring
- costs associated with employing someone for leave coverage if required
- career advancement advice and supports.

Some participants noted that many of these services could be provided by an Australian one-stop-information-shop (see further Chapter 10).

The group emphasised that the assessment and provision of supports should not be constrained by the services provided by any one agency. In other words, there should be the facility for purchasing of, or referral to, additional services – as long as there is a system of quality assurance.

## **7.5 What would a new model for delivering ongoing supports look like?**

The Inquiry agreed to develop a first draft model for delivering improved ongoing support services, taking into account the parameters discussed by the group (as set out above). The diagrammatic description of that model is provided in Appendix 7A at the end of this chapter.

While several members of the group agreed on the general direction of that model, there were a variety of suggestions as to how it might be improved or amended. Members also noted the need for further clarification of various aspects of the model.

The Department of Employment and Workplace Relations provided an alternative model as attached in Appendix 7B at the end of this chapter. The NSW Council for Intellectual Disability and the Disability Coordination Officer for Northern,

Central and Southern Sydney also discussed alternative approaches as described below.

It is clear that there will need to be a great deal more work on this issue. The model discussed below is therefore intended to be a platform for further discussion and development rather than a concluded view.

### **7.5.1 What are the main features of the first draft model?**

There are two distinguishing features of the Inquiry's first draft model (Appendix 7A).

First, it proposes the establishment of a central independent assessment agency that carries out a holistic assessment of each individual's support needs.

Second, it provides a variety of access points to ongoing supports, including through community organisations and private support agencies.

The Department of Employment and Workplace Relations and the NSW Council for Intellectual Disability suggested two alternative approaches.

The Department of Employment and Workplace Relations model removes the idea of a central assessment agency but introduces the idea of the one-stop-information-shop as a way to refer people who do not go through its Comprehensive Work Capacity Assessment system, to worksite assessments and appropriate services.

The NSW Council for Intellectual Disability model envisages a central agency that both conducts assessments and manages the implementation of that assessment through training, case management and referral. The NSW Council for Intellectual Disability emphasises the need for a holistic assessment tool and the importance of the *Disability Services Act 1986* (Cth) for guiding the provision of ongoing supports. The Disability Coordination Officer for Northern, Central and Southern Sydney proposed a similar model.

All models contemplate the provision of support services by Job Network, Disability Open Employment Services, vocational rehabilitation services and private agencies. They also contemplate a variety of entry points to the system.

The Inquiry asked members of the working group to respond to the following targeted questions about the first draft model.

### **7.5.2 Does it make sense to have a central independent assessment agency?**

The Department of Employment and Workplace Relations suggests that there is no need to create another institution for the purposes of independent assessments. The broader assessment role will be fulfilled by Comprehensive Work Capacity Assessment (CWCA) providers, who have the following role:

Centrelink is the gateway for people claiming income support. From 1 July 2006 *Comprehensive Work Capacity Assessments* replace current

assessments and refer job seekers with a disability to the most appropriate assistance pathway to employment.

The CWCA provider will:

- Assess the impact of the job seeker's medical conditions on work capacity
- Provide an opinion about the appropriate rating under the impairment tables for permanent medical conditions
- Identify the key barriers affecting the job seeker's ability to work
- Assess the job seeker's current capacity for work and their potential capacity for work both with and without interventions, within the next two years
- Refer and make an appointment to either a DOES, JN or Vocational Rehabilitation provider, pre-employment service provider or other service provision eg. Community health services.

As well as referring people to the right service, the CWCA provider will provide a report electronically to the selected service provider on referral about the job seeker's participation barriers, current and future work capacity and intervention needs.

The Department of Employment and Workplace Relations also suggests that its new online information and advice service (see further Chapter 10) will be able to organise worksite assessments:

That is, if a job seeker, worker, employer or service provider contacts the online information and advice service directly and it is determined that a worksite assessment is required this would be organised by the online information and advice service. Centrelink is the gateway for job seekers requiring support from an employment service to gain and maintain employment. Centrelink will organise Comprehensive Work Capacity Assessments.

CRS Australia agrees with the Department of Employment and Workplace Relations' views about the role of CWCA providers. The Association of Competitive Employment also suggests that much of the role proposed by the independent assessment agency will already be carried out by the combination of CWCA and Disability Open Employment Service providers. Rather than create new institutions it may be better to more clearly define the services to be provided by employment services.

The NSW Council for Intellectual Disability suggested that a central agency should be the 'glue' for the entire system:

If individuals are going to be allocated funds to purchase supports, there is clearly a need for assessment and for an agency to administer the assessment process. However in the current model the agency is purely an assessment agency with no other role, we see the agency as the 'glue' for the entire system with a role in case management, assessment, referral and education.



We believe the agency needs to be very carefully organized in a way that allows the needs of the individual to be taken into consideration. Large centralized government approaches tend to favor simplistic assessment tools. An agency administering individual supports needs to have well trained staff who are focused upon the individual and accepting of an assessment tool that looks at much more than the medical definition of disability.

- 1) Assessor – role is to determine how much money each individual with a disability is able to access from a large pool allocated by the federal government each year. The money can be used to buy supports in order to maintain work.
- 2) Case Management – each individual is allocated a case manager who is their point of contact
- 3) Referrals – onto smaller agencies who can provide appropriate support
- 4) Training – accreditation training for service providers and workplace training for employers and staff.

The Disability Coordination Officer for Northern, Central and Southern Sydney suggested the creation of a host organisation that would be a conglomeration including at least two disability services, a Job Network service, a TAFE/University/registered training organisation, at least one disability community organisation and a government agency. There would be a management committee that would employ a multi-disciplinary team to provide assessments, refer and purchase services and provide training.

The Mental Health Council of Australia expressed some concern about the combination of CWCA providers and the online information service. In particular, the Mental Health Council of Australia points out that many people needing supports will not be seeking welfare and therefore will not enter the CWCA process. Further the CWCA process is more focussed on welfare classification than individual care. The Mental Health Council of Australia therefore prefers the idea of an independent assessment agency.

### **7.5.3 Do the relative roles of the government-funded employment support services, NGOs or private agencies need to be defined?**

All of the draft models contemplate that ongoing supports might be provided by any of Job Network, Disability Open Employment Services, vocational rehabilitation services, community organisations or private agencies. This raises the question of how to coordinate the various roles of these agencies.

The Association of Competitive Employment considers this to be a critical issue:

Defining service types would seem...to be a most appropriate way to ensure appropriate targeting of funding and assistance. Government needs to clearly articulate what it wants to purchase...this could be done by examining what assistance is already available, who provides it, where it is provided, what outcomes have been achieved, predicted areas of increased

demand for assistance (eg. musculo-skeletal injury), what capacity existing systems have to deliver more assistance, what changes may be required to increase capacity and so on.

The Department of Employment and Workplace Relations has the following perspective:

JN, DOES and Vocational Rehabilitation Services are all funded by the Australian Government to provide employment services to the following target groups:

- JN provide assistance to job seekers who do not have vocational rehabilitation needs, do not require specialist disability assistance to build capacity and who do not require more than 6 months of support after placement in a job in order to keep that job.
- DOES provide assistance to people with a permanent (or likely to be permanent) disability that results in a substantially reduced capacity of the person for communication, learning or mobility AND who require specialist disability assistance to build capacity or require more than 6 months of support after placement in a job in order to keep that job.
- Vocational Rehabilitation Services provide assistance to people with a disability that results in a substantially reduced capacity of the person to obtain or retain unsupported paid employment AND who require assistance to understand, compensate for or manage their disability, or the limitations or restrictions imposed by their disability in order to gain or retain paid unsupported employment.

Although these services are funded to provide a particular service, some services specialise in particular areas, for example, mental health/psychiatric disability specialist.

The National Employment Services Association suggests that the role of the Personal Support Programme should also be acknowledged as ‘this is a gateway service into employment services and its clients have the highest level of disadvantage.’<sup>7</sup>

The Disability Coordination Officer for Northern, Central and Southern Sydney suggests that the roles would not need to be pre-defined – they can be part of a general conglomeration of services with their own specialities.

#### **7.5.4 Other issues**

A variety of other questions were put to the group.

*(a) How do you ensure smooth referral and/or purchasing between agencies?*

The Association of Competitive Employment suggests that ‘service contracts must include this capacity and referral must not impact negatively on an organisations performance rating, as is currently the case.’ The National Employment Services Association suggests that ‘there should be easy navigation between programs

without penalty to client or provider if there is a transfer to a more appropriate service.’

*(b) How do you ensure the availability of a multi-disciplinary team?*

The Association of Competitive Employment highlights that this model is already in place in Disability Open Employment Services. Similarly, the National Employment Services Association states that many Job Network members also have multi-disciplinary teams. Further, it seems that some Job Network providers contract external professionals to provide case support, review and services to job seekers.

*(c) How do you ensure delivery of the services recommended by the independent assessment agency?*

Both the Association of Competitive Employment and the National Employment Services Association suggest that this would depend on the quality of the assessment. Current assessment processes require duplication, which erodes confidence in the employment services. It is hoped that the introduction of Comprehensive Work Capacity Assessments will improve this situation.

Under the models proposed by the Disability Coordination Officer for Northern, Central and Southern Sydney and the NSW Council for Intellectual Disability, the central agency or group would do both the assessment and the implementation.

## **7.6 Comments in further submissions to the Inquiry**

In the Second Round Submissions, the Spastic Centre highlights that people with complex disabilities often seek service continuity and therefore need the facility to self-refer to certain service agencies.<sup>8</sup> The Spastic Centre also noted that the government’s proposed Comprehensive Work Capacity Assessments may not be sufficiently robust to determine the most appropriate supports:

For instance, a client with cerebral palsy, may appear on assessment quite high functioning, but may find working extremely difficult eg. due to fine motor problems and executive planning difficulties. On initial assessment, these difficulties may not be apparent. CWCA assessments may require availability of fuller neuropsychological, physiotherapy, occupational therapy assessments etc which does not appear to be available through the current proposals. The current reform proposals may lead to clients with disabilities being wrongly classified and placed with an inappropriate agency causing possible failure and stress to clients, as well as wasted time and money for all concerned.<sup>9</sup>

The Spastic Centre suggests that joint programs between Disability Open Employment Services and CRS Australia might result in better assessments.

The Department of Human Services explains that both CRS Australia and Disability Open Employment Services offer a 'Jobs in Jeopardy' service for people at risk of losing a job by reason of a disability. Furthermore:

CRS Australia offers effective, highly individualised post-placement support for around 13 weeks. While CRS Australia supports the provision of flexible periods of post-placement support, it would be inappropriate to assume that the majority of employees with a disability require access to a lengthy period of support.<sup>10</sup>

Centacare explains its understanding of the supports offered by the Department of Employment and Workplace Relations as follows:

Under the present DEWR arrangements, a client can receive ongoing support for as long as they are assessed by the Disability Maintenance Instrument (DMI) to require such assistance. The procedure indicates that assistance can be provided for a maximum period of 18 months and reviewed every 12 months. Services should be able to provide ongoing support through a process of regular monitoring. This should involve site visits to measure progress first hand and obtain a review from relevant supervisors. If an area is identified where a difficulty is occurring, the Service Provider should be available to return to the work site to provide the client with intensive on the job training. If the client's role or duties are revised, there is the opportunity for intensive on the job training to occur here. This is provided there is still a current DMI for that client.<sup>11</sup>

The Department of Employment and Workplace Relations later clarified that:

Disability Open Employment Service clients are currently able to receive ongoing support for as long as that support is required and service providers are able to claim monthly employment maintenance fees for as long as the client is being supported in work by the service.<sup>12</sup>

The Department of Employment and Workplace Relations states that employment maintenance fees are determined by the Disability Maintenance Instruments, 'a funding classification tool designed to measure the level of disability-related support that a service provider has to purchase or provide to help a worker maintain an employment outcome.'<sup>13</sup>

Blind Citizens Australia strongly supported the Inquiry's Interim Recommendations regarding ongoing supports.<sup>14</sup>

However the Association of Competitive Employment suggested that these recommendations be removed from the final report and that issues related to the definition of ongoing support be dealt with under Interim Recommendation 2. The Association of Competitive Employment explains its reasons as follows:

The Inquiry highlights the lack of awareness of what assistance is currently available to jobseekers with disability and employers wishing to employ a person with disability. ACE considers this not only a critical issue, but also a current barrier to developing an in depth appreciation of existing

systems and potential service gaps. Whilst ACE is a strong supporter of service innovation and the streamlining of current employment systems, the consequence of limited knowledge of what is already in place is the risk of re-creating programs and schemes, in brief: ‘reinventing the wheel’. This issue is highlighted in the report’s discussion relating to ‘ongoing support’ mechanisms and reflected in Interim Recommendations 17 and 18.

Open Employment Services for people with disability were specifically established under the Commonwealth Disability Services Act to provide employment assistance to people with ongoing support needs as a result of disability. This support is available to any jobseeker with a disability who may require it – irrespective of how he or she secured the job, how long he or she has held the position or what the nature of his or her ongoing support needs may be.

CRS Australia and the Job Network are also able to provide ongoing support in a more targeted and time limited manner. The proposed Comprehensive Work Capacity Assessment process will determine which program potential service users will be streamed to. The basis for referral will be the projected length of time the ongoing support may be required. Long term ongoing support is currently available from Open Employment Services only.<sup>15</sup>

In response to Interim Recommendation 18, Macquarie Customised Accessibility Services (M-CAS) described the ongoing support services it can provide to industry on a privately funded basis:

Services provided include individual consultation with all related parties, conversion of any training or work-related documents to a format that can be accessed by the employee (for example Braille, electronic text), training of employers and employees in the use of new adaptive technologies that improve productivity and communication, and developing tailored solutions that lead to optimal productivity and participation. The tailored solutions provided by M-CAS are designed to benefit all staff members.

M-CAS focuses on workplace requirements by providing employers with a flexible and customised methodology they can adopt to facilitate accessibility to their workplace. This enables employers and employees to meet and exceed the specified KPIs and significantly contribute to overall productivity.

M-CAS is an innovative approach to finding solutions that assists both employers and employees. For example, M-CAS allocates an administration advocate to each employer to manage and administer all necessary paperwork between the employer and relevant government departments administering grants and benefits. M-CAS removes much of the stress and time-consuming requirements that an employer faces when engaging with available schemes.<sup>16</sup>

## 7.7 Issues for further discussion

The working group was clear that the current system for providing ongoing supports is inadequate to meet the needs of people with disability in the open workplace. However, there has been insufficient time to develop a complete alternative model.

The parameters discussed above and the first draft model in Appendix 7A are simply a starting point for further discussion. Similarly, the Department of Employment and Workplace Relations' response to that model, in Appendix 7B, does not represent any concluded position of the working group or the Inquiry, nor the concluded view of the Department of Employment and Workplace Relations.

Some of the questions that immediately arise in response to both models include:

- Who should be conducting assessments for the provision of ongoing supports?
- What should the assessments for ongoing supports encompass?
- Whether the proposed CWCA process is suited to providing assessments for the provision of ongoing supports?
- How to ensure employment services can deliver ongoing support services in line with the parameters discussed above? (employment services vs NGOs vs private agencies)
- How to ensure appropriate assessment and delivery of ongoing supports to people who *do not* go through government-funded employment services?
- Should there be any additions or changes to the parameters discussed above?
- How would a changed delivery model be funded to ensure high quality ongoing support services to all those who need it?

In the Inquiry's view there needs to be more focussed attention on the issue as a whole before a viable alternative can be proposed to the government.

In addition, there needs to be greater focus on ensuring that those employers that are willing to pay for the provision of ongoing supports have easy access to appropriate services. One possibility is to provide a list of private suppliers on the Department of Employment and Workplace Relations' one-stop-information-shop.

## 7.8 Recommendation regarding the improved delivery of ongoing supports

The government's delivery of ongoing supports to people with disability and their employers needs a great deal of improvement and should, in the Inquiry's view, be a matter of priority.

The working group was unable to finalise an alternative model in the short period of time available. However, the Inquiry suggests that the Department of Employment and Workplace Relations continue to build from the draft models proposed in those discussions.

The group did settle on a set of parameters to guide the future development of an improved delivery model. Interim Recommendation 17 has been amended to incorporate those parameters.

### ***Recommendation 17: Government-funded employment support services***

*The Inquiry recommends a review of the employment support services offered by the Commonwealth government, with a view to ensuring availability of appropriate support services to any employee with disability and his or her employer.*

*In conducting the review, the Inquiry recommends consideration of the following issues:*

- (a) providing access to support services on an as-needed basis, without time limitations;*
- (b) ensuring a holistic assessment process;*
- (c) increasing the scope of services available to employees with disability and their employers;*
- (d) improving coordination between support service providers to ensure access to the required range of supports; and*
- (e) increasing funding for Disability Open Employment Services, Job Network and vocational rehabilitation services to provide the appropriate employment support services.*

Further, while the bulk of ongoing support services may be provided by government-funded services, some employees with disability and employers may need, or prefer, to access supports independently of the government. The Inquiry has therefore amended Interim Recommendation 18 to ensure easier access to privately-funded support services:

### ***Recommendation 18: Non-government and private employment support services***

*The Inquiry recommends that the one-stop-information-shop (see Recommendation 1) provide details of private agencies and non-government organisations that offer employment support services to people with disability and their employers.*

The Human Rights and Equal Opportunity Commission intends to continue working with the working group to ensure ongoing development of these ideas (see further Chapter 12).

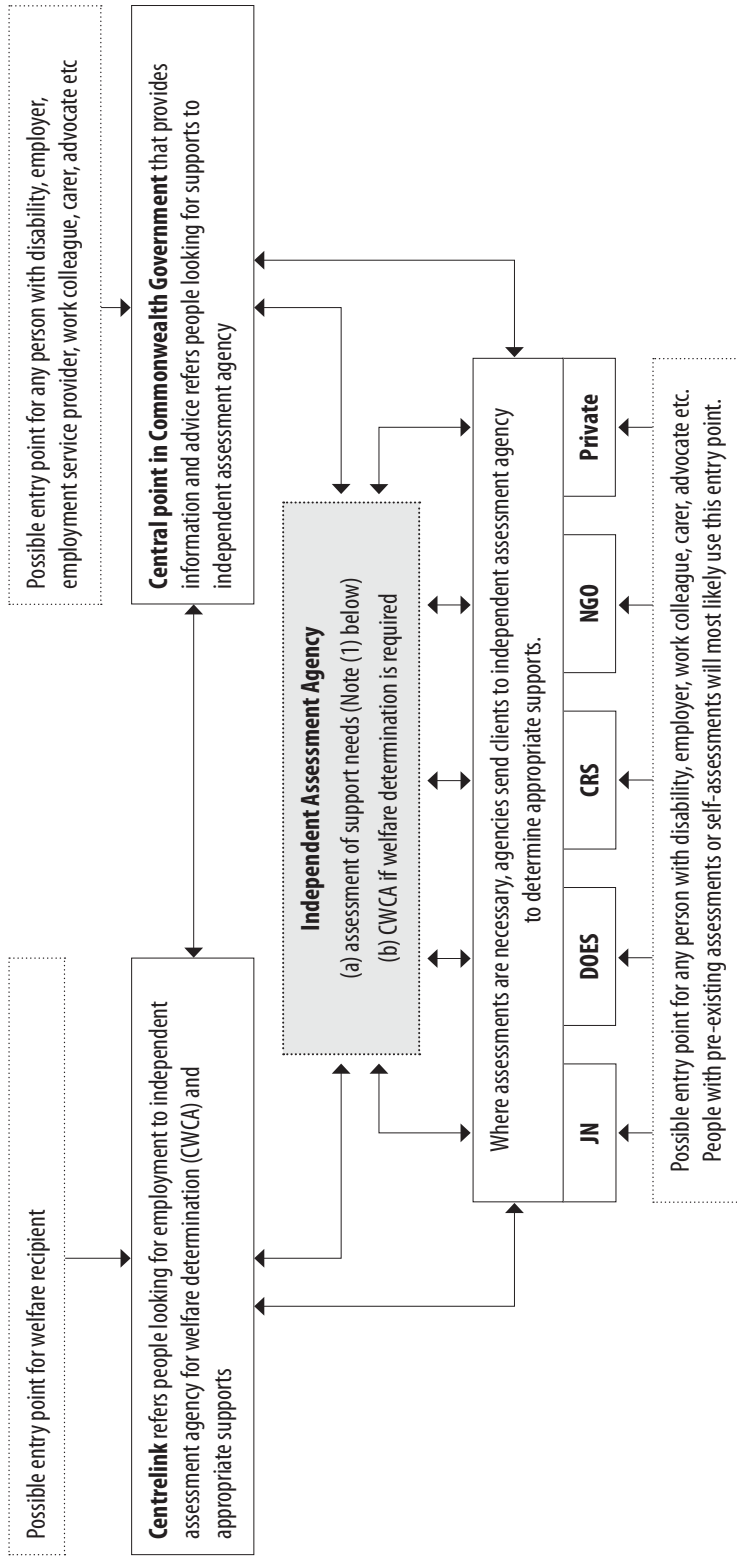
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## Chapter 7: Endnotes

- 1 See *WORKability I: Barriers*, Chapter 5, sections 5.2 and 5.5 and Chapter 6, sections 6.3-6.4.
- 2 See *WORKability I: Barriers*, Chapter 5, section 5.2 and Chapter 6, sections 6.3.2-6.3.4.
- 3 See *WORKability I: Barriers*, Chapter 6, section 6.3.
- 4 See *WORKability I: Barriers*, Chapter 6, section 6.3.
- 5 The Jobs in Jeopardy Program is available to any person at risk of losing a job due to a disability. Several First Round Submissions suggested improved access to this program. See *WORKability I: Barriers*, Chapter 6, section 6.3.4.
- 6 Minutes of the Employer Forum are available at: [http://www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/forums/neeopa.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/forums/neeopa.htm)
- 7 See *WORKability I: Barriers*, Chapter 5, section 5.2.5 for a description of the Personal Support Program. See also: <http://www.workplace.gov.au/workplace/Category/SchemesInitiatives/PSP/AboutthePersonalSupportProgramme.htm>
- 8 Submission 138, The Spastic Centre.
- 9 Submission 138, The Spastic Centre.
- 10 Submission 145, Department of Human Services.
- 11 Submission 146, Centacare.
- 12 DEWR, Response to HREOC 'Ongoing Supports Update and Discussion Paper', 7 November 2005.
- 13 DEWR, Response to HREOC 'Ongoing Supports Update and Discussion Paper', 7 November 2005.
- 14 Submission 141, Blind Citizens Australia.
- 15 Submission 156, Association of Competitive Employment.
- 16 Submission 161, Macquarie Customised Accessibility Services (M-CAS).

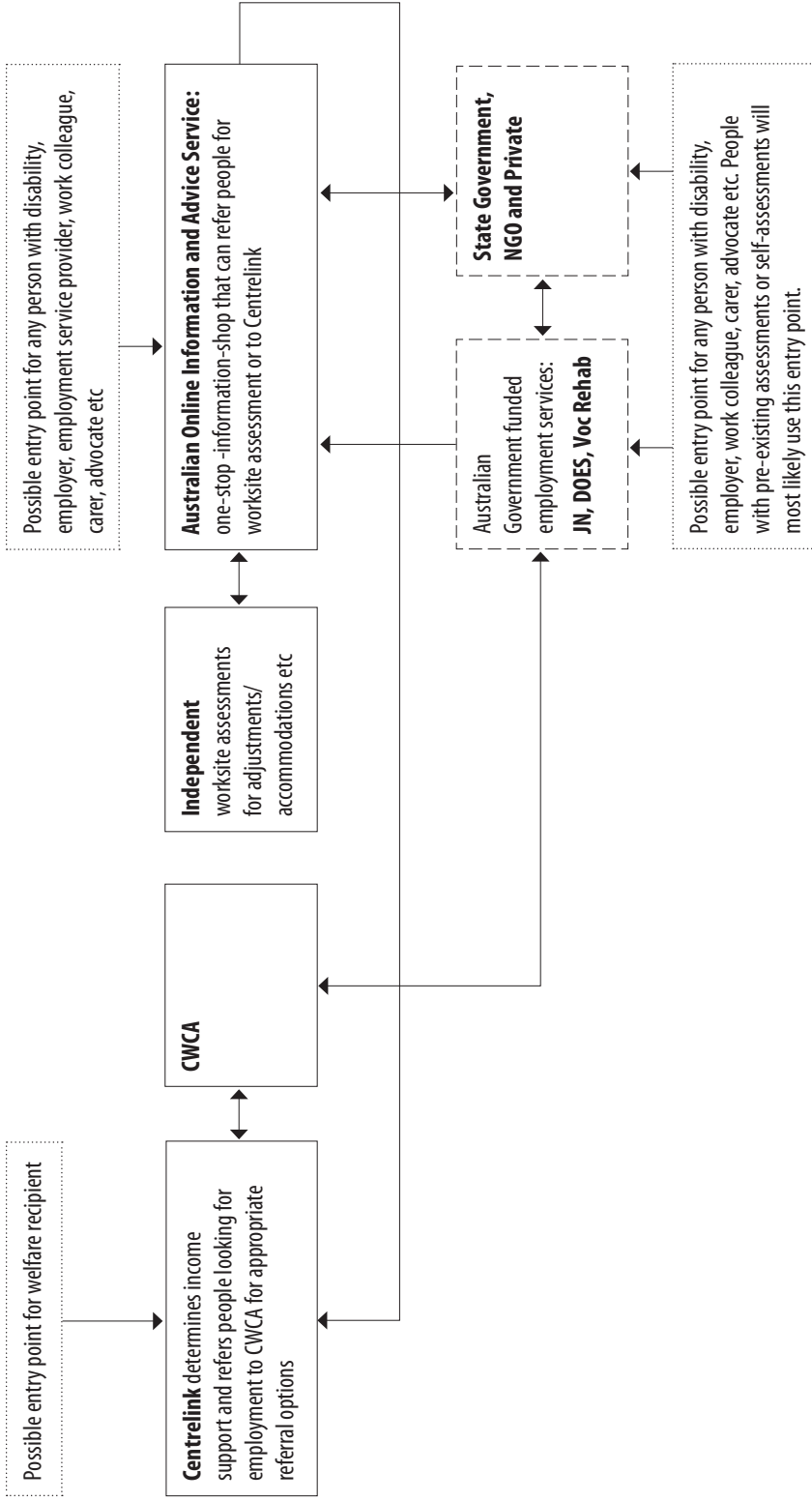


## Appendix 7A: Inquiry first draft model for accessing ongoing support services



Notes: (1) assessment of support needs should examine at least: what the problem is, what a person's work capacity is, how to adapt the workplace, how to adapt a job description, what supports will be needed, which agency or agencies can best provide the relevant assistance and supports; (2) any employee with disability 'in need' can access support services (employee includes F/T, P/T, casual, consultant, contractor, person who is self-employed); (3) support services are provided to employees with disability, their employers and colleagues whenever needed, for as long as needed; (4) supports are 'scalable', that is, the level and scope of supports vary as the job, workplace or disability changes over time; (5) all service providers are accredited and adhere to quality assurance processes; (6) agencies are encouraged to purchase/refer to each other when unable to provide all relevant supports.

## Appendix 7B: DEWR response to Inquiry first draft model for accessing ongoing support services





# Chapter 8



## International approaches to providing supports in the open workplace

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## 8.1 Introduction

*WORKability I: Barriers* noted some of the difficulties that arise from Australia's fragmented system of subsidies, supports, incentives, concessions and income support for people with disability.<sup>1</sup>

Several First Round Submissions suggested that Australia may benefit from a closer examination of models operating in other countries to increase participation of people with disability in the open workplace.<sup>2</sup>

As a result, *WORKability I: Barriers* made the following recommendation:

***Interim Recommendation 4: Streamline support and subsidies***

*The Inquiry recommends research into international approaches to encouraging the participation and employment of people with disability with a view to developing:*

- (a) a more streamlined and comprehensive program of support, assistance and incentives; and*
- (b) a whole-of-government approach.*

Using the First Round Submissions as a starting point, the Inquiry commenced researching the support and subsidy systems in Canada, New Zealand, the United Kingdom and the United States of America. Given the short period of time available, it has not been possible to provide a comprehensive survey of the systems in those four countries. However, this chapter sets out the results of the Inquiry's preliminary research as a platform for further study.

## 8.2 Research methodology

After analysing the First Round Submissions which had noted international programs of significance, the Inquiry sought further information from individuals and organisations who had some knowledge of programs operating in New Zealand, Canada, the United States and the United Kingdom.

The Inquiry also conducted internet searches of each country's government disability website and any specific programs that had been mentioned by those with experience in the area. Individuals, organisations and government departments in each country were then contacted to provide further general information or answer specific questions.

A general international request for information regarding models of support was also emailed to all members of GLADNET (Global Applied Disability Research and Information Network on Employment and Training; <http://www.gladnet.org/>).

The following questions were used as a guide to collect information:

- What are the eligibility criteria to qualify for government support to enter and remain in the open workplace? For example: Do you need to be in receipt of welfare or income support? Capacity to work a minimum number of hours per week? Level of disability? Any special measures for people with high support needs?
- What supports are provided? For example: Support in employment? Skills upgrading? Work experience? Job search?
- Who are the supports provided to? For example: People with disability currently in employment? People seeking to re-enter the workplace? Self-employed? People who acquire a disability during employment?
- For how long is support generally provided? Is there a maximum period?
- Are supports also provided to employers and other colleagues in the workplace?
- Is there a limit on the amount of funding available to each individual?
- What is the funding model? For example: Renewable amount per year? Capped amount over lifetime?
- Are there any restrictions on how to spend supports funding? For example: Can money be spent on travel expenses?
- Is a contribution expected from the employer or employee?
- Who provides the supports? For example: Government bodies? Agencies contracted by government? Private agencies?
- Is support available on an 'as needed' basis? For example: Can people with disability and their employers 'dip in and out' of the supports?

### **8.3 How does New Zealand seek to provide supports in the workplace?**

New Zealand appears to have a uniform national model to assist and support all people with disability aged between 16 and 65 to enter and remain in the workplace.<sup>3</sup>

To be eligible for supports under the New Zealand model the applicant must be someone who:

...has been identified as having a physical, psychiatric, intellectual, sensory or age-related disability, or a combination of these, which is likely to continue for a minimum of six months and result in a reduction of independent function to the extent that on-going support is required.<sup>4</sup>

A person who falls within this definition is eligible for support whether or not they receive a pension and irrespective of their capacity or work. Further, it is irrelevant whether a person finds a job through a government-funded employment service, and assistance can be sought at any stage of the employment cycle. Importantly, there is no time-limit on the provision of supports.

There are three support programs designed to assist people with disability to enter and remain in the open workplace:

1. Job Support
2. Training Support
3. Self Start

These programs are administered by Workbridge, a non profit employment agency, on behalf of the Ministry of Social Development's Work and Income Service. Services are provided free of charge and job seekers or employees with disability can either self-refer or be referred by another agency.

Workbridge is funded to cover the 'costs of disability' for people with disability participating in work or training programs:

Cost of disability: The funds must be used to cover the additional costs that a jobseeker has as a direct consequence of their disability, when undertaking the same job or training as a person without a disability or impairment.<sup>5</sup>

In addition, the Mainstream Program, run through the State Services Commission, facilitates employment opportunities for people with significant disability in selected public sector organisations.<sup>6</sup>

### **8.3.1 Job Support**

Job Support is the main program used to assist people with disability to enter and remain in employment. It also assists people in self-employment.

Job Support provides funding of up to NZ\$16,900 per person in any 12-month period. The funds are available for as long as the person needs assistance. There is no maximum time limit or lifetime budget limit associated with these funds:

We would however expect to see a drop off in supports such as support person, job coach or productivity allowance. Payments for job coaches are often replaced with a support person. Many clients will access a level of support over many years (if not for their working life).<sup>7</sup>

Initially, support funds are granted for six months with an automatic right of review for a further six months. After 12 months, the person with disability needs to reapply. After that, it seems that approval of subsequent applications is more straightforward.



The \$16,900 limit includes any other work and income grants or subsidies being received for similar purposes (for example Job Plus subsidies, Modification Grants, etc).<sup>8</sup> It is unclear whether this combined total limit may disadvantage people with high support needs.

The Job Support funds can be used in a variety of ways. For example, the money can be used for initial training and workplace modifications as well as any ongoing supports that are required. Funds can also be used where a person's job is in jeopardy due to a sudden onset of a disability or worsening condition.<sup>9</sup> The following is a brief, but not exhaustive, list of some of the support services available:

Examples of the most common uses of Job Support include:

- workplace modifications
- job coaching (both short-term and on-going)
- mentoring
- purchase of additional physical support necessitated by the demands of the job (including on-the job physiotherapy or attendant care)
- interpreter services
- special equipment to accommodate a person's disability
- additional costs of transport and parking
- special induction training after placement into work
- either temporary or on-going assistance to cover shortfalls in productivity
- disability awareness training for fellow workers
- productivity assessments for long-term productivity allowances.<sup>10</sup>

Employees with disability in the public sector can only access Job Support once the State sector employer has met their statutory 'good employer' obligations.<sup>11</sup> It would seem that this means there is a higher level of accountability on State sector employers than a private employer to provide 'reasonable accommodations' before seeking support from Job Support.<sup>12</sup>

### **8.3.2 Training Support**

The Training Support program is used to support people with disability undergoing training or education, work experience or a period of assessment as part of an individual plan to enter open employment. This program specifically targets people with high support needs and may be used:

- for the provision of a support person to help sustain access to a training course and/or associated expense
- to pay transport costs, not covered by the disability allowance, to attend a training opportunity or work experience
- to pay for special equipment which is not covered by other provisions.<sup>13</sup>

Training Support funds can only be used for training opportunities that are linked to the New Zealand Qualifications Authority framework, or which involve other educational institutions approved by the Ministry of Social Development. Further, while applicants are not subject to means testing, every effort is made to ensure that payment levels are consistent with equity and need.

In contrast to the Job Support scheme, Training Support has a lifetime funding limit of NZ\$15,600 per individual.<sup>14</sup>

### **8.3.3 Self Start**

The Self Start program is a scheme to assist people with disability to set up their own business ventures. The program covers the additional costs relating to a person with disability when self-employed.

This scheme has a lifetime funding limit for each individual of NZ\$5,200. The following criteria apply:

It is not available to supplement business income. Only applications which are consistent with realistic and reasonable outcomes for the individual will be approved. ... The applicant must be able to put in 20 hours of personal time into running the business each week.<sup>15</sup>

### **8.3.4 Mainstream Program**

The Mainstream Program is a supported employment program for people with significant disability.<sup>16</sup>

The program assists people with disability who are not 'job-ready' to gain the necessary job skills and knowledge while working in State sector organisations:

After two years, it is expected that Mainstream participants will have gained the knowledge, skills and experience necessary to compete for employment on their own merit. Recently published research shows that 69% of Mainstream participants are still in employment up to five years after the completion of their Mainstream placements.<sup>17</sup>

The Mainstream program funds 100% of the wages for program participants in the first year of employment. In the second year the subsidy decreases to 50%. In the third year, program participants are expected to be ready for unsubsidised open employment.

The aim of the program is to facilitate a move to unsubsidised employment and reduce the number of people dependant on welfare:<sup>18</sup>

The Mainstream Programme features:

- a 100% salary subsidy paid to State sector employers, for the first 12 months of the Mainstream placement.
- a 50% salary subsidy paid to State sector employers, for the second year of the Mainstream placement.

- access to funding for external training for Mainstream participant and direct supervisors.
- funding to meet the cost of adaptive technology or specialised assistance for Mainstream participants.
- induction training for Mainstream participants and direct supervisors.
- an advice and referral service for employers and Mainstream participants.
- Follow-up support for direct supervisors and Mainstream participants.<sup>19</sup>

Over 3,000 people with disability have participated in this program since it commenced 30 years ago.<sup>20</sup> There are currently over 230 Mainstream Program participants working in various State sector organisations in a variety of positions:

Although some of the created positions gained through the Mainstream Programme are at a basic clerical level, a growing proportion are in such diverse areas as case and project management, technical support and various roles within the education sector.<sup>21</sup>

People participating in the Mainstream Program are not eligible for Job Support funds.

#### **8.4 How does Canada seek to provide supports in the workplace?**

In Canada, a ‘Multilateral Framework’ agreement exists between federal and provincial governments to fund the majority of services and supports for people with disability to participate in the labour market.

While the Canadian government funds provincial labour market programs and services to assist people with disability under this Framework, programs and services vary from province to province in accordance with local priorities.<sup>22</sup>

A separate federal fund (the Opportunities Fund for Persons with Disabilities) exists to provide services to ‘people with disabilities who have had little or no attachment to the workforce.’<sup>23</sup> The program funds are available irrespective of whether the individual receives welfare or income support.

Additional programs and supports are also available for people with high support needs who wish to work.

A recent study conducted by the Canadian Abilities Foundation examined ‘why employment continues to be an elusive dream’ for Canadians with disability. The study found one of the overarching problems to be ‘the incredible disconnect between employers, people with disabilities, and the service providers who help these individuals enter the workforce.’<sup>24</sup> The study also identified the Canadian disability benefits and support structure to be a major disincentive to labour force participation:

Both employment services providers and those employers who were familiar with government disability benefit programs felt these programs were keeping people out of the workforce. In particular, they felt greater

program flexibility would create incentives for people with disabilities to experiment with employment as long as they are not penalized if their attempts are unsuccessful.<sup>25</sup>

It appears that disability-related funding, while mainly delivered by the Canada Pension Plan, is also delivered by provincial and municipal governments.

A general description of the Multilateral Framework and the Opportunities Fund is provided below.

#### **8.4.1 Multilateral Framework for Labour Market Agreements for Persons with Disabilities**

In December 2003, Canadian federal and provincial governments endorsed the Multilateral Framework for Labour Market Agreements for Persons with Disabilities (LMAPD).<sup>26</sup> The Multilateral Framework replaced the Employability Assistance for People with Disabilities (EAPD) initiative. Social Development Canada – a government agency – administers the Labour Market Agreements for Persons with Disabilities.

The programs and services funded under the framework vary according to local priorities and it appears that eligibility criteria are not regulated on a national level. However, labour market programs and services must address one or more of the following priorities:

- education and training
- employment participation
- employment opportunities
- connecting employers and persons with disabilities
- building knowledge.<sup>27</sup>

Some of the types of supports funded under these programs include:

- job coaching and mentoring
- pre-employment training and skills upgrading
- post-secondary education
- assistive aids and devices
- wage subsidies and earning supplements
- employment counselling and assessment
- accessible job placement networks
- self-employment
- other workplace supports.<sup>28</sup>

In an effort to ensure that ‘employment programs for persons with disabilities are more coherent and effective’, the Canadian government is using the Labour Market Agreements for Persons with Disabilities framework to review its labour

market initiatives. Provincial governments have agreed to issue baseline reports on a yearly basis, reporting on a variety of indicators including ‘employment rates of working-age adults with disabilities, education attainment as well as employment income.’<sup>29</sup>

#### **8.4.2 The Opportunities Fund for Persons with Disabilities**

In addition to the Labour Market Agreements for Persons with Disabilities, Social Development Canada administers the Opportunities Fund for Persons with Disabilities (the Opportunities Fund). The Opportunities Fund commenced as a pilot program in 1997, with funding becoming permanent in December 2000.

This Fund is a broad ‘employability’ program intended to assist unemployed people with disability who have had little or no attachment to the labour force. To be eligible for assistance from the Opportunities Fund, an individual must:

- self identify as having a permanent physical or mental disability which limits their daily activity
- be unemployed and seeking employment
- be eligible to work in Canada and
- require assistance to work or to become self-employed.<sup>30</sup>

The objectives of the program are described as follows:

- To assist persons with disabilities to prepare for and obtain employment or self-employment as well as to develop the skills necessary to maintain that new employment.
- To support effective and innovative activities such as, but not limited to, the following: encouraging employers to provide individuals with work opportunities and experience, assist individuals to increase their employment skill level and helping individuals to start their own business; and
- To work in partnership with organizations for persons with disabilities, including the private sector, to support innovative approaches to integrate individuals with disabilities into employment or self-employment and address barriers to an individual's labour market participation.<sup>31</sup>

The Opportunities Fund supports a diverse range of projects and directly contributes to the costs of developing new initiatives. For example, service providers may be funded to cover costs like:

- participant wages or related employer costs; and
- overhead costs related to planning, organizing, operating, delivering and evaluating approved activities, including costs such as staff wages and employment related costs. Eligible expenses will be negotiated with program officials.<sup>32</sup>

Project applicants may include businesses, public health and educational institutions, community organisations, band/tribal councils, or municipal governments, individuals and provincial/territorial government departments and agencies if specifically approved by the Minister.<sup>33</sup>

For the individuals with disabilities who participate in these programs, funding may be provided for the following:

- all or a portion of their living expenses;
- all or a portion of the incremental cost of participation such as expenses relating to specialized services, arrangements or equipment, dependant care, transportation and accommodation; and
- all or part of the cost of tuition for a course or a program of instruction (may not be available in all provinces).<sup>34</sup>

Projects are normally approved and funded for a maximum period of 52 weeks, although there are provisions for funding to be extended to 78 weeks. The length of funding is dependent on the action plans developed to respond to each individual's need.

According to the 'Terms and Conditions' information sheet, the amount available per organisation is variable and substantial:

...the maximum contribution shall be \$5M. The amount of the contribution will be determined by the number of eligible recipients who participate or are to be served.<sup>35</sup>

A 2004 report by the Government of Canada – *Advancing the Inclusion of Persons with Disabilities* – described the aims and outcomes of the Opportunities Fund as follows:

The program's main outcomes involve the labour market participation of people with disabilities and the degree to which the program helps them become more employable and find work. About 77% of clients are expected to enhance their employability and over 40% are expected to find jobs. The Opportunities Fund now serves about 3,900 people with disabilities a year. It has helped roughly 22,000 Canadians since it began.<sup>36</sup>

The report recommended continuing the Opportunities Fund on the basis of an earlier evaluation which had noted positive results for people with disability:<sup>37</sup>

In 2001 the Opportunities Fund was evaluated to measure its effectiveness. It was agreed that the federal government should continue to play a role in addressing employment barriers for persons with disabilities, and there was strong support for continuing a program such as the Opportunities Fund. According to the evaluators, one of the program's strengths is its individual, flexible approach to delivering services to clients. The program's overall design, management and implementation were seen as strong, and participants and service deliverers alike were largely satisfied with it. Assessments from Opportunities Fund participants, as well as the outcome

data, show that the program has helped individuals find work and has improved their employability and quality of life.<sup>38</sup>

## **8.5 How does the United States seek to provide supports in the workplace?**

As in Australia, the United States appears to have a patchwork of federal and state employment support programs for people with disability.

Overall, the system is regulated, and largely funded, by the federal government. States contribute to funding and administer the programs according to federal regulations. However there is a substantial distinction between the services assisting with job entry and initial support and the services providing ongoing job support.

Job entry and initial support services are federally funded and have strict criteria for eligibility and use of funds. As a result, there appears to be a fairly uniform national Vocational Rehabilitation Program to assist people with disability to find a job and provide short term support at work (for the first 3-6 months).<sup>39</sup>

Ongoing support services, on the other hand, are funded by federal, state and local governments. There is wide variability regarding eligibility criteria and the types of services offered. This patchwork results in different eligibility rules and services being offered from state to state and even from community to community within a state.

A general description of the programs and supports available to people with disability to enter and remain in open employment in the United States follows.

### **8.5.1 Federal Vocational Rehabilitation Program**

The Vocational Rehabilitation Program is the primary federal funded program for employment services in the United States.<sup>40</sup> The program is described as a federal/state partnership as each state matches federal funding (calculated at approximately 20-25% of the federal contribution) and the states administer the federal funds. The program is regulated by the federal *Rehabilitation Act 1973* (US). Each state operates its own program following regulations and guidelines set out in the Act.

It appears that the only eligibility criteria for participating in the Vocational Rehabilitation Program is that the individual has a disability-related impairment and requires assistance to find a job. Eligibility is not dependant on a person receiving a disability pension or income support. Nor is there a minimum number of employment hours per week to be eligible for support.

However it seems that, in practice, it is difficult to access the program. When there is high demand and limited funding, a state can initiate an 'Order of Selection' which places limits on how services operate and gives priority to people with significant disabilities. It seems that approximately two-thirds of Vocational Rehabilitation

agencies are currently on such Orders. There does not appear to be any federal monitoring of adherence to those Orders.

One American academic, Grant Revell, described the Vocational Rehabilitation Program as a time-limited support service that is available to people with disability entering employment:

The federal Rehabilitation Act ... requires that vocational rehabilitation agencies place time limits on the use of funds. Time-limited funding usually involves funding a series of intermediate steps toward a supported employment outcome. These steps are assessment, usually community-based assessment; job selection and attainment; job retention; and movement to extended services at a point of stability in employment.<sup>41</sup>

Thus, while the *Rehabilitation Act 1973* states that support services are to be provided until the person achieves stability, it appears that most support from federally funded Vocational Rehabilitation programs is for three to six months. More often than not, the support ceases after three months – which is the minimum success standard.

In addition, it seems that when an assessment is made that the person is likely to need supports for longer than that provided by the Vocational Rehabilitation Program, the additional arrangements and funding must be in place (or reasonably expected to occur) before Vocational Rehabilitation funds can be spent on the initial period.

While the types of supports to be provided by agencies is not regulated, the ‘typical’ services offered by the Vocational Rehabilitation Program include:

- Business/employer mentoring programs/internships
- Career consulting (e.g., portfolio preparation, resume writing, interview skills)
- Career strategies (e.g., skills assessment and development, job coaching)
- Case management
- Employment (i.e. hiring of beneficiary to work for EN)
- Habilitation services (e.g., independent living training/assistance in support of work)
- Job accommodations
- Job service vouchers
- Job training
- Job placement/employment services (e.g., job search, placement assistance)
- Peer mentoring services
- Personal attendant support services
- Post-employment support (e.g., job/employment retention services)
- Psychosocial rehabilitation



- Referral to services or support from local mental health or developmental disabilities providers
- School to work transition services
- Self-employment/business start-up
- Services under a formal agreement with a Workforce Investment Board and/or One-Stop
- Special language capacity (e.g., Spanish, Vietnamese, Sign Language, etc...)
- Supported employment
- Situational assessment
- Transitional Employment Program
- Transportation assistance
- Work incentives counselling.<sup>42</sup>

### **8.5.2 Extended services**

Ongoing support beyond the Vocational Rehabilitation Program is provided by a variety of public or non-profit organisations ('extended services'). It is also possible to bypass the Vocational Rehabilitation Program and use extended services only.

Extended services may be funded by a variety of sources – including federal, state and local government. It appears that funding is mostly person-centred (rather than program-centred) in that the funding moves with the individual to achieve desired outcomes.

The goal of extended services is to ensure as much support as needed to enable the employee with disability to maintain employment stability. In practice the length and type of support is determined by the funding available to each agency.

There does not appear to be any national policy or regulation regarding the provision of long-term supports. Furthermore, there is no regulated maximum amount of funding that can be used by any one individual. As a result, there appears to be substantial variations in the quality and quantity of ongoing support services provided to employees with disability and their employers across all fifty states.

### **8.5.3 The Ticket to Work program**

People with disability receiving Social Security Income (SSI) or Social Security Disability Insurance (SSDI) are also eligible for support through the Ticket to Work program.<sup>43</sup>

The Ticket to Work Program is an initiative of the US Social Security System. Participation in the scheme is voluntary. Those who choose to participate, are provided with a 'ticket', or voucher to obtain:

- ...vocational rehabilitation, employment or other support services from an approved provider of their choice to help them go to work and achieve their employment goals.<sup>44</sup>

The service provider is entitled to receive payments, according to the achievement of milestones, for a period up to 60 months if the person with disability becomes employed at a wage level that means they no longer require income support or disability benefits.

It appears that the program was introduced to encourage SSI and SSDI recipients to use services from Vocational Rehabilitation agencies and increase their chances of successfully returning to, or entering, work.

A recent review of the Ticket to Work program by the United States Government Accountability Office to two Congressional Committees (Committee on Finance and Committee on Ways and Means) found that the program had not been very successful.<sup>45</sup> The report suggested a variety of areas for improvement, including:

- reform of the payment system
- reduction of the administrative burden for service providers
- strategies to improve limited participation in the program by people with disability
- a national marketing campaign.

The US Social Security Administration recently recommended a series of changes to the Ticket to Work program to address the Government Accountability Office recommendations.<sup>46</sup> It is believed that these changes will be implemented in 2006 and improve the viability of the program.

#### **8.5.4 Plan for Achieving Self Support (PASS)**

The Plan for Achieving Self Support (PASS) is another Social Security System initiative designed to assist people with disability receiving SSI or SSDI to return to work.<sup>47</sup> This program seeks to assist people to 'set aside money and/or things he or she owns to pay for items or services needed to achieve a specific work goal':

How does PASS work?

- Applicant finds out what training, items or services needed to reach work goal.
- Can include supplies to start business, school expenses, equipment and tools, transportation and uniform requests.
- Applicant finds out how much these items and services will cost.
- PASS can help person save to pay these costs. PASS lets person set aside money for installment payments as well as a down payment for things like a vehicle, wheelchair or computer if needed to reach work goal.<sup>48</sup>

#### **8.5.5 Workplace modifications**

There does not appear to be any specific direct payment program to assist employers with the cost of making workplace accommodations, despite the legal requirement to do so under the *Americans with Disabilities Act 1990 (ADA)*.<sup>49</sup> It seems that

funding for accommodations is normally negotiated between the employer, the Vocational Rehabilitation Program and the person with disability to produce a list of low cost recommendations that the employer can implement.

However, tax incentive schemes are available to assist businesses with costs incurred with certain workplace modifications. For example, the Disabled Access Credit Scheme assists small businesses to cover expenditures for:

1. Removing architectural, communication, physical or transportation barriers which prevent a business from being accessible to, or usable by, individuals with disabilities;
2. Providing qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
3. Providing qualified readers, taped texts, and other effective methods of making visually delivered materials available to individuals with visual impairments;
4. Acquiring or modifying equipment or devices for individuals with disabilities; and
5. Providing other similar services, modifications, materials or equipment.<sup>50</sup>

Deductions are also available for businesses that make a facility or public transportation vehicle more accessible.<sup>51</sup>

## **8.6 How does the United Kingdom seek to provide supports in the workplace?**

The employment services model in the United Kingdom has several similarities with the system in Australia.

Broadly speaking, across the United Kingdom, there are two types of employment services: one to assist people with disability with 'no' or 'low' support needs (Job Centre Plus or Job Centre Personal Advisers) and another for people who require specialist or long term support (Disability Employment Advisers). These services provide a range of advice, information and supports to people with disability and employers prior to, and during, employment.

In addition, the Access to Work program provides funding and support to employees and their employers for a maximum of three years, whereupon the need for support must be reviewed. Funding is not capped and appears to be more generous than in Australia.

Separate schemes – The New Deal for People with Disability and Pathways to Work – are available to assist people on incapacity benefits, disability allowances or income support to prepare for and find work. Participation in these schemes is voluntary.

Like Australia, new ‘welfare to work’ measures are being introduced in the United Kingdom with a view to assisting people on incapacity benefits to enter employment.

A general description of the programs and supports available to people with disability to enter and remain in open employment in the United Kingdom follows.

### **8.6.1 Job Centre Plus, Job Centre Personal Advisers and Disability Employment Advisers**

As in Australia, people with different support needs are directed to different types of employment services.

People with disability who require ‘no support’ or ‘low levels of support’ are directed to Job Centre Plus or Job Centre personal advisers (equivalent to Job Network in Australia). Job Centre Plus or Job Centre Personal Advisers give advice and support to people whose disability or health condition is not causing particular difficulties in finding or keeping a job.<sup>52</sup>

People with disability who require specialist or longer-term support are directed to Disability Employment Advisers (equivalent to Australia’s Disability Open Employment Services).

Disability Employment Advisers provide specialist support to ‘people who are recently disabled or those whose disability or health condition has deteriorated and who need employment advice’. They also provide support to people with disability who ‘are having difficulty in getting a job because of their disability, and also to employed people who are concerned about losing their job because of a disability’.<sup>53</sup>

Disability Employment Advisers can provide a range of support, advice and information to people with disability and employers including:

- Employment Assessment, which can help you find out how your disability or health condition affects the type of work or training you want to do
- referral to a period of Work Preparation, which is an individually tailored programme designed to help disabled people, or those with health conditions, return to work following a long period of sickness or unemployment
- job seeking advice and support
- training advice and information
- advice and information on keeping your job
- information on the Job Introduction Scheme which pays a grant to your employer for the first few weeks in a job, helping to pay towards wages or other employment costs

- information on WORKSTEP which provides supported job opportunities for disabled people facing more complex employment barriers
- information on the Disability Symbol which enables employers to show their commitment to the employment, training, retention and career development of disabled people
- details of the New Deal for Disabled People to help sick or disabled people on health related benefits who want to work, find work. It is voluntary and you decide whether or not you want to join it.<sup>54</sup>

People with disability can seek assistance from Job Centre Plus, Job Centre Personal Advisers or Disability Employment Advisers providers prior to finding a job, at commencement of employment or during employment.

Employees or job seekers with disability do not have to be, or have been, in receipt of a pension or income support to qualify for assistance. Additionally, people with disability can obtain ongoing support from these employment services despite the fact that they found a job independently of those services.

### **8.6.2 Access to Work scheme**

An employer who is considering recruiting an employee with disability, or who already has an employee with disability, can arrange to meet an Access to Work Adviser to discuss assistance with any additional costs incurred as a result of disability.

Financial assistance through Access to Work (AtW) is provided in a number of ways, including:

- communicator support at interview (CSI) which meets the full cost of hiring an interpreter to remove barriers to communication at interview;
- a support worker, which allows the applicant to use the services of a helper. Types of support might include reading to a visually impaired person, communicating for a hearing impaired person via sign language (other than at interview which is covered by CSI), providing specialist coaching for a person with learning difficulties or helping a person with care needs;
- special aids equipment to help a disabled person function in the work place;
- adaptation to premises or to existing equipment;
- help with the additional costs of travel to, or in, work for people who are unable to use public transport.<sup>55</sup>

Support solutions are usually negotiated between the Access to Work Adviser, the employer and the person with disability. Generally the employer arranges to purchase the agreed support and claims the expenses back through a grant from Access to Work.<sup>56</sup> Reimbursement rates depend on the timeframe relative to the commencement date of employment and the type of support. For example:

- If you take on an unemployed person or have recruited someone less than six weeks ago, the grant is up to 100% of the approved costs approved by the AtW Adviser.
- Whatever the employment status of the applicant, AtW pays up to 100% of the approved costs of help with
  - support workers and fares to work; and
  - communicator support at interview.
- AtW also pays additional travel costs incurred due to a disability.
- For people working for an employer, and who have been in the job for six weeks or more and need special equipment or adaptations to premises, AtW pays a proportion of the costs of support, as follows:

<i>Approved Cost</i>	<i>Maximum Access to Work contribution</i>
Less than £300	Nil
Between £300 and £10,000	80% of the cost over £300
Over £10,000	80% of the cost between £300 and £10,000 and 100% of the cost over £10,000. <sup>57</sup>

Support is provided for a maximum of three years under this scheme. If further support is required, the Access to Work Business Centre conducts a review and ‘may provide help for a further period if your employee continues to be eligible for help under the rules that then apply’.<sup>58</sup>

A 2002 review of the Access to Work program suggested that the program was working well. People with disability and employers made the following comments:

- the provision of a Support Worker can be essential to taking up a job
- Travel to Work provision is also essential in taking up a job and very important in sustaining employment
- alterations to premises made a direct difference for people ‘where medical condition put the job at risk and where environmental barriers made taking up a job completely impossible’
- funding for aids and equipment was an important factor in situations where the employer was uncertain about paying.<sup>59</sup>

### **8.6.3 Job Introduction Scheme**

The Job Introduction Scheme provides £75 per week for six weeks to assist an employer with any additional training or other costs associated with a new

employee's disability.<sup>60</sup> The funding may be extended to 13 weeks. The employer must pay the employee the going rate for the job.

This scheme is specifically targeted to circumstances where the employee or employer has some concerns about the job or work environment:

It's not always easy to be sure if a particular job or work environment will suit you because of your disability. You are keen to do the job, but may have some practical concerns about your disability that make you hesitant about accepting a job.

JIS can help with these concerns by paying a weekly grant to your employer for the first few weeks that you are employed in the job to help towards your wages or other employment costs, for example additional training.<sup>61</sup>

It would appear that the scheme operates as an incentive to employers. An application for the Job Introduction Scheme must be made before employment has commenced.

#### **8.6.4 New Deal for People with Disability**

The New Deal for People with Disability was part of a suite of 'New Deal' programs introduced to assist targeted groups of people into employment in the United Kingdom.<sup>62</sup> The target groups include young people, long-term unemployed, single parents and people receiving disability benefits.

While the framework for the programs targeted at each group were similar, budget and resource allocations varied according to whether the programs required mandatory or voluntary participation. Unfortunately the New Deal for People with Disability was a *voluntary* participation program and fewer resources were directed to this program.

It seems that the key innovation of New Deal for People with Disability was the introduction of front line New Deal Personal Advisers. These advisers were intended to 'personalise' employment assistance and work with claimants to identify and tackle employment barriers.<sup>63</sup> However, over time, New Deal Personal Advisers have struggled to place people with complex problems into employment.<sup>64</sup> The need for greater investment in this program was acknowledged in a recent report by the Department for Work and Pensions.<sup>65</sup>

#### **8.6.5 The Five Year Strategy and Pathways to Work**

The Department for Work and Pensions Five Year Strategy 2005 was released in early 2005 and contains many similarities with recent welfare-to-work reforms introduced in Australia.<sup>66</sup> For example, its primary focus is to encourage people with disability, with a specified future capacity to work, to move off welfare and into the workplace.

However, the strategy in the United Kingdom appears to have taken more of a whole-of-government approach to support this process. For example, it appears to

have engaged general practitioners and the National Health Service and seeks to address occupational health and safety concerns, societal attitudes, and the built environment.<sup>67</sup>

A centrepiece of the Department for Work and Pensions reforms is to expand a recent pilot program called *Pathways to Work*.<sup>68</sup> The program, which is said to be showing promising results, aims to assist people on incapacity benefits to move into the workforce by focussing on early intervention and offering much greater support to overcome the barriers to entering the workforce.

In addition to reforming the welfare payments, the scheme to move people off incapacity benefits involves a full assessment of potential future work capacity and the provision of support. As in Australia, concerns have been expressed about the reduction in welfare benefit and the ‘increased conditionality targeted on those on disability benefits’.<sup>69</sup>

## **8.7 Comments in the Second Round Submissions to the Inquiry**

In the Second Round Submissions, the Association of Competitive Employment noted its support for ‘exploring best practice and alternative models in order to streamline service delivery’.<sup>70</sup> Blind Citizens Australia also endorsed this approach:

...with an emphasis on the ‘whole-of-government’ approach to supporting people with disabilities find employment. Systemic barriers to employment including education, transport and access to premises must be tackled by government in harmony with all employment initiatives.<sup>71</sup>

The National Ethnic Disability Alliance is also of the view that a whole-of-government approach is the most appropriate way forward:

A Whole of Government Approach is required to address the issue of equity... Adopting a Whole of Government Approach Government should work towards ensuring home care services, transport services, and access to the built environment are improved as each impacts on a person with disability’s ability to find and maintain employment.<sup>72</sup>

Vision Australia does not believe that streamlined systems for providing wage subsidies and financial incentives will, on its own, solve the fundamental problem of access to information technology.<sup>73</sup>

The City of Melbourne Disability Advisory Committee warns against streamlining to the point of reducing the availability of services:

This recommendation is supported, however, we wish to state concerns in relation to rationalisation of services as a result of streamlining or reductions in service provision. It is further recommended that an inter-governmental committee be established to oversee this and provide feedback to the research process and recommended outcomes.<sup>74</sup>



## **8.8 Issues for Australia to consider in developing alternative approaches to providing ongoing supports and incentives**

The Inquiry's research into support models operating in New Zealand, Canada, the United States and the United Kingdom demonstrates alternative approaches to encouraging participation, employment and retention of people with disability in the open workplace. The Inquiry is of the view that the New Zealand and Canadian approaches offer the most interesting alternatives.

The Job Support program in New Zealand appears to enable people with disability to access job support on an as-needed basis, and for as long as support is required. The New Zealand model also appears to provide employers with the reassurance that support will be available to their employees – at no cost – if and when required.

The Inquiry considers these features to be essential to a support system which aims to:

- encourage people with disability to enter the open workplace
- assist people with disability to retain and progress within their jobs.

However there will need to be further research on the effectiveness of this model in increasing participation and employment. Further, it is unclear whether NZ\$16,900 per annum does in fact cover all the necessary supports once any other work and income grants or subsidies are deducted. This is especially the case for those people who may require substantial expenditure on workplace accommodations at the outset, but who have lower costs in the long run.

Other New Zealand strategies for consideration in the Australian context include:

- the public sector employment program (the Mainstream Program) which assists people with high supports needs on disability benefits into the workplace and
- the education and training budget (Training Support).

In Canada, The Opportunities Fund is also worthy of further consideration in the Australian environment. The Inquiry is particularly attracted to an approach that seeks to foster innovation by employers, service providers and other organisations seeking to assist unemployed people with disability to enter or re-enter the workforce.

## 8.9 Recommendation regarding international approaches to providing supports

The Inquiry has amended Interim Recommendation 4 to direct further research into various programs in New Zealand and Canada, with a view to considering their adaptation in Australia.

### ***Recommendation 4: International approaches to providing supports and subsidies***

*The Inquiry recommends further research into the following international support and subsidy programs (including collection of any program evaluation reports, cost analyses and changes in participation and employment rates):*

*(a) the Job Support, Training Support, Self Start and Mainstream programs in New Zealand; and*

*(b) the Opportunities Fund for Persons with Disabilities in Canada with a view to improving the program of support, assistance and incentives in Australia.*

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## Chapter 8: Endnotes

- 1 See *WORKAbility I: Barriers*, Chapter 3, sections 3.2 and 3.4.1.
- 2 See *WORKAbility I: Barriers*, Chapter 7, sections 7.3.2 and 7.5.4.
- 3 This age group reflects the eligibility criteria in New Zealand for a work tested benefit. However, if an employee who is receiving funding turns 65 while they are working, they can continue to receive Support Funds (information from Workbridge).
- 4 <http://www.workbridge.co.nz/support-funds/eligibilitycriteria.shtml>  
The Funds are not available to people with personal health issues who are under the care of a health care professional. Workbridge staff use their judgement when making a decision around health – if a condition would normally be recognised as a disability, then the application would be accepted. If applicants have a disability as well as a health need, assistance would be provided for their disability alone.
- 5 <http://www.workbridge.co.nz/support-funds/eligibilitycriteria.shtml>
- 6 <http://www.ssc.govt.nz/display/document.asp?NavID=85&DocID=3182>
- 7 Personal communication with Workbridge.
- 8 <http://www.workbridge.co.nz/support-funds/jobsupport.shtml>
- 9 <http://www.workbridge.co.nz/support-funds/jobsupport.shtml>
- 10 <http://www.workbridge.co.nz/support-funds/jobsupport.shtml>
- 11 <http://www.workbridge.co.nz/support-funds/jobsupport.shtml>
- 12 Personal communication with Workbridge. See also: <http://www.workbridge.co.nz/support-funds/job-support.shtml>
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- 19 <http://www.ssc.govt.nz/display/document.asp?NavID=85&DocID=3182>
- 20 <http://www.ssc.govt.nz/display/document.asp?NavID=85&DocID=4829>
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- 23 *Advancing the inclusion of persons with disabilities*, p47. Available at: <http://www.sdc.gc.ca/asp/gateway.asp?hr=en/hip/odi/documents/advancingInclusion04/index.shtml&hs=pyp>
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- 26 [http://www.sdc.gc.ca/asp/gateway.asp?hr=en/hip/odi/08\\_multilateralFramework.shtml&hs=pyp](http://www.sdc.gc.ca/asp/gateway.asp?hr=en/hip/odi/08_multilateralFramework.shtml&hs=pyp)
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- 28 *Advancing the inclusion of persons with disabilities*, p47. Available at: <http://www.sdc.gc.ca/asp/gateway.asp?hr=en/hip/odi/documents/advancingInclusion04/index.shtml&hs=pyp>
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- 73 Submission 147, Vision Australia.
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# Chapter 9



## International approaches to government accessible procurement policies

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## 9.1 Introduction

*WORKability I: Barriers* noted that it can be more difficult, and involve delay and expense, to make retrospective adjustments to work premises, facilities and equipment when an existing employee acquires a disability, or when a jobseeker presents a request for an adjustment.<sup>1</sup> It is preferable if, as far as possible, premises, equipment and facilities are designed to meet ‘universal design’ principles, to accommodate the widest possible range of human capacities and requirements.<sup>2</sup>

The First Round Submissions called for adoption of accessible procurement requirements in government purchasing policies. The idea behind such a policy is to both improve the accessibility of government facilities and provide leadership to the private sector.

The submissions focussed on procurement of information and communications technology, but noted that this is not the only area where an accessible procurement policy might have benefits.

The submissions also suggested further exploration of the procurement policies used in the United States, Canada and Europe.

As a result, *WORKability I: Barriers* made the following recommendation:

***Interim Recommendation 24: Government procurement policy***

*The Inquiry recommends further exploration into the feasibility and impact of mandatory accessible procurement policies for government agencies. To this end the Inquiry recommends research into international procurement policies and practices.*

*WORKability I: Barriers* also noted that the Inquiry would conduct some preliminary research on overseas procurement models. This chapter sets out the results of that preliminary research.

## 9.2 What is the procurement policy in the United States?

### 9.2.1 Mandatory procurement: section 508 of the *Rehabilitation Act* (US)

In 1998, the United States Congress passed legislation that imposes mandatory accessible procurement requirements on Federal government agencies regarding information and communications technology. The provisions are contained in section 508 of the *Rehabilitation Act 1973* (US).<sup>3</sup>

The procurement obligations apply when Federal departments and agencies are ‘developing, procuring, maintaining, or using electronic and information technology.’

The law requires the government agency to ensure that electronic and information technology allows Federal employees with disability to have access to, and use of, information and data in way that is comparable to Federal employees who do not have disabilities.



The Federal agency must also ensure that members of the public with disability have access to, and use of, information and data in a manner comparable to that enjoyed by individuals who do not have disabilities.

There is a qualification to the procurement requirement where ‘an undue burden would be imposed on the department or agency’. If an agency believes that compliance imposes an undue burden, it must document its reasons and explain to what extent compliance will cause that undue burden.

However, even when the agency is excused from compliance due to an undue burden, it must provide people with disability with information and data ‘by an alternative means of access that allows the individual to use the information and data.’

Section 508 also provides for the creation of standards to guide the application of the general accessibility requirement. The standards have been developed by the US Access Board (Architectural and Transportation Barriers Compliance Board) after extensive consultation.<sup>4</sup> They entered into force in 2001.

The standards set out technical and functional performance criteria which are necessary for accessibility. Subject to the undue burden defence, they must be complied with by all Federal agencies others than those involved in national security.

### **9.2.2 Technology covered by section 508**

As noted above, section 508 applies to the development, procurement, maintenance and use of electronic and information technology only.

Electronic and information technology includes products that store, process, transmit, convert, duplicate, or receive electronic information, such as copiers, computers, fax machines, information kiosks, software, operating systems, websites and telecommunications products.

The standards provide technical criteria for various technologies, including:

- controls, keyboards, and keypads
- software applications and operating systems (non-embedded)
- web-based information or applications
- telecommunications functions
- video or multi-media products
- information kiosks and transaction machines.

‘Controls’ include on/off switches, buttons, dials and knobs, mice, keypads and other input devices, copier paper trays (both for inserting paper to be copied and retrieving finished copies), coin and card slots, card readers, and similar components.

Some information features of workplaces, such as public address systems, alarm systems, and two-way communications systems, were left outside the scope of these standards as they were thought to be covered by existing accessibility requirements for buildings.

The US Access Board outlines the detailed technical specifications in the section 508 standards.<sup>5</sup>

### **9.2.3 Compatibility with assistive devices**

The US legislation recognises that it is not always cost effective, and might not even be technically feasible in some circumstances, for one standard piece of equipment to cater directly to the full range of user requirements. Thus, the section 508 standards cover issues of compatibility with adaptive equipment that is commonly used by people with disability.

The Access Board explains further, as follows:

[The relevant paragraph] clarifies that, except as required to comply with these standards, this part does not require the installation of specific accessibility-related software or the attachment of an assistive technology device at a workstation of a Federal employee who is not an individual with a disability. Specific accessibility related software means software which has the sole function of increasing accessibility for persons with disabilities to other software programs (eg, screen magnification software). The purpose of section 508 and these standards is to build as much accessibility as is reasonably possible into general products developed, procured, maintained, or used by agencies. It is not expected that every computer will be equipped with a refreshable Braille display, or that every software program will have a built-in screen reader.<sup>6</sup>

The Access Board notes, however, that specific assistive technology may be required as part of making reasonable adjustments for an employee with disability. Assistive technology may also be necessary to provide access to programs or services for a member of the public who has a disability.

The preamble to the standards note that assistive technology may include:

- screen readers which allow persons who cannot see a visual display to either hear screen content or read the content in Braille
- specialized one-handed keyboards which allow an individual to operate a computer with only one hand
- specialized audio amplifiers that allow persons with limited hearing to receive an enhanced audio signal.<sup>7</sup>

Compatibility with assistive devices may raise software issues or hardware issues (such as whether equipment provides a port of one of the commonly used types to which adaptive equipment can be attached if necessary). In this respect, it is relevant to note evidence given by IBM (on behalf of the Information Technology

Industry Council) to the US Senate Foreign Relations Committee, on United States–European cooperation on standards for accessible procurement:

We believe that making technology accessible to all is a need that is best met by technologies and solutions that are committed to interoperability based on open standards, and have been developed via collaborative processes.<sup>8</sup>

#### **9.2.4 Functional performance criteria**

In addition to specific technical criteria for the relevant technology, the standards provide ‘functional performance criteria’ for information and communications technology.

The US Access Board describes these ‘functional criteria’ as follows:

These criteria are designed to ensure that the individual accessible components work together to create an accessible product. They cover operation, including input and control functions, operation of mechanical mechanisms, and access to visual and audible information. These provisions are structured to allow people with sensory or physical disabilities to locate, identify, and operate input, control and mechanical functions and to access the information provided, including text, static or dynamic images, icons, labels, sounds or incidental operating cues. For example, one provision requires that at least one mode allow operation by people with low vision (visual acuity between 20/70 and 20/200) without relying on audio input since many people with low vision may also have a hearing loss.<sup>9</sup>

Product information must also be available in alternate formats usable by individuals with various disabilities.

#### **9.2.5 Equivalent facilitation**

During consultations on the draft standards, the Information Technology Association of America expressed concern about the specificity of the design specifications. It was their preference to leave industry free to use its own design to meet the required functional performance.<sup>10</sup>

The US Access Board noted that as a matter of government policy, performance standards are generally to be preferred to engineering or design standards because performance standards provide the regulated parties the flexibility to achieve the regulatory objective in a more cost-effective way. However, the Board also thought that the standards needed to be sufficiently descriptive to determine when compliance with section 508 has been achieved.<sup>11</sup>

It appears that the result of this balancing exercise was to include an ‘equivalent provision’ clause which states that:

Nothing in this part is intended to prevent the use of designs or technologies as alternatives to those prescribed in this part provided they

result in substantially equivalent or greater access to and use of a product for people with disabilities.<sup>12</sup>

## 9.2.6 Undue burden

As already noted, compliance with the standards is not required where this would impose an undue burden on the Federal department or agency.

‘Undue burden’ is defined in the standards as follows:

Undue burden means significant difficulty or expense. In determining whether an action would result in an undue burden, an agency shall consider all agency resources available to the program or component for which the product is being developed, procured, maintained, or used.<sup>13</sup>

In discussing the interpretation of ‘undue burden’, the preamble to the standards notes an important difference between the purpose of the *American with Disabilities Act (ADA)* – which has an ‘undue hardship’ exception – and the purpose of the *Rehabilitation Act*:

... since title I of the ADA addresses employment and the individual accommodation of employees, not all of the factors are directly applicable to section 508 [of the Rehabilitation Act] except for the financial resources of the covered facility or entity which is necessary to a determination of ‘significant difficulty or expense.’ Unlike title I [of the ADA], section 508 requires that agencies must procure accessible electronic and information technology regardless of whether they have employees with disabilities. Requiring agencies to purchase accessible products at the outset eliminates the need for expensive retrofitting of an existing product when requested by an employee or member of the public as a reasonable accommodation at a later time.<sup>14</sup>

On this basis, the interpretation of ‘undue burden’ under section 508 would be stricter than ‘undue hardship’ under the *American with Disabilities Act*.

If the reason for an ‘undue burden’ is that there is no available product that meets all the standards in relation to a particular requirement, an agency must procure the product that best meets the standards.<sup>15</sup>

However, compliance does not require a fundamental alteration in the nature of a product or service or its components. The preamble document comments that ‘fundamental alteration’ means:

...a change in the fundamental characteristic or purpose of the product or service, not merely a cosmetic or aesthetic change. For example, an agency intends to procure pocket-sized pagers for field agents for a law enforcement agency. Adding a large display to a small pager may fundamentally alter the device by significantly changing its size to such an extent that it no longer meets the purpose for which it was intended, that is to provide a communication device which fits in a shirt or jacket pocket. For some of these agents, portability of electronic equipment is a paramount concern.<sup>16</sup>

## 9.2.7 US industry response to mandatory procurement

Relevant industry sectors in the United States do not appear to be opposed to the mandatory accessible procurement policy. For example, the US Telecommunications Industry and Association and the Electronic Industries Foundation have advised that:

- accessible design can be implemented with only minor changes to a design or manufacturing process
- improving accessibility does not necessarily increase development time and cost
- the cost of accessible design is minor compared to the benefits gained.<sup>17</sup>

Further, the IBM/Information Technology Industry Council evidence to the US Senate Foreign Relations Committee regarding the European adoption of section 508 states:

We believe that Section 508 is a comprehensive and meaningful framework to support the industry's work in this area. We ... and our industry colleagues ... applaud the U.S. Government's foresight in this issue.<sup>18</sup>

## 9.3 What is the procurement policy in Canada?

### 9.3.1 Procurement legislation in Canada

Canada does not have specific federal legislation requiring accessible procurement, although discrimination on grounds of disability is prohibited both by the *Canadian Charter of Rights and Freedoms*<sup>19</sup> and by the *Human Rights Act 1985*.<sup>20</sup>

However, one Province, Ontario, has legislated more specifically on accessible procurement. Article 5 of the *Ontarians with Disabilities Act 2001* states:

In deciding to purchase goods or services through the procurement process for the use of itself, its employees or the public, the Government of Ontario shall have regard to the accessibility for persons with disabilities to the goods or services.<sup>21</sup>

The requirement to 'have regard to' accessibility is significantly weaker than the United States requirement for accessible procurement.

### 9.3.2 The Accessible Procurement Toolkit

In 2000, the Assistive Devices Industry Office, within Industry Canada, launched an 'Accessible Procurement Toolkit'. The Toolkit was intended to assist in achieving accessible procurement, in particular by Canadian Government agencies.<sup>22</sup>

The Toolkit covers:

- documentation, instructions and technical support
- hardware
- media and content

- office furniture
- software
- telecommunication products
- training
- web sites/web applications.

This Canadian Toolkit uses the United States standards under section 508 of the *Rehabilitation Act 1973 (US)* and section 255 of the *Telecommunications Act (US)* as its reference points for accessibility of information and communications technologies.

Industry Canada explains why it uses US standards, amongst others, in its Accessible Procurement Toolkit:

In this toolkit, a variety of standards, policies and best practices are referenced. The primary reason for the existence of this toolkit is to provide purchasing officers with those standards, policies or best practices that are in the public domain: to ensure the acquisition of the most accessible goods or services possible. This is why the US Section 508 standards and other best practices have been included. In the absence of national Canadian standards for accessibility related to many types of products, the only alternative might be to use the US Section 508 standards.<sup>23</sup>

The approach of adopting United States standards rather than developing distinctive national standards may present an interesting precedent to consider in developing an Australian government policy on accessible procurement.

### 9.3.3 Task Force on Accessibility

In 1998, the Canadian Treasury Board Secretariat asked the National Research Council to lead an Interdepartmental Task Force on the Integration of Persons with Disabilities through Information and Communications Technologies ('the Task Force'). The Task Force was asked to consider:

- how information and communications technologies could be made more accessible for people with disabilities in the federal workplace and
- how such technologies might be better used to accommodate employees with disabilities.<sup>24</sup>

In its 2002 final report – *Access for All Through Technology: Toward an Accessible and Inclusive Information Technology Environment* – the Task Force noted the need for legal accountability for accessible procurement practices:

Although various laws and guidelines exist to address these barriers and numerous excellent programs are taking place across the federal public service, problems persist because of inadequate information sharing and inadequate accountability mechanisms. Making workplace technology accessible to persons with disabilities is sometimes perceived as a human resources function and sometimes as a technical support function. As a result, it tends to fall through the cracks.<sup>25</sup>

The Task Force went on to state its view that ‘[s]uch an approach must be sanctioned from the top’:

The Government of Canada would have to adopt a policy that all existing and prospective federal government information management systems, all database and Web content, and all information technology (hardware and software) will be accessible to all employees with disabilities. All existing and prospective information management systems and information technologies used by the federal government would have to conform to explicit accessibility criteria, such as performance criteria or specific technical requirements as appropriate.<sup>26</sup>

Clearly, the Task Force did not regard the Accessible Procurement Toolkit to be sufficient, in the absence of a clear policy direction on implementation:

Applying approved criteria to existing technology environments will identify many barriers. Once identified, these barriers can be removed over time. In some cases, problems may be fixed with simple changes to work practices or organization. In other cases, entire systems may need to be replaced, but the costs of such retrofits are likely to be recouped over time, since they will greatly reduce the need to accommodate employees at their individual workstations.<sup>27</sup>

The Task Force made three recommendations for the future of Canada’s accessibility policy.

First, it recommended that all Government of Canada employers (Treasury Board, agencies, Crown corporations etc) adopt a policy to apply an ‘access and inclusion lens’ to the design, retrofit and procurement of all information management and information technology infrastructure, including, but not limited to, information networks, websites, hardware and software.

Second, the Task Force recommended that the Government of Canada develop government-wide standards for accessible information management systems and information technologies, and that federal institutions be required to meet these standards when they develop, procure or retrofit such systems. It noted that:

Industry Canada’s Accessible Procurement Toolkit could form the basis of a uniform federal government policy on the procurement of accessible technologies...

Having a government-wide procurement toolkit will accomplish several goals. Procurement officers and managers will have one source to find required terms and conditions. Time and effort will be saved in achieving an accessible workplace. Costs of accommodation will be reduced because manufacturers will have a common set of requirements to meet and will have to do fewer one-off deliveries.<sup>28</sup>

Third, the Task Force recommended that the Government of Canada adopt a policy of accessible procurement and implement it by formally adopting and adequately resourcing Industry Canada’s Accessible Procurement Toolkit as the Government’s official procurement tool.

As at November 2005, it appears that these recommendations still await implementation.

## 9.4 What is the procurement policy in Europe?

European standards on accessible procurement are not yet in place. However, considerable work is now occurring in Europe in this area. This may lead to the adoption of standards and certification procedures with which suppliers, including Australian industry, would need to comply in order to sell to European governments.

The European Standards Organisation (analogous to Standards Australia) promotes general equal employment opportunity measures and voluntary development of technical standards.

The European Commission adopted a Communication on E-Accessibility on 13 September 2005, which noted that:

European policies and legislation have recognised employment and occupation as key elements in guaranteeing equal opportunities for all, contributing strongly to the full participation of citizens in economic, cultural and social life and to realising their potential. The potential impact on this from a wider availability of quality accessible ICT products and services is clear. It will foster greater employability, better social inclusion and give people the ability to live independently for longer.<sup>29</sup>

The Communication refers to a range of current challenges requiring cooperative action:

- lack of harmonised solutions, eg lack of access to the emergency number from text phones in many Member States
- lack of interoperable solutions for accessible ICT [Information and Communication Technology]
- software not compatible with assistive devices, screen readers for blind users are often impossible to use after releases of new operating systems
- interference between mainstream products and assistive devices, eg GSM telephones and hearing aids
- lack of European-wide standards, eg the seven different, incompatible text phone systems for deaf and hard-of-hearing persons
- lack of adequate services, eg many websites too complicated for cognitively impaired or inexperienced users or impossible to read and navigate through for visually impaired persons
- lack of products and services for certain groups, eg telephone communication for sign language users
- physical design difficult to use, eg keypads and displays on many devices
- lack of accessible content
- restricted choice of electronic communication services, quality and price.<sup>30</sup>



The European Commission has also indicated that it intends to pursue accessibility requirements in public procurement. It is also considering accessibility certification. For example, current European Public Procurement Directives mention the 'possibility' of including accessibility requirements in specifications for tenders. The Commission noted that some European States already had accessibility requirements and argued that there was a need for consistency to avoid market fragmentation and to foster interoperability.<sup>31</sup>

It is expected that by the end of 2005 there will be a mandate to the European standardisation organisations to develop common public procurement accessibility requirements.

The European Commission also announced that, commencing in the last quarter of 2005, it would study possibilities for the development, introduction and implementation of certification schemes for accessible products and services, including whether certification should be by self-declaration or third-party certification.<sup>32</sup>

## **9.5 Comments in the Second Round Submissions to the Inquiry**

The Second Round Submissions provided varying views on the best way to proceed on procurement policies.

Blind Citizens Australia supported the Inquiry's interim recommendation:

BCA supports this recommendation and emphasises the importance of this issue given the number of blind people who are denied jobs or whose jobs are put in jeopardy by the use of inaccessible technologies.<sup>33</sup>

Australians for Disability and Diversity Employment also supported the introduction of procurement policies and suggested that:

Suppliers of services such as Disability Agencies should have conditions on their funding that they adopt pro-active employment policies and practices for PWD.<sup>34</sup>

However the Australian Industry Group raised the following concerns:

Ai Group does not support the adoption of a mandatory procurement policy for government agencies. Particular consideration should be given to the costs involved, and the potential adverse impact on Australian businesses should this measure to be adopted. Before considering a mandatory procurement policy, non-mandatory approaches that enable the Government to show leadership in this area should be considered.<sup>35</sup>

## **9.6 Issues to consider in developing a procurement policy for Australia**

Discussion about government procurement policies appears to be far more advanced in the United States, Canada and Europe than it is in Australia. The United States has a highly developed mandatory government procurement policy and it seems Canada and Europe are heading in the same direction.

The development of these international models provides a strong point of departure for a similar dialogue in Australia. In particular, the model in the United States provides a high bar from which to start the conversation.

In the Inquiry's view a useful way to start this discussion is to commence a Regulation Impact Statement (RIS) process which examines the option of the Commonwealth adopting a procurement policy similar to section 508 of the United States *Rehabilitation Act 1973*.

In investigating this option, it will be important to consider how best to achieve the objective of ensuring accessible facilities as a means to removing unnecessary barriers to participation and contribution by Australians with disability.

However, other issues to consider through this process include the costs, impacts on business, and alternatives to mandatory approaches. More specifically, issues which may be appropriate to consider in this process include:

- to what extent, and in what instances, accessible procurement may involve additional up front costs (as compared to procurement without regard to accessibility requirements)
- to what extent up front costs of accessible procurement may be greater than the costs of retrofitting in the event of a specific need, taking into account:
  - indirect costs in modifying or replacing inaccessible facilities after the event (including lost productivity while awaiting modifications)
  - possible financial and other costs of discrimination through failure to provide an accessible workplace
- whether particular types of accessible equipment, or features of equipment, should only be mandated in the event of individual reasonable adjustment (due to high cost and/or low incidence of need)
- whether compatibility of systems and equipment with assistive devices for people with disability may assist in achieving interoperability of various systems and equipment from different suppliers or time periods (with consequent gains in productivity and/or reductions in costs)
- whether non-mandatory approaches are as effective as mandatory approaches in ensuring accessible procurement by government agencies
- if non-mandatory approaches are thought to be as effective as mandatory approaches, whether there is any reason to expect the costs and business impacts of a non-mandatory approach to be lower

- if non-mandatory approaches are thought to be less effective, whether such an approach is acceptable in light of:
  - the government’s commitment to increasing employment of people with disability
  - the government’s obligations, as an employer, to avoid unlawful discrimination under the *Disability Discrimination Act 1992* (Cth)
- whether the potential business impact of an Australian supplier’s inability to satisfy government accessibility requirements should be approached any differently to an inability to satisfy other government procurement requirements (for example, goods satisfying occupational health and safety requirements)
- various approaches to the design of accessible procurement requirements which could be adopted to minimise adverse cost and business impacts, including:
  - performance based versus prescriptive approaches
  - access to appropriate supporting information for suppliers and officers responsible for procurement decisions
  - alignment of requirements by Australian government with requirements and practice in other countries (rather than development of new and distinct requirements)
- whether a certification procedure might accompany a procurement policy.

## **9.7 Recommendation regarding a procurement policy in Australia**

The research conducted by the Inquiry suggests that it is now appropriate to examine the viability of a mandatory government procurement policy similar to that used in the United States. The Inquiry has amended its Interim Recommendation 24 to reflect that research.

### ***Recommendation 24: Government procurement policy***

*The Inquiry recommends that the Commonwealth government commence a Regulation Impact Statement process which examines the option of adopting a government accessible procurement policy similar to section 508 of the Rehabilitation Act 1973 in the United States.*

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## Chapter 9: Endnotes

- 1 See *WORKability I: Barriers*, Chapter 7, section 7.6.2.
- 2 See *WORKability I: Barriers*, Chapter 7, section 7.6.2.
- 3 *Rehabilitation Act 1973 (US)*, 29 USC 794d. For a copy of the legislation, standards and commentary see: <http://www.section508.gov/>
- 4 The standards are available at multiple locations including: [www.access-board.gov/sec508/standards.htm](http://www.access-board.gov/sec508/standards.htm) and [www.section508.gov/](http://www.section508.gov/)
- 5 US Access Board, *Electronic and Information Technology Standards: An Overview*. Available at: <http://www.access-board.gov/sec508/summary.htm>
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# Chapter 10



## Developing a one-stop-information-shop and improving the Workplace Modifications Scheme

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## 10.1 Introduction

As discussed in Chapter 2 of this report, *WORKability I: Barriers* highlighted two specific areas for ongoing consultation with the Department of Employment and Workplace Relations, namely:

- developing a one-stop-information-shop
- improving the Workplace Modifications Scheme.

The Inquiry met with Department of Employment and Workplace Relations staff on 5 October 2005 regarding these two issues and continues to follow their progress.

This chapter reiterates the Interim Recommendations in this area and discusses the progress made since the publication of *WORKability I: Barriers*.

## 10.2 One-stop-information-shop

As noted in Chapter 3 of this report, *WORKability I: Barriers* recommended the creation of a comprehensive one-stop-information-shop for all parties involved in the employment of people with disability:

### ***Interim Recommendation 1: One-stop-information-shop***

*The Inquiry recommends that:*

- (a) DEWR conduct multi-sector consultations on the ideal content, scope, format and cost of a one-stop-information-shop; and*
- (b) DEWR facilitate the launch of a site-in-progress, accompanied by an individualised inquiry service in early 2006.*

In particular, the Inquiry noted the need for a clear map of government services available to actual or potential employees with disability and their employers:

### ***Interim Recommendation 2: Map government services***

*The Inquiry recommends ongoing Commonwealth, State and Territory interagency consultations with a view to developing up-to-date information regarding:*

- (a) the programs available to employers and people with disability;*
- (b) the relationships between various government agencies and programs;*  
*and*
- (c) the outcomes of those programs.*

*The Inquiry recommends that this information be part of the one-stop-information-shop (see Interim Recommendation 1).*



## 10.2.1 First and Second Round Submissions regarding the one-stop-information-shop

(a) Information to be included in a one-stop-information-shop

*WORKability I: Barriers* discussed the importance of ensuring that a one-stop-information-shop caters to the needs of the following groups of people:

- large, medium and small employers considering the employment of people with disability
- large, medium and small employers already hiring people with disability
- work colleagues of people with disability
- people with disability who are considering entry into the open workplace
- people with disability who already participate in the open workplace
- employment service providers
- private recruitment agencies
- carers of people with disability
- government and non-government support services
- community groups.<sup>1</sup>

While the one-stop-information-shop should seek to address the needs of all these groups, it is clear that priority should be given to the needs of people with disability and employers.

The First Round Submissions and consultations suggested that *employers* would be interested in at least the following topics:

- the business case for hiring people with disability for large, medium and small businesses
- potential costs incurred by a business when hiring people with different disabilities
- government assistance available to employers with employees with disability (for example, the Workplace Modifications Scheme, Wage Support Subsidy, Supported Wage Scheme, Disabled New Apprentice Wage Support)
- lists of government-funded employment services that can help in the recruitment of employees
- lists of private recruitment agencies that have disability-friendly policies
- clear information on any legal implications of hiring people with disability

- technical assistance regarding workplace accommodations
- training assistance and sample curricula for managers and other staff regarding working with people with disability
- guidelines regarding accessible training for employees with specific disabilities
- guidelines regarding an open and inclusive recruitment and selection process
- guidelines regarding the creation of a flexible workplace
- guidelines on how to access or run mentoring programs for employees with disability
- information about specific disabilities
- information about, and access to, ongoing support services for employees and managers of employees with disability
- best practice workplace policies and case studies
- information and promotion of employer award schemes
- referrals to experts regarding support, training and retraining for people with specific disabilities
- personalised inquiry service (with the option for confidentiality).<sup>2</sup>

Regarding *people with disability*, the First Round Submissions and consultations suggested interest in the following topics:

- the impact of potential wages on overall income for those receiving government support (for example, the interaction between salary, loss of income support and taxation rates)
- transport costs, transport concessions and available subsidies (including the Mobility Allowance)
- equipment costs and available subsidies (including the Workplace Modifications Scheme and other State-based subsidies)
- medical costs and potential loss of medical concessions
- safety-net information in the event of an unsuccessful employment relationship
- education and training options (both prior to, and during, employment), including information about associated costs and government assistance available
- lists of government-funded employment services, including agencies with specialist services in specific disabilities
- lists of private recruitment agencies with disability-friendly policies

- assistance available throughout the job-seeking and employment process
- information about, and access to, ongoing support services for employees with disability
- personal assistance and care services available at home and in the workplace
- guidelines on disclosure of disability to a potential or current employer (especially for those people with mental illness and HIV/AIDS)
- personalised inquiry service (with the option of confidentiality).<sup>3</sup>

Many of the Second Round Submissions endorsed the creation of a one-stop-information-shop.<sup>4</sup> Some made the following additional suggestions regarding the information to be included:

- costs to all parties associated with people with a disability entering the open workplace<sup>5</sup>
- clear explanations of welfare-to-work issues<sup>6</sup>
- details of employment agencies and the services they offer<sup>7</sup>
- training courses and educational opportunities<sup>8</sup>
- specific information on blindness services<sup>9</sup>
- industrial information for potential employers regarding the implications of employing a person with a disability<sup>10</sup>
- Australian-specific data about the true costs to employers when making any necessary changes to the workplace<sup>11</sup>
- information about any financial or legal risks faced by employers.<sup>12</sup>

The Association of Competitive Employment emphasises the importance of ‘service mapping’ suggested in Interim Recommendation 2 given that ‘the national employment services system is currently undergoing times of great change and transition.’<sup>13</sup> The Melbourne City Disability Advisory Committee suggests that ‘attention be paid to ‘duplication’ of service(s) with many employment networks providing similar services to identical client groups.’<sup>14</sup>

Centacare notes that the information in a one-stop-information-shop must be kept current and relevant to all parties.<sup>15</sup>

*(b) Accessibility of a one-stop-information-shop*

*WORKability I: Barriers* noted that the one-stop shop must be accessible – both in the sense that people with disability must be able to read and understand the information, and in the sense that it must be simple, cheap and comprehensive.

This issue is also discussed in the Second Round Submissions. For example, Centacare notes the importance of accessibility to ‘people with a range of disabilities including hearing, vision, intellectual and physical’. It suggests that written material should be available in paper as well as electronically.<sup>16</sup>

The Australian National Organisation for the Unemployed also suggests that there be a CD-ROM/DVD version of the one-stop-information-shop for those who cannot access the internet, and hard copies for those who cannot access a computer at all.<sup>17</sup>

Blind Citizens Australia suggests that:

All information available at the ‘one-stop-shop’, electronic or otherwise, must be made available in accessible formats including braille, audio, large print and plain text html files. We emphasise that the option of plain text files must be provided, where information is presented in PDF format, to ensure that blind people who use screen readers have access to this information.<sup>18</sup>

Vision Australia also comments on accessibility for the visually impaired and goes on to suggest that:

...the one stop shop be easy to use without copious amounts of information. This will ensure that people with a disability(ies), and employers can use the site without getting disorientated.<sup>19</sup>

The National Ethnic Disability Alliance notes that information should be available in languages other than English.<sup>20</sup>

### *(c) Importance of a personalised inquiry service*

The Second Round Submissions reinforced the view that access to an expert personal inquiry service is crucial to the success of an information service.

Centacare suggests face-to-face and phone contact:

Whilst a web-based site would form an important part of an information solution, opportunity for face-to-face and telephone contact (such as a 1800 number) should also be provided for.<sup>21</sup>

The Melbourne City Council Disability Advisory Committee highlighted that a 1800 number must be staffed by adequate numbers of personnel who have appropriate training in supporting clients with mental health issues.<sup>22</sup>

### *(d) Promotion of a one-stop-information-shop*

*WORKability I: Barriers* emphasised that there is little use in an information service that nobody knows about. The one-stop-information-shop should therefore be actively promoted amongst the community sector, employment services, recruiting agencies and the business sector. One way to promote the service is to employ staff to visit workplaces with employees with disability and explain what information, advice and support is available to employers and employees.

## **10.2.2 Consultations with DEWR on the development of a one-stop-information-shop**

On 5 October 2005 the Inquiry met with staff from the Department of Employment and Workplace Relations to discuss the government's intentions regarding the development of a one-stop-information-shop. At that meeting, the Department of Employment and Workplace Relations indicated that it was committed to developing a website and inquiry service and it was aiming to launch a site-in-progress by 1 July 2006.

As at 5 October 2005, the Department of Employment and Workplace Relations had completed an initial scoping exercise and was about to embark on community consultations.

The Department of Employment and Workplace Relations provided the following report to the Inquiry on 14 November 2005.

### **Background**

The 2005-06 Budget announced \$50 million over four years for the employer demand strategy. This included:

- an initiative to see the development of a website and advice service to further assist employers with the employment and retention of people with disabilities
- an additional \$25 million over four years for the Workplace Modifications Scheme (WMS) to remove current barriers preventing employment of workers with disabilities. The additional funding will see increased demand for the Scheme and the website offers the opportunity to electronically streamline the administrative application and approval process.

### **Purpose of the website**

The website will act as a one-stop-information-shop targeted toward potential and actual employers of people with disabilities, job seekers and workers with disabilities, and employment service providers.

It will have the following components:

- a comprehensive source of information about disability-related employment issues, programs and services including information on workplace modifications and adjustments via a searchable online database, based on the United States Job Accommodation Network model
- an expert individualised enquiry service available by telephone or electronically to provide advice, generate referrals to experts as required (including qualified worksite assessors) and facilitate the application and worksite assessment process under the Workplace Modifications Scheme (WMS)
- secure online lodgement and approval of WMS applications and claims

## Consultation

The department has recently completed targeted consultations in Melbourne, Brisbane and Armidale. The purpose of the consultations was to discuss and prioritise the information on, and features of, the online information and advice service. Results of the consultation will be available on the Internet by the end of November 2005.

The information gathered during the consultations will be added to the research already completed by HREOC (through the *Interim Report on the National Inquiry into Employment and Disability*) and DEWR (through the *Griffith University Scoping Proposal* and market testing of JobAble.). This will feed into the design and build of the website and advice service.

The department is also seeking input from the Mental Health Council of Australia, the Disability Advisory Group, other government departments including state government and various specialist providers (such as Vision Australia).

There will be an opportunity for ongoing feedback about the site both on the site itself and through user testing and focus group testing prior to its release. Future releases of the website and advice service may lead to further targeted consultation.

...

## Future releases

Following an initial release in July 2006, the website and advice service will be progressively expanded to include additional features and functionality. Growth of the online information and advice service will be based on feedback from users and through user testing.

## 10.3 Improvements to the Workplace Modifications Scheme

As noted in Chapter 3, *WORKability I: Barriers* recommended improvements to the Commonwealth government's Workplace Modifications Scheme (WMS):

### **Interim Recommendation 11: Improve the Workplace Modifications Scheme**

*The Inquiry recommends that any revised WMS include the following features:*

- (a) eligibility regarding any employee with disability, whether or not the person is referred by a government-funded employment service or working on a full-time, part-time or casual basis;*
- (b) expansion of the types of modifications covered by the scheme;*
- (c) portability of WMS-funded equipment;*
- (d) increased amounts available for modifications;*
- (e) simplified application process; and*
- (f) promotion of the scheme.*

### 10.3.1 First and Second Round Submissions regarding the Workplace Modifications Scheme

The Federal government's Workplace Modifications Scheme is intended to offset the cost of making workplace modifications and provide an incentive to employers to hire people with disability. However, *WORKability I: Barriers* indicates that the Workplace Modifications Scheme has had little practical impact on employment decisions.

One reason for this is that many employers do not know that the scheme exists. Therefore promotion of, and clear information about, the availability of the scheme, the extent of assistance and the method of accessing that assistance, will go some way to improving its impact.<sup>23</sup>

However, the First Round Submissions also suggested a number of other changes in order to increase the incentive value of the scheme. In summary, the suggestions were as follows:

- increase the amount available under the scheme
- provide access to all employers, not just those who employ someone through a Disability Open Employment Service
- provide access to people with disability who are self-employed
- broaden the range of modifications that the scheme will fund (for example include Auslan interpreter costs)
- permit employees with disability to take any WMS funded equipment with them to a new job
- simplify the administration of the scheme
- look at international models for guidance on how to improve support for workplace modifications.<sup>24</sup>

Further suggestions in the Second Round Submissions include:

- funding for ramps and providing parking for people with disability<sup>25</sup>
- funding for non-physical modifications eg training of supervisors, changes in procedures<sup>26</sup>
- funding for specialist equipment (including upgrades, repairs and modifications) for work experience and job searches as well as applications<sup>27</sup>
- ensuring eligibility for people with disability who are establishing or conducting a home-based business<sup>28</sup>
- ensuring eligibility for those who are self-employed or who engage in consultancy or contract work<sup>29</sup>
- ensuring eligibility irrespective of contact with government-funded employment services.<sup>30</sup>

The Second Round Submissions generally reiterated the need to improve the effectiveness of the Workplace Modifications Scheme. For example, Vision Australia described some of the difficulties of the current scheme as follows:

The Workplace Modifications Scheme at present does not allow for a client to access the funding until they have completed the following:

- Secured a job
- Have an agency conduct a worksite assessment
- Submit an application to the Workplace Modifications unit
- Have the funding approved
- Purchase the equipment
- Have the equipment installed
- Finally receive training on how to use the equipment.

Far too often employees who are blind or vision impaired have been in the job for at least 4 weeks prior to receiving any adaptive equipment. This means there is a period of at least 4 weeks where the employee has not been as productive as they otherwise could have been.

The Workplace Modification Scheme is an excellent resource. However, it does not always address the access barriers faced by people who are blind or vision impaired when, for example, IT systems and software programs are not compatible with adaptive technology.<sup>31</sup>

The Australian Federation of Deaf Societies recommended a review of the general features of the scheme.<sup>32</sup> The Australian Industry Group also endorsed the need to generally expand eligibility, increase the amounts available under the scheme, simplify the application process and promote the scheme.<sup>33</sup>

However the Australian Industry Group expressed some reservation about the proposal to provide portability of equipment funded by the Workplace Modifications Scheme:

Whilst there should not be any prohibition on employees transferring equipment, this should not be a general, unqualified right. The different nature and degrees of disability an employee may have, and the subsequent variety in workplace modifications, means that not all workplace equipment will be suitable to be transferred with the employee when they leave the company. Consideration should be given to the fact that this program is meant to remove barriers and encourage employers to hire more people with a disability, and the mandatory portability of all WMS-funded equipment is not conducive to such aims.<sup>34</sup>

The Australian National Organisation of the Unemployed suggested that the Workplace Modifications Scheme be structured around tax deductions rather than subsidies.<sup>35</sup>



### **10.3.2 Consultations with DEWR regarding improvements to the Workplace Modifications Scheme**

During its meeting with the Inquiry on 5 October 2005, the Department of Employment and Workplace Relations indicated that it was in the process of designing improvements to the Workplace Modifications Scheme. This redesign appears to be occurring in tandem with the development of the one-stop-information-shop.

On 14 November 2005, the Department of Employment and Workplace Relations indicated that the following changes were being considered:

- having only one application form (currently three)
- broadening access to enable more people with disabilities to apply
- greater flexibility in the assistance that will be funded
- removing the funding cap (currently \$5000)
- worksite assessments only required for claims over \$10 000
- no quotations required for items under \$2500 and only one quote for items over \$2500
- a list of suitably qualified worksite assessors available through the website and advice service.

### **10.4 Issues for further discussion**

The Inquiry commends the Department of Employment and Workplace Relations for its commitment to launching a one-stop-information-shop by July 2006. The Inquiry understands that the service is a work-in-progress and therefore limits its comments to features that it considers fundamental to its launch, namely:

- a 1800-number and email based personalised inquiry service staffed by an appropriate number of qualified personnel
- ongoing active promotion of the information service to all sectors of the community
- responsiveness to the ongoing information needs expressed by people with disability, employment services, employers and the community more generally.

Regarding the Workplace Modifications Scheme, it appears that the Department of Employment and Workplace Relations is taking positive steps to improving the access and benefits of the scheme. However, it is difficult to determine the extent of those changes at this stage. In any event, it will be important to widely promote the scheme and respond to any ongoing concerns about its operation in order to improve its incentive value.

## 10.5 Recommendations

The Inquiry has amended Interim Recommendation 1 in light of the steps that the Department of Employment and Workplace Relations has already taken to develop a one-stop-information-shop:

### ***Recommendation 1: One-stop-information-shop***

*The Inquiry recommends that the Department of Employment and Workplace Relations ensure that:*

- (a) a one-stop-information-shop is launched by 1 July 2006;*
- (b) the one-stop-information-shop is accessible to people with disability – this will require consideration of publication in a variety of formats;*
- (c) the one-stop-information-shop includes, on launch, a 1800 number, TTY and email service that can respond to individual queries promptly;*
- (d) the one-stop-information-shop 1800 number, TTY and email service is staffed by an adequate number of appropriately trained personnel;*
- (e) the one-stop-information shop publishes its strategy to maintain, update and develop the service and invites users to make suggestions;*
- (f) there are ongoing consultations with users, employers, employment services, community groups and people with disability regarding the development of the information site and advice service; and*
- (g) there is wide promotion of the one-stop-information-shop to employers, employment services, relevant government agencies, community groups and people with disability.*

The Inquiry has made no changes to Interim Recommendation 2:

### ***Recommendation 2: Map government services***

*The Inquiry recommends ongoing Commonwealth, State and Territory interagency consultations with a view to developing up-to-date information regarding:*

- (a) the government programs available to employers and people with disability;*
- (b) the relationships between various government agencies and programs; and*
- (c) the outcomes of those programs.*

*The Inquiry recommends that this information be incorporated into the one-stop-information-shop (see Recommendation 1).*

As it is still unclear what changes the Department of Employment and Workplace Relations will make to the Workplace Modification Scheme, the Inquiry has kept most of elements of Interim Recommendation 11 and added some of the suggestions that were made in the Second Round Submissions:

### **Recommendation 11: Workplace Modifications Scheme**

*The Inquiry recommends that the Department of Employment and Workplace Relations ensure that its revision of the Workplace Modifications Scheme include the following features:*

- (a) eligibility for any employee with disability, whether or not the person is referred by a government-funded employment service or working on a full-time, part-time or casual basis;*
- (b) eligibility for people with disability who are working from home, self-employed or who engage in consultancy or contract work;*
- (c) expansion of the types of modifications covered by the scheme;*
- (d) increased funding for modifications;*
- (e) facility to take certain equipment funded by the Workplace Modifications Scheme to a new workplace;*
- (f) simplified application process; and*
- (g) wide promotion of the scheme to employers, employment services and people with disability.*

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## **Chapter 10: Endnotes**

- 1 See *WORKability I: Barriers*, Chapter 7, section 7.2.1.
- 2 See *WORKability I: Barriers*, Chapter 2, section 2.4 and Chapter 7, section 7.2.
- 3 See *WORKability I: Barriers*, Chapter 3, section 3.3 and Chapter 7, section 7.2.
- 4 See for example: Submission 139, Australian National Organisation of the Unemployed; Submission 144, Australians for Disability and Diversity Employment; Submission 155, Australian Federation of Deaf Societies; Submission 156, Association of Competitive Employment.
- 5 Submission 146, Centacare.
- 6 Submission 139, Australian National Organisation of the Unemployed.
- 7 Submission 139, Australian National Organisation of the Unemployed; Submission 156, Association of Competitive Employment.
- 8 Submission 139, Australian National Organisation of the Unemployed.
- 9 Submission 141, Blind Citizens Australia; Submission 147, Vision Australia.
- 10 Submission 146, Centacare.
- 11 Submission 146, Centacare.
- 12 Submission 146, Centacare.
- 13 Submission 156, Association of Competitive Employment.
- 14 Submission 160, Melbourne Disability Advisory Committee.
- 15 Submission 146, Centacare.
- 16 Submission 146, Centacare.
- 17 Submission 139, Australian National Organisation of the Unemployed. See also: Submission 140, Name Withheld.
- 18 Submission 141, Blind Citizens Australia. See also: Submission 147, Vision Australia.
- 19 Submission 147, Vision Australia.
- 20 Submission 152, National Ethnic Disability Alliance.
- 21 Submission 146, Centacare.
- 22 Submission 160, Melbourne Disability Advisory Committee.
- 23 See *WORKability I: Barriers*, Chapter 2, sections 2.4.3-2.4.4 and 2.5.2.
- 24 See *WORKability I: Barriers*, Chapter 2, section 2.5.2; Chapter 7, section 7.3.7.
- 25 Submission 146, Centacare.
- 26 Submission 137, L Bewley.
- 27 Submission 141, Blind Citizens Australia; Submission 147, Vision Australia.
- 28 Submission 144, Australians for Disability and Diversity Employment.
- 29 Submission 160, City of Melbourne Disability Advisory Committee.

- 30 Submission 146, Centacare.
- 31 Submission 147, Vision Australia.
- 32 Submission 155, Australian Federation of Deaf Societies.
- 33 Submission 143, Australian Industry Group.
- 34 Submission 143, Australian Industry Group.
- 35 Submission 139, Australian National Organisation of the Unemployed.



# Chapter 11



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## Developing a strategy to increase participation and employment of people with disability in Australia

The Inquiry has developed thirty recommendations which seek to improve participation by, and employment opportunities for, people with disability in the open workplace.

In developing these recommendations the Inquiry has taken into account the views and ideas expressed in working groups, consultations and more than 160 written submissions. The written and oral contributions have come from Commonwealth, State and local government, people with disability and their representative groups, carers, employers, employment services and recruiting agencies, amongst others.

The Inquiry's multi-sector consultation process reveals the complexity of developing an effective strategy to increase participation and employment of people with disability in Australia's open workplace.

It also reinforces a very simple point: the only way to truly improve equality of opportunity for people with disability is to develop a strategy that simultaneously addresses the needs of people with disability and the needs of their actual or potential employers.

The Inquiry's interim report – *WORKability I: Barriers* – identified three sets of barriers facing people with disability and their actual or potential employers:

1. *Information* – an absence of easily accessible and comprehensive information and advice that assists in decision making processes and responds to ongoing needs
2. *Cost* – concern about costs of participation for people with disability and possible costs borne by employers when employing a person with disability
3. *Risk* – concern about any possible financial and personal impact on people with disability and their employers (especially if a job does not work out).

These barriers were evident through all stages of the employment process: getting ready for the open workplace,<sup>1</sup> recruitment and selection,<sup>2</sup> and job retention.<sup>3</sup>

Further, the absence of clear *information* appears to have exacerbated the other two barriers, by making it extremely difficult to distinguish between perceived and actual *costs* and *risks*. For example, the risk of workers compensation claims is cited as a major barrier to employers, yet there is no evidence that these claims are any higher for employees with disability. Similarly, the cost of workplace accommodations is often mentioned as a significant concern despite evidence from the United States suggesting that most modifications cost under US\$500.



The primary responsibility for addressing the barriers for people with disability in the open workplace falls on government. It is for this reason that Commonwealth, State and Territory government services and programs are the subject of many of the recommendations discussed below.

To increase participation and employment all levels of government must provide the appropriate supports, services and incentives needed by people with disability and their employers. For example, there is little point in encouraging people with disability to participate in the open workplace if the expenses of participation are higher than the wages earned, or there is inadequate access to the supports required by employers and employees to ensure that the job can be done properly.

There is also no point in urging people with disability to enter the workplace if there are no employers willing to hire them. Governments must provide leadership to the private sector, and the community at large, by improving public sector employment practices.

Governments must also develop clear information strategies which address employer concerns about the costs and risks associated with people with disability as employees in the open workplace.

However the private sector also has a role to play. Business peaks and individual corporations need to help government identify what needs to be done to lower the barriers to employing people with disability. And there needs to be more employers who are willing to pave the way and demonstrate the business case for hiring people with disability.

In addition, public and private recruitment services, public and private employment support services, public and private vocational education and training institutions, community groups representing people with disability and people with disability themselves have a role in bringing about the conditions that ensure equality of opportunity for people with disability.

Twenty nine of the following 30 recommendations strive to address the specific barriers identified in *WORKability I: Barriers*. The final recommendation – Recommendation 30 – reinforces the need to implement those 29 recommendations in a coordinated manner.

Recommendation 30 urges the Commonwealth government to lead a collaborative process to develop a National Disability Employment Strategy. The strategy should focus on *at least* the following issues, as a matter of priority:

- developing a whole of government approach to ensuring appropriate financial and technical support to people with disability, including a streamlined system for providing adequate:
  - income support

- transport, equipment and health care subsidies and concessions
- workplace supports and modifications
- personal care at home and in the workplace
- improving the effectiveness of government-funded employment service delivery to people with disability and their actual or potential employers (including recruitment assistance and access to supports on an as-needed basis)
- improving transition-to-work schemes for people with disability in secondary, vocational education and training institutions and universities
- ensuring better relationships between private sector employers and government-funded information, recruitment and employment support services
- increasing recruitment and retention of people with disability in the public sector (at the Commonwealth, State, Territory and local government levels)
- developing a benchmarking, monitoring and reporting system to ensure accountability and ongoing improvement to the incentives, supports and services available to people with disability and their actual or potential employers.

Implementation of any one of the Inquiry's recommendations will be a positive step towards addressing the barriers facing people with disability and their actual or potential employers. However, they are unlikely to have any substantial impact if implemented in a piecemeal fashion.

All parties in the employment process and all levels of government need to act cooperatively with each other to bring about a streamlined approach to increasing participation and employment rates of people with disability.

To this end, the Inquiry has been greatly encouraged by the cooperation of the Department of Employment and Workplace Relations. In particular, the Inquiry commends the Department of Employment and Workplace Relations for its commitment to launch a one-stop-information-shop by July 2006 and to develop that service in a consultative manner. The Inquiry hopes that this initiative is the first of many new programs designed to improve the services offered to people with disability and their actual or potential employers.

The Inquiry commends the following 30 recommendations to the Commonwealth government, and all other parties involved in the employment process, and urges their prompt implementation.

### **Recommendation 1: One-stop-information-shop<sup>4</sup>**

The Inquiry recommends that the Department of Employment and Workplace Relations ensure that:

- (a) a one-stop-information-shop is launched by 1 July 2006;
- (b) the one-stop-information-shop is accessible to people with disability – this will require consideration of publication in a variety of formats;
- (c) the one-stop-information-shop includes, on launch, a 1800 number, TTY and email service that can respond to individual queries promptly;
- (d) the one-stop-information-shop 1800 number, TTY and email service is staffed by an adequate number of appropriately trained personnel;
- (e) the one-stop-information shop publishes its strategy to maintain, update and develop the service and invites users to make suggestions;
- (f) there are ongoing consultations with users, employers, employment services, community groups and people with disability regarding the development of the information site and advice service; and
- (g) there is wide promotion of the one-stop-information-shop to employers, employment services, relevant government agencies, community groups and people with disability.

### **Recommendation 2: Map government services<sup>5</sup>**

The Inquiry recommends ongoing Commonwealth, State and Territory interagency consultations with a view to developing up-to-date information regarding:

- (a) the government programs available to employers and people with disability;
- (b) the relationships between various government agencies and programs; and
- (c) the outcomes of those programs.

The Inquiry recommends that this information be incorporated into the one-stop-information-shop (see Recommendation 1).

### **Recommendation 3: Research into costs<sup>6</sup>**

The Inquiry recommends that the Productivity Commission research the economic cost of disability to:

- (a) people with different disabilities participating in the open workplace;

- (b) employment services assisting people with different disabilities;  
and
- (c) large, medium and small businesses employing people with  
different disabilities

with a view to making recommendations to increase participation and employment of people with disability.

#### **Recommendation 4: International approaches to providing supports and subsidies<sup>7</sup>**

The Inquiry recommends further research into the following international support and subsidy programs (including collection of any program evaluation reports, cost analyses and changes in participation and employment rates):

- (a) the Job Support, Training Support, Self Start and Mainstream programs in New Zealand; and
- (b) the Opportunities Fund for Persons with Disabilities in Canada

with a view to improving the program of support, assistance and incentives in Australia.

#### **Recommendation 5: Case management<sup>8</sup>**

The Inquiry recommends investigation into making case management available to people with disability throughout the job readiness, recruitment and retention stages of the employment process. The purpose of such case management would be to ensure coordination of all services and supports across all levels of government.

#### **Recommendation 6: Cost of disability allowance<sup>9</sup>**

The Inquiry recommends reconsideration of the *McClure Report's* recommendation regarding simplification of welfare payments and the introduction of a cost of disability allowance which takes into account the varying needs of people with different disabilities.<sup>10</sup>

#### **Recommendation 7: Cost of participation allowance<sup>11</sup>**

The Inquiry recommends reconsideration of the *McClure Report's* recommendation regarding simplification of welfare payments and the introduction of a cost of participation allowance which takes into account the varying needs of people with different disabilities who participate in the workplace.<sup>12</sup>

#### **Recommendation 8: Health concessions<sup>13</sup>**

The Inquiry recommends extending eligibility for health care concessions for people with disability who enter the workforce.

### **Recommendation 9: Mobility Allowance<sup>14</sup>**

The Inquiry recommends that the Commonwealth government increase the Mobility Allowance to allow reimbursement of the cost of transport to and from the workplace.

### **Recommendation 10: Transport concessions<sup>15</sup>**

The Inquiry recommends further investigation into the need to extend eligibility for transport concessions for people with disability. The investigations should include a focus on:

- (a) the cost of transport for people with different disabilities;
- (b) the additional costs that may be incurred because of participation in the open workplace;
- (c) the impact of transport costs on participation in the open workplace; and
- (d) alternate solutions to fund additional travel costs for people with disability in the event that travel concessions are not extended.

### **Recommendation 11: Workplace Modifications Scheme<sup>16</sup>**

The Inquiry recommends that the Department of Employment and Workplace Relations ensure that its revision of the Workplace Modifications Scheme include the following features:

- (a) eligibility for any employee with disability, whether or not the person is referred by a government-funded employment service or working on a full-time, part-time or casual basis;
- (b) eligibility for people with disability who are working from home, self-employed or who engage in consultancy or contract work;
- (c) expansion of the types of modifications covered by the scheme;
- (d) increased funding for modifications;
- (e) facility to take certain equipment funded by the Workplace Modifications Scheme to a new workplace;
- (f) simplified application process; and
- (g) wide promotion of the scheme to employers, employment services and people with disability.

### **Recommendation 12: Employer tax incentives<sup>17</sup>**

The Inquiry recommends research into the structure and effectiveness of international tax incentives to encourage employment of people with disability, with a view to determining the appropriateness of such incentives in Australia.

### **Recommendation 13: Occupational health and safety, industrial relations and disability discrimination laws<sup>18</sup>**

The Inquiry recommends development of the following strategies to address concerns about the potential financial impact of, and legal risks created by, occupational health and safety laws, disability discrimination laws, industrial relations laws, and the interaction between those laws, on employers who hire people with disability:

- (a) government-sponsored personal and workplace assessments (which also recommend risk management strategies);
- (b) a government-sponsored trial program that simultaneously covers insurance premiums and ensures the collection, analysis and dissemination of reliable data about the true impact of those laws on employers;
- (c) engagement of State workers compensation authorities in disseminating information and developing disability employment strategies;
- (d) capacity building for employment service providers; and
- (e) a multifaceted awareness raising campaign through ‘myth buster’ fact sheets, ‘how to’ information sheets and business-to-business promotion.

### **Recommendation 14: Safety net options<sup>19</sup>**

The Inquiry recommends ongoing consultation regarding the proposed ‘Welfare-to-Work’ reforms in the 2005 Budget in order to:

- (a) determine the financial impact of participation in the workplace on people with disability over an extended period of time; and
- (b) explore further ways of reducing the risk of returning to or entering the open workplace for people with disability.

### **Recommendation 15: Work trials<sup>20</sup>**

The Inquiry recommends that the Department of Employment and Workplace Relations develop robust government-supported work trial schemes that benefit employers and people with disability.

The following issues should be addressed in developing such schemes:

- (a) the purpose of the work trial scheme (is it to fill a job vacancy, provide a training opportunity or provide work experience?);
- (b) eligibility for the work trial;
- (c) a mechanism to define the rights, obligations and expectations of all parties before, during and on completion of the work trial;
- (d) length of the work trial;

- (e) payment during the work trial (how much and by whom);
- (f) insurance coverage during the work trial;
- (g) supports provided to employers and people with disability prior to and during the work trial;
- (h) employer obligations at the end of the work trial;
- (i) agencies to run and support work trials; and
- (j) a strategy to encourage participation by employers and people with disability in work trials.

### **Recommendation 16: Transition-to-work schemes<sup>21</sup>**

The Inquiry recommends consideration of the following measures to improve transition-to-work schemes, as a matter of priority:

- (a) ongoing consultation and cooperation between Commonwealth, State and Territory governments to ensure more coordinated work placement support when students with disability are transiting from secondary, tertiary and vocational education and training institutions to the workplace;
- (b) improvements to the Disability New Apprentice Wage Support (DNAWS) scheme, including increased funding;
- (c) provision of appropriate supports for work experience, traineeship and apprenticeship schemes (including the New Apprenticeship Access Program (NAAP) and the School-based New Apprenticeships Program (SNAP));
- (d) availability of a case manager to ensure successful transition and assist with the planning, funding and organisation of any necessary supports and modifications;
- (e) clearer pathways from secondary, tertiary and vocational education and training institutions to government-funded employment service providers; and
- (f) public sector leadership in recruiting people with disability into work experience, traineeship and apprenticeship schemes.

### **Recommendation 17: Government-funded employment support services<sup>22</sup>**

The Inquiry recommends a review of the employment support services offered by the Commonwealth government, with a view to ensuring availability of appropriate support services to any employee with disability and his or her employer.

In conducting the review, the Inquiry recommends consideration of the following issues:

- (a) providing access to support services on an as-needed basis, without time limitations;

- (b) ensuring a holistic assessment process;
- (c) increasing the scope of services available to employees with disability and their employers;
- (d) improving coordination between support service providers to ensure access to the required range of supports; and
- (e) increasing funding for Disability Open Employment Services, Job Network and vocational rehabilitation services to provide the appropriate employment support services.

**Recommendation 18: Non-government and private employment support services<sup>23</sup>**

The Inquiry recommends that the one-stop-information-shop (see Recommendation 1) provide details of private agencies and non-government organisations that offer employment support services to people with disability and their employers.

**Recommendation 19: Flexible workplace<sup>24</sup>**

The Inquiry recommends the creation of an inter-sector coalition focussed on developing guidelines and strategies for promoting workplaces that can respond to the varying needs of different employees. The coalition might include groups representing people with disability, ageing workers, parents and carers as well as unions, employment services, employer peaks and relevant government agencies.

**Recommendation 20: Employment services<sup>25</sup>**

The Inquiry recommends that the Department of Employment and Workplace Relations engage in:

- (a) ongoing consultation with employment service providers, employers and people with disability regarding the delivery of high quality employment services at all stages of the employment process;
- (b) the collection, analysis and publication of qualitative and quantitative data regarding the impact of case based funding on the provision of employment services to people with disability and employers; and
- (c) the collection, analysis and publication of qualitative and quantitative data regarding the impact of capping on Disability Open Employment Service places for those on the Disability Support Pension wishing to enter the workforce.

**Recommendation 21: Mental illness<sup>26</sup>**

The Inquiry recommends that the Commonwealth government facilitate:



- (a) consultation, research and development of measures that address the recruitment and employment support needs of people with mental illness; and
- (b) prompt implementation of those measures through a national mental health employment strategy.

**Recommendation 22: Personal assistance at home and in the workplace**<sup>27</sup>

The Inquiry recommends increased funding, improved coordination and streamlined access to personal assistance at home and in the workplace for people with disability participating in:

- (a) full-time, part-time or casual employment;
- (b) self-employment; and
- (c) apprenticeships, traineeships and work experience programs

with a view to ensuring the personal care necessary to meet employment or study obligations.

**Recommendation 23: Public sector leadership**<sup>28</sup>

The Inquiry recommends that the Commonwealth government develop and introduce a comprehensive national strategy to increase public sector employment of people with disability.

In developing the strategy the Commonwealth should consider the following actions:

- (a) collecting national statistics regarding employment of people with disability at all levels of government;
- (b) analysing the reasons for low recruitment rates in the public sector;
- (c) examining strategies currently employed by Commonwealth, State, Territory and local government agencies to increase the recruitment and retention of people with disability;
- (d) introducing target employment figures and an internal accountability mechanism for failure to meet those targets;
- (e) creating apprenticeship, traineeship and work experience opportunities for people with disability;
- (f) introducing a comprehensive support and capacity building program for employees with disability and their public sector employers;
- (g) creating a separate fund to provide support to government agencies to employ people with disability and cover any additional costs incurred;

- (h) providing specific financial and practical assistance to Departmental heads in order to address any perceived, or real, costs and risks associated with hiring people with disability; and
- (i) examining the appropriateness of the Australian Public Service employment strategy regarding Indigenous employment, for adaptation to people with disability.<sup>29</sup>

#### **Recommendation 24: Government procurement policy<sup>30</sup>**

The Inquiry recommends that the Commonwealth government commence a Regulation Impact Statement process which examines the option of adopting a government accessible procurement policy similar to section 508 of the *Rehabilitation Act 1973* in the United States.

#### **Recommendation 25: Reporting scheme for employers<sup>31</sup>**

The Inquiry recommends that the Commonwealth government coordinate the collection of annual statistics from private sector and public sector employers regarding the employment of people with disability, and ensure their publication.

#### **Recommendation 26: Best practice awards scheme for employers<sup>32</sup>**

The Inquiry recommends introduction of a widely promoted national scheme of employer awards which ensures:

- (a) publication of best practice models regarding recruitment and retention of people with disability;
- (b) a mechanism to actively share best practice amongst the business community; and
- (c) promotion of the benefits of employing people with disability to the business community.

The Inquiry recommends that the awards scheme be administered by the business leadership project (see Recommendation 29).

#### **Recommendation 27: Recruitment agencies<sup>33</sup>**

The Inquiry recommends that the recruitment industry pursue an agenda that:

- (a) establishes a diversity charter;
- (b) establishes a repository of available information on diversity best practice;
- (c) develops guidelines on recruitment practices which ensure equality of opportunity for people with disability;
- (d) influences the make up of selection panels by incorporating diversity into recruitment panels; and

- (e) promotes education of employer clients regarding the employment of people with disability.

The Inquiry further recommends that public and private sector employers use recruitment agencies that have adopted policies and practices designed to encourage hiring of people with disability.

**Recommendation 28: Multi-sector leadership coalition<sup>34</sup>**

The Inquiry recommends that the Department of Employment and Workplace Relations coordinate an ongoing multi-sector leadership coalition, including:

- (a) people with disability and disability peaks;
- (b) employers and employer peaks;
- (c) employment service providers and service peaks; and
- (d) relevant Commonwealth, State and Territory government agencies

with a view to monitoring and developing strategies to improve employment opportunities for people with disability.

**Recommendation 29: Business leadership project<sup>35</sup>**

The Inquiry recommends that the Department of Employment and Workplace Relations, in cooperation with employer organisations, develop a business leadership project.

The project should incorporate the following minimum features:

- (a) a flexible package of funding to provide incentives to businesses to engage in proactive recruitment and retention strategies regarding people with disability; and
- (b) specialised employer support and advice to maximise the success of those strategies.

In designing the business leadership project, the Department of Employment and Workplace Relations should analyse the effectiveness of its *Corporate Leaders for Indigenous Employment Project* and make any relevant improvements.<sup>36</sup>

**Recommendation 30: National Disability Employment Strategy<sup>37</sup>**

The Inquiry recommends that the Commonwealth government lead the development of a National Disability Employment Strategy, in cooperation with the multi-sector coalition (see Recommendation 28), with a view to ensuring increased participation, recruitment and retention of people with disability in Australia.

Without limiting the scope of such a strategy, the Inquiry recommends that the strategy focus on *at least* the following issues as a matter of priority:

- (a) developing a whole-of-government approach to ensuring appropriate financial and practical support to people with disability, including a streamlined system to provide adequate:
  - (i) income support;
  - (ii) transport, equipment and health care subsidies and concessions;
  - (iii) workplace supports and modifications; and
  - (iv) personal care in the home and workplace;
- (b) improving the effectiveness of government-funded employment service delivery to people with disability and employers (including recruitment assistance and access to supports on an as-needed basis);
- (c) improving transition-to-work schemes for people with disability in secondary, tertiary and vocational education and training institutions;
- (d) ensuring better relationships between private sector employers and government-funded information, recruitment and employment support services;
- (e) increasing recruitment and retention of people with disability in the public sector (at the Commonwealth, State, Territory and local government levels); and
- (f) developing a benchmarking, monitoring and reporting system to ensure accountability and ongoing improvement to the incentives, supports and services available to people with disability and employers.

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## Chapter 11: Endnotes

- 1 See Chapter 4 of *WORKability I: Barriers*.
- 2 See Chapter 5 of *WORKability I: Barriers*.
- 3 See Chapter 6 of *WORKability I: Barriers*.
- 4 See further Chapter 10, section 10.2.
- 5 See further Chapter 10, section 10.2.
- 6 See further Chapter 3, section 3.3.3(b).
- 7 See further Chapter 8.
- 8 See further Chapter 3, section 3.3.3(d).
- 9 See further Chapter 3, section 3.3.3(e).
- 10 McClure, P, (Chair), *Participation Support for a more equitable society: Final report of the reference group on welfare reform*, Department of Family and Community Services, Canberra, July 2000 (the *McClure Report*).
- 11 See further Chapter 3, section 3.3.3(e).
- 12 McClure, P, (Chair), *Participation Support for a more equitable society: Final report of the reference group on welfare reform*, Department of Family and Community Services, Canberra, July 2000 (the *McClure Report*).
- 13 See further Chapter 3, section 3.3.3(f).
- 14 See further Chapter 3, section 3.3.3(f).
- 15 See further Chapter 3, section 3.3.3(f).
- 16 See further Chapter 10, section 10.3.

- 17 See further Chapter 3, section 3.3.3(h).
- 18 See further Chapter 5.
- 19 See further Chapter 3, section 3.3.3(j).
- 20 See further Chapter 4.
- 21 See further Chapter 3, section 3.3.3(l).
- 22 See further Chapters 7 and 8.
- 23 See further Chapters 7 and 10.
- 24 See further Chapter 6.
- 25 See further Chapter 3, section 3.3.3(o).
- 26 See further Chapter 3, section 3.3.3(p).
- 27 See further Chapter 3, section 3.3.3(q).
- 28 See further Chapter 3, section 3.3.3(r).
- 29 See: <http://www.apsc.gov.au/indigenousemployment/index.html>
- 30 See further Chapter 9.
- 31 See further Chapter 3, section 3.3.3(t).
- 32 See further Chapter 3, section 3.3.3(u).
- 33 See further Chapter 3, section 3.3.3(v).
- 34 See further Chapter 3, section 3.3.3(w).
- 35 See further Chapter 3, section 3.3.3(x).
- 36 For information on the Corporate Leaders for Indigenous Employment Project see: <http://www.workplace.gov.au/workplace/Category/SchemesInitiatives/IndigenousProgs/CorporateLeadersforIndigenousEmploymentProject.htm>
- 37 See further Chapter 3, section 3.3.3(x).

# Chapter 12



## Next steps

The preceding chapters document the Inquiry's progress in developing measures to facilitate the participation and employment of people with disability in the open workplace.

In particular the Inquiry has made 30 recommendations which seek to provide guidance to the Commonwealth government and all other parties to the employment process. The Inquiry urges the implementation of those recommendations as a matter of priority.

While the publication of this report marks the end of the Inquiry process, the Human Rights and Equal Opportunity Commission (the Commission) will continue to follow policy developments in the area of open employment and people with disability.

In particular, the Commission will continue consultations with the Department of Employment and Workplace Relations regarding:

- the launch and ongoing development of the one-stop-information-shop (see Chapter 10 and Recommendations 1-2)
- improvements to the Workplace Modifications Scheme (see Chapter 10 and Recommendation 11).

The Commission congratulates the Department of Employment and Workplace Relations for its commitment to delivering these outcomes.

The Commission is also concerned to ensure continuing development of the ideas discussed in its four working groups. In particular, the Commission hopes that those processes can influence the shape of new Commonwealth policy initiatives to be introduced on 1 July 2006.

The Commission therefore intends to reconvene the working groups to pursue discussions regarding:

- government-funded work trial schemes (see Chapter 4 and Recommendation 13)

- strategies to address employer concerns about occupational health and safety, disability discrimination and industrial relations laws (see Chapter 5 and Recommendation 15)
- strategies to encourage the creation of flexible workplaces (see Chapter 6 and Recommendation 19)
- improved delivery of comprehensive ongoing supports to employees with disability and their employers (see Chapter 7 and Recommendations 17-18).

Any queries regarding the Commission's future programs should be directed to:  
[disabdis@humanrights.gov.au](mailto:disabdis@humanrights.gov.au)

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Australian Federation of Deaf Societies	79
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Department of Consumer and Employment Protection, WA	67
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A list of the 133 First Round Submissions and electronic copies, where available, can be found at: [www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/subs1/index.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/subs1/index.htm)

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A list of the 29 Second Round Submissions and electronic copies, where available, can be found at: [www.humanrights.gov.au/disability\\_rights/employment\\_inquiry/subs2/index.htm](http://www.humanrights.gov.au/disability_rights/employment_inquiry/subs2/index.htm)

