



Physical Disability Council of Australia Ltd (PDCA)

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Community Affairs
Legislation Committee
Parliament House
Canberra ACT 2600
Email: community.affairs.sen@aph.gov.au

Dear Senators

The Physical Disability Council of Australia (PDCA) is the national peak organisation funded by the Commonwealth to represent the interests and views of people with physical disability across Australia.

PDCA would like to thank you for the invitation to present a written submission addressing any aspects of the Bill that is relevant to us or to our members. We therefore take this opportunity to submit our comments to the committee for their reference and consideration in this important debate.

Should you wish to discuss any aspect of this submission, please contact me on 07 3267 1057 or pdca@pdca.org.au

Yours Sincerely

Sue Egan
Executive Officer

Introduction

The Physical Disability Council of Australia Ltd, (PDCA) is the recognised national peak organisation representing the interest and views of people with physical disability, sometimes known as musculoskeletal disabilities.

PDCA is a not-for-profit organisation run by and for people with a physical disability, including staff. PDCA works from a rights based framework and works to lobby and inform government and the community on the needs of people with physical disability in Australia.

Our position

PDCA embraces the current trend to provide choices and to assist people with disabilities into employment. In accepting these trends, we recognise that some people with physical disability will require formalised supports in order to work, whilst others may need much less support.

We are concerned however, that the trend does not become bogged down on issues of DSP, Assessments and financial issues (although these are vitally important) but in order to work, people with physical disability must be able to access employment, travel to places of employment, have a job to go to and have the equipment and environment suitable to employment. People with disabilities also need education and awareness raising of employers before true inclusion can be achieved in our society.

The people we represent

According to Australian Bureau of Statistics, ^a "Physical conditions were the most common main health conditions of persons with a disability (84%)" and according to the Department of Family and Community Services, "...musculo-skeletal or connective tissue conditions represents 32% of the total..." number of people receiving a Disability Support Pension. ^b

The barriers

In 1998, 3.6 million people in Australia had a disability (19% of the total population). A further 3.1 million had an impairment or long-term condition that did not restrict their everyday activities. Of those with a disability, 87% (3.2 million) experienced specific restrictions in core activities, schooling or employment.

Self care, mobility and communication are fundamentally important activities underlying all aspects of everyday life. Most people with a disability (78%, or 15% of the total population) were restricted in one or more of these core activities. Depending on the level of assistance needed or difficulty experienced, restriction in core activities was profound (3% of the total population), severe (3%), moderate (4%) or mild (6%) (Table 2).

Participation in education and the labour force contributes to personal development and independence. Of those with a core activity restriction, 47% (1.3 million) people were also restricted in schooling or employment. A further 327,900 people without a core activity restriction were restricted in schooling or employment.^c

In 2003, People with disability had a lower labour force participation rate (53%) than those without a disability (81%) and those with a profound or severe core-activity limitation had an even lower participation rate (15%). ^d

Regardless of individual differences in disability, it can be said with confidence that people with physical disability, particularly those with significant mobility handicaps:

- have great difficulty gaining access to public and private buildings because of physical barriers such as steps, doors, lack of lifts, furniture placement, steepness of sites, lack of amenities

^a Australian Bureau of Statistics, *Disability, Ageing and Carers: Summary of Findings*, 2003, 4430.0.

^b www.facs.gov.au

^c Australian Bureau of Statistics, *Disability, Ageing and Carers: Summary of Findings*, 2003, 4430.0.

^d Australian Bureau of Statistics, *Disability, Ageing and Carers: Summary of Findings*, 2003, 4430.0.

including toilets, lack of parking, lack of public transport and more

- face greater costs than other people because of their disability such as specific and essential equipment, modifications to vehicles, household appliances, modifications to housing including internal and external, home maintenance including gardening and lawns, transport, personal and health care including pharmaceuticals and items not included on the PBS, and managing a household and family in many cases generally cannot access public transport and are reliant on taxis, with varying levels of subsidy throughout Australia, or on private vehicles - this is known as the cost of disability (*see cost of disability www.pdca.org.au*)
- face significant discrimination in finding a job and obtaining promotional opportunities, despite the avenues for redress through disability discrimination legislation. The Australian Public Service does not employ people with disability in the same numbers as it once did and the latest figures support this argument where figures have decreased by 20% since 1997.
- have lower incomes than their age/education peers due to greater difficulties in getting employment and in achieving promotion
- have fluctuating income if their impairment is associated with medical conditions leading to episodic periods of hospitalisation and/or absence from work. (Such people include people with spinal cord injury, multiple sclerosis, muscular dystrophy, polio, cerebral palsy, arthritis, motor neurone disease and others)
- experience discrimination from potential employers and staff, which reflects the day to day reality of people with disability in Australia

Empirical findings from PDCA's Cost of Disability Research

PDCA's cost of disability research ^e undertaken on our behalf by Dr. Jack Frisch a well respected Economist and Lecturer in NSW, found that there were considerable costs linked to having a disability, which are over and above the everyday costs of living. These include:

- *personal care costs* are at the high end of the expenditure ordering in each survey, except where HACC Home Care is separated from Personal Care in the AQA study, in which case *Home Care* costs are at the low end of the ordering;
- *transport costs* figure prominently at the high end of the ordering in each survey, with the PDCA study highlighting the particularly high expenditures on *taxis*;
- *electric wheelchairs and scooters* are at the high end of the expenditure ordering, even though other *equipment costs* are at the lower end after the high capital cost of the equipment is depreciated over the useful life of the equipment;
- *medical practitioner costs*, *pharmaceutical costs* and *continence costs* (each subsidised to some extent by government) are in the middle of the cost orderings, implying that the subsidies are not sufficient to eliminate costs, but sufficient to mitigate costs;
- *paramedical and therapy costs*, which are not subsidised, are towards the high end of the expenditure ordering; and
- *home modifications and furniture* are at the higher end of the expenditure ordering for the PDCA survey, but at the lower end for the AQA and Walsh - Department of FaCS surveys.

Barriers to employment include:

- At least 5 to 7 applicants for each job advertised in Australia and if you are a person with a disability you will be the last on this list
- there are no meaningful job creation programmes that encompass and embrace the real issues for people with disability

^e TOWARDS A DISABILITY ALLOWANCE: OFFSETTING THE COSTS OF DISABILITY - AN ANALYSIS - Dr Jack Frisch (2001)

- There are no longer any Job Search programmes such as Job Club that can easily be utilized by people with disability.
- Employers demonstrate out dated prejudice and pre-conceived ideas when employing a person with a disability therefore the participation capacity of a person with disability will be influenced by factors such as attitudes and discrimination.
- People with a disability who were employed, were more likely to work in a part-time job (37%) than those who were employed and did not have a disability (29%).
- negative employer attitudes and prejudices about people from a NESB with disability and their abilities
- Inadequate personal care hours to assist with rising, showering, dressing for work etc, this is an unmet need in many instances across Australia
- Transport not accessible or consistent across Australia, causing increased costs,
- Limit of transport subsidies in states and no consistency with subsidy between states
- Lack of awareness in the benefits of employing people with disabilities
- lack of knowledge of subsidies available such as workplace modifications and subsidised wages and work place personal support
- lack of knowledge of the real needs of people with disabilities by employment officers or human resource personnel
- Lack of flexibility in work practices and work hours
- Little promotion of the idea of working from home which is a good option for people with physical disabilities
- discrimination in the workplace
- no consideration for the cost of disability and the additional cost of working either mentally or physically or financially
- Lack of diversity and EEO policies in workplaces
- Access to buildings and public spaces
- Lack of community based vocational training
- Inaccessible facilities at TAFE (or) lack of transport to TAFE
- Attitudes of employers, people with disabilities and the general community
- Incorrect assumptions about the needs of, and risks associated with, hiring people with disabilities
- Inadequate information and advice for employers and people with disabilities
- Direct costs for people with a disability (eg transport, interpreters, aids and adaptations, medical costs, loss of pension benefits)
- Direct costs for employers (eg workplace modifications, insurance)
- Inadequate tertiary education and job-related training
- Inadequate physical infrastructure (eg transport, building access, workplace modifications)
- Inflexible work environment (especially for people with a mental illness and other episodic illnesses)
- Risk aversion - both employers (eg unfair dismissal) and people with disabilities (eg loss of pension) are concerned about what will happen if a job does not work out
- Concerns about occupational, health and safety risks
- Failure of disability support services to meet real needs (eg inappropriate referrals, capped services)

- Lack of integration between Commonwealth and State support services leads to many people falling through the gaps
- Inadequate access to work experience and the link to insurance costs
- Failure to educate employment services and employers about the specific issues facing people with a mental illness
- Additional communication hurdles faced by culturally and linguistically diverse people who face double discrimination.
- Inadequate personal care hours to assist with rising, showering, dressing for work etc, this is an unmet need in many instances across Australia
- Transport not accessible or consistent across Australia, causing increased costs,
- Limit of transport subsidies in states and no consistency with subsidy between states
- Lack of awareness in the benefits of employing people with disabilities
- lack of knowledge of subsidies available such as workplace modifications and subsidised wages
- lack of knowledge of the real needs of people with disabilities by employment officers or human resource personnel in non specialised employment services
- No promotion of working from home which is a good option for people with physical disabilities
- The belief that this is someone else's responsibility

5. Individual Case Studies

The following examples come from the membership of PDCA and reflect the views of the individuals who supplied the information.

Each person was asked " If you were thinking about searching and obtaining work, what do you need to consider?"

"M"

- *Finding part-time employment that utilises my skills and knowledge.*
- *Employment that has the ability to be flexible due to my energy levels which can wane due to my disability. Also if I acquire respiratory infections and need the time to recuperate how this will effect my employment.*
- *Not having income that is sustainable. For example not being able to be more economically secure than I am on the pension.*
- *Remaining in poverty.*
- *Accessible, affordable, reliable and safe public transport if I lose my means of transport (Poor van is getting on in years).*
- *Access to employment support For example physical assistance in the workplace*
- *Accessible work environment*
- *Peers who do not create attitudinal barriers to my participation.*

"S"

- *Being able to affectively join the job placement network and meet the criteria.*
- *Transport to and from work*
- *Appropriate support (care attendant) to those who need it.*
- *Appropriate support (on the job).*

- *Physical Access to the workplace*
- *Recognition of skills and dignity*
- *Appropriate choice of employment (job satisfaction, hence why I am a volunteer for Disability Action. If I could get paid for what I do, I would jump at the chance for the pay packet).*
- *Appropriate pay that improves my life not takes away from*
- *Understanding that a person with a disability has specific needs and that these needs have to be met before they can be employed (even on a casual part - time basis).*
- *Elevated stress levels and more (or even unrealistic) demands placed on us.*
- *Extended leave, so that when we become sick there is no fear of us losing our employment.*
- *What happens if we lose our employment, how will the new DSP affect us?*

"G"

- *Firstly I am concerned that as I work as a consultant and trainer I would have difficulty with transport getting around to different venues. I need a person to assist in loading my wheelchair onto my own car or a van that I can enter and drive alone from my chair. Public transport is inadequate and unreliable and also expensive on limited income.*
- *I would be concerned about maintaining adequate work and income levels if I couldn't get more personal, in home and transport support.*
- *I could see that I could easily end up financially worse off, totally worn out from having to maintain a constant level of work because I don't have a constant level of energy or strength.*
- *I could end up only living to work and my quality of life would degrade. That is if work took all of my energy. It probably would if I worked enough to earn more than the pension.*
- *I am a talented and useful and wanted person. It would be a shame if my contribution was lost due to inadequate support.*

"C"

I am aware of someone with a disability who started out as an ASOI in the public service, worked for years and still finished as an ASOI.

This perfectly competent individual often took on much more senior responsibilities but was never granted promotion because those senior to him kept saying he would not be able to handle the extra duties involved. He tried to get a position outside the APS whereupon the APS suggested to a potential employer not employ him as he was "better suited to the APS environment"...now what was that supposed to mean? He took it to mean he was useful to the APS and they had no intention of letting him go - or promoting him.

"A"

I have been able in the past to do around 15 hours - but with huge accommodations like extremely flexible hours completely under my control. There are times when I couldn't sit up long enough to be in a work place, or think clearly enough to do anything useful. I don't believe I could do even that now, and the workers compensation people agreed.

Let's assume I COULD work in a job for only 15 hours, it would require a large shift in employer opinion to provide the accommodations to make it possible for me. Not that they are actually onerous for many jobs, just that employers have blinkers on. I know, because I've tried.

The amount of income would drop between the top ups from DSP and (if any) the Newstart Allowance.

If I didn't have a job but had to go through the farce of fulfilling "obligations" (without actually improving my employment situation) my health (and financial position) would suffer from the efforts and from the stress.

Even without the costs of disability, income from 15 hours per week is not enough for a working age lifetime. It is expected that Newstart Allowance is meant to be a short-term situation (albeit that that is not true for many long term unemployed now). Most people with disabilities don't have the option of improving their capacities. They therefore certainly need the "top up" that DSP provides to manage at all.

"MC"

- 1. Self Esteem-empowerment - this relates to the way we see ourselves: this can be put down to the way many of us grew up thinking that due to our disability, we don't deserve to be seen as equals. Well, as one who has overcome the cycle of negativity i say its time we started projecting positive images about ourselves. I am not DISABLED: Society makes me so. I do not take from society; I contribute to it. I don't pay people to be my carer; I have friends who care for me, as I care for them.*
- 2. Education - of ourselves and others; Education is worth more than money. It gives us freedom and choices that also creates room for equality.*
- 3. Economic equality and security, I think having a basic payment to cover the cost of disability is still a good thing for us to pursue. Like the Blind pension this needs to be payable regards of employment or marital status.*

"MT"

- 1. Attendant/ personal care (and the current problems in NSW with finding workers to do bowel care/ proposals by Home Care to cut back maximum service hours to 25 per week)*
- 2. Equipment provision - totally inadequate budget (at least through NSW gov); lack of commitment to data provision and staff training*
- 3. Cost of disability - need to bring in realistic allowance to pay for on the job personal care support/ transport costs (taxi or motor vehicle mods),equipment etc.*
- 4. And then there is the health system ... inadequate examination tables, GP/specialists inability to listen to people with disabilities who know their own bodies and capabilities..*

"CA"

For whatever it's worth, this is also the stuff I've been constantly faced with throughout my entire (relatively short) employment history.

- 1. If I need extended leave for medical reasons will they grumble about this or make me use annual leave?*
- 2. If it all falls in a heap how easy/torturous is it to get back onto DSP?*

It seems to me that the government bangs on about people with a disability being able to work, but in the next breath, there's fundamental lack of education and understanding by them regarding their own statements.

For most people with disability the disability doesn't get better; it doesn't improve; it often gets worse

with aging and general life demands; medical intervention occurs for lots of us, which means we have to be off work (usually against our own desires to be employed and 'of use'); we constantly deal with really really simple things that others take for granted (bowl care; showering; parking; that tiny step at the front of the office; getting a coffee; getting lunch etc); and lots of us simply don't "measure up" to the generally assumed standard of health that others have and take for granted so lots of us are constantly "falling in a heap" and therefore absolutely must plan for getting the DSP to kick back in within a week's notice etc.

Even since finding employment with the xyzthis is the very first workplace that "gets it" and that's terrible! (good for me! but terrible it's the first). I care about working, I care about contributing to society stuff; I don't care about earning lots; and easily (and often) drop my hours to keep my health; I think fundamentally, this goes against the common social view (and one that the government supports).

I think the government assumes everyone (incl. people with disabilities)subscribe to the "common social view" that they do; while I think people with disabilities are so much more subscribing to a personal quality of life view.

"DM"

- 1. Funding available to employers to make necessary modifications to the work place for PWD employees, thereby giving all applicants and equal starting point. It is not always feasible to expect small businesses to make modifications, they would be better off hiring a person without a disability even if they were less qualified.*
- 2. Flexibility in funding for home modifications- it is unrealistic and at times impractical to assume a PWD will live in the 1 home forever however funding is granted on one-off basis which limits freedom to move be it across town or interstate.*
- 3. More practical consideration given to some methods of access. For example, the train lines in Perth are 'accessible' however some stations are not level with the train and there are usually gaps between the train and station which small tyres can be stuck in. The solution for this is to provide ramps however the ramps are not available at all stations and require you to ring in advance a few hours before traveling. This is both impractical and inconvenient and does little to promote empowerment and independent living for people with disabilities.*

'TB'

3 issues into 3 words:

- Transport,*
- Poverty and*
- Access.*

'PS'

- 1. Equitable treatment (for all, I know dream a big dream) in employment, society etc without the patronising rhetoric.*
- 2. Remain sane through all that gets chucked at you*
- 3. Get that job so I do not have to completely exhaust my super, pay my mortgage so I do not have to modify a new house for myself*

'T'

- 1. Taxi's - maxi taxi's are almost as bad as the "blue bus" with the forget-me-not I went to school on 40 years ago.*

2. *The fact that we are not "seen" on TV as part of the fabric of society. I didn't acquire a motorized chair till I was 33 (21 years ago); and when I started going to Melbourne city by myself, remember being struck by the variety of people, clothes, colours, sights, sounds. At least 5% of people in any movie, TV show, etc. should be in a chair, on crutches, etc., etc.*
3. *The fact that the new Individualized Planning and Support Initiative in this state is being rolled out for many people in a "Sup-port and Choice" approach without them being told that there are other options (approaches) available. A numbers of us are working with DHS HQ and regional workers on this one,*

'BC'

I was employed by a courier company in Post Office Place Adelaide.

At the time I was living on Portrush Rd Payneham, approx 5 km's from work. The choices I had to get to work was Taxi, Bus, Drive or ride my scooter.

Taxis; Realising that too have any hope of getting to work on time regularly I would need to book my taxi 2 hrs before start time to hopefully arrive on time. I deleted that as a means of transport.

Buses: Even though where I was living there were 3-4 main bus routes passing my front door, and at that time the North East corridor of Adelaide had more accessible buses than any other area, the actual number of accessible buses provided no reliable means of traveling to work. I deleted that as a means of transport.

Drive; The cost of driving and parking in Adelaide was such that I really had to wonder if I was earning a penny and spending the pound. If worst came to worst then I guess I could do this.

Scooter; This was my best choice, believe it or not. Five days a week for several months I rode my scooter to and fro from work. Sunshine, rain, hail and thank goodness it doesn't snow in Adelaide.

Okay, now I'm at work, and my boss was pretty good, he went out of his way to help me with the layout of the office so I could park my scooter in a corner, and helped with the set up of my desk etc.

The only thing he couldn't modify was the toilet. Totally inaccessible for me. Therefore I went around the streets and finally found an accessible toilet across the other side of Waymouth St in the Public Trustees office. They were good enough to allow me to use it, unfortunately though it was always locked and I had to go to the front desk and ask for the key. I guess you can imagine the embarrassment suffered when I would go to the front desk and there are clients of the Public Trustee lined up at the desk, and as I roll up the bloke would call out "Key for the toilet Brian?" Yeah I was impressed.

However, what really finished me was. When I sat down and worked out exactly how much I would be in front if I kept this job. By the time I lost my DSP, lost my Health care card, paid for my equipment (which is minor compared to some), and calculated other expenses into this wonderful piece of accounting I was doing. My total Net Profit worked out to approximately \$3.00 per hour.

At this stage I was really impressed (depressed). After having an emotional breakdown at work one day, I asked my boss would he work for \$3.00p/h. You can probably guess his answer. I showed him my figures he said You gotta be stupid to do this.

He had to find a new radio operator the next day.

'TH'

For me a wheelchair costs \$6,500, a hoist \$3,000, a showerchair \$1,600, a cushion \$1,600, a mattress \$1,000 & on & on the costs go, access to adequate Support Funding for me to get out of bed everyday, we have no accessible transport in Roma (I have my own private van, if workers don't prang it)..if the 15 hour p/week rule comes in, I simply will not work more than 15 hours p/w.

And what's the Govt. going to do to me if I refuse to work more than 15 hours per week, put me in an Aged Care facility costing them \$600 per day. They should provide people with incentives to work.

Regardless of employment status, If people remained eligible for Mobility aids & received a Disability Allowance & kept their Health Care Card & discounts, more people would work & pay Tax.

Other issues:

- the impact of a cut in payment of \$46 per week or more;
- the impact of disability on work capacity, particularly the medical impact – if your members are only able to work restricted hours, explain why;
- how little the complexity of disability is understood in the income support and employment assistance systems – to demonstrate why protections need to be spelt out in legislation;
- the additional, disability-related costs of looking for work or taking part in mutual obligation activities;
- the challenge of undertaking mutual obligation activity, especially Work for the Dole, as a person with disability;
- the need for clear rules and exemptions guiding reasonable obligations for people with disability;
- the difficulty some people may have meeting any obligations; and,
- the financial hardship that will be caused if people have their payments cut by 8 weeks.

Payment issues

1. People with disability assessed as being able to work between 15-29 hours per week will no longer be eligible for the DSP, but will instead be diverted to the lower payment of Newstart. This will affect the living standards and income security of an estimated 60,000 people with disability between 2006/2009.
2. In addition to a lower base rate, Newstart recipients are subject to harsher income tests and taper rates. This will make it harder for people to meet their non-optional costs of disability, making it harder in turn for them to find and maintain employment. The harsher income tests and taper rates mean that single people with disability on Newstart who work for 15 hours a week at minimum wage will in effect be working for \$2.27 an hour.
3. People with disability who wish to study will be particularly disadvantaged.
4. Existing DSP recipients will have reduced incentive to find work because of the risk that if it does not work out, they will be forced onto Newstart.
5. People with disability who are currently working but need to reduce their hours because of their impairment will be severely disadvantaged by the loss of the DSP safety net.
6. Eligibility criteria for the increased rate of Mobility Allowance (up to \$100 per fortnight) may be too restrictive.

Facts & Figures

Compared with the DSP, people with disability who receive Newstart in 2006/2007 will be worse off by:

- \$46 per week, if they are single and have little or no private income – around one fifth of their income if they had received a pension.
- \$99 per week if they are single and working 15 hours a week at the minimum wage – around 26% less in total income than if they had received a pension.
- up to \$164 per week if they are studying full time for more than 6 months and are renting

privately – around 40 to 50% of their total income if they had received a pension.

What should be in the legislation

- All people with disability who cannot use public transport should be eligible for the Mobility Allowance at the higher rate, to assist in working, retaining work and looking for work or training and education. People with disability who study should not be worse off.
- Sustained employment for people with disability should be defined as continuous work for a period no less than 6 months, or one year for people with conditions that are changing (episodic or degenerative).

What we would like to see

- No changes to the eligibility rules for the Disability Support Pension; and
- An increased rate of Mobility Allowance paid to all people who are eligible for the Allowance.
- People should have strong protections in terms of obtaining reviews of assessment and streaming decisions.
- Guarantees that individual's privacy will be protected throughout the income support and employment services system.

Assessment & Employment Assistance

- Places in disability specialist employment services will be 'uncapped' for activity tested clients, but there are few additional places available for people on the DSP who volunteer to look for work.
- The Government has reduced the average level of funding available to Job Network providers to assist disadvantaged job seekers in two ways:
- since July this year, job seekers who are on the DSP have no longer been automatically eligible for Intensive Support and Customised Assistance (ISCA);
- the rating which a job seeker must achieve on the Job Seeker Classification Instrument in order to qualify as Highly Disadvantaged - and therefore eligible for immediate access to ISCA - is to be lifted.
- Applying a "one size fits all" model of employment assistance to people with disability does not work.
- The DSP Pilot project in 2004 identified substantial gaps in the capacity of the Job Network to meet the needs of people with disability which are yet to be addressed.
- Unlike Disability Open Employment Services, Job Network agencies are not required to meet the Disability Service Standards.
- Work capacity assessments will be conducted on more people with a greater range of impairments and disability related needs than ever before. The system must be robust, transparent and sensitive to the impact of impairment on employment.
- People with disability should be referred to the most appropriate employment assistance service on the basis of their needs, not the number of hours they are assessed as being able to work.

Facts & Figures

Employment of people with disability in the Federal public sector has declined from 6% in 1993 to just 3.6% in 2003. PDCA believes that the Federal Government is in a prime position to influence the Public Service,

and the Public Service itself has the opportunity to show leadership and best practice in employing people with disabilities. As yet, we have seen nothing come out of government to address this issue.

The 2005/2006 Budget included \$50 million over 3 years to address barriers to the employment of people with disability that relate to employers. This included extra employment assistance places for people with disability. The following places will be provided *over 3 years*:

- 21,000 in open employment
- 42,000 in rehabilitation
- 32,000 in job network
- 75,000 pre-vocational assistance accounts
- 8000 in the Personal Support Program
- 800 in language and literacy programs

It is expected that relatively few of these additional places will be available to people who are in receipt of the DSP. In 2006/2007, it is expected that 372,000 assessments will be conducted.

What to Ask For

- The cap on places for employment assistance for people on the DSP to be lifted.
- People with disability or their advocates should be able to request that specialist reports be obtained during assessments.
- In addition, Centrelink and employment assistance providers should be able to seek a second opinion where there are doubts about the accuracy of an assessment or where circumstances have changed.
- People with disability or their representatives should have access to assessment findings and retain a right to contest the veracity of assessments in social security appeals.
- Employment assistance streaming decisions should be based on need for a disability specialist service, not simply the number of hours a person has been assessed as being to work.
- No tightening of the Job Seeker Classification Instrument criteria for eligibility for Customised Assistance. All people with disability who can only work part time should be eligible for this level of assistance.
- Restructuring of the funding to employment assistance providers and programs to recognise:
 - the additional costs of supporting a person with a disability;
 - that people with disability may not have continual periods of employment;
 - the need to maintain and strengthen Disability Service Standards, and ideally to extend this concept beyond specialist disability employment programs;
 - that an acceptable employment outcome for people with disability in Job Network may be part time work.

Activity Testing & Penalties

- The activity test and penalty systems were designed for people who do not have disability. It is not reasonable to apply this system to people with disability without appropriate modification.
- Activity requirements must be relevant to the needs and circumstances of people with disability and must:
 - protect people from inappropriate suspensions and penalties; and,

- be especially sensitive to the costs of participation in the labour market for people with disability, the particular barriers they face, and the circumstances of people with episodic or deteriorating conditions.
- The proposed system of suspension of payments must be modified for people with disability, particularly those whose condition affects their memory or their ability to initiate and follow through action.
- People with disability are already among the poorest Australians and should not be subject to any financial penalties.
- People with disability, particularly those with mental health conditions, may be required by Centrelink to agree to a medical treatment program in order to qualify for an activity test exemption.

Facts & Figures

- If the changes to the DSP go ahead, people with disability who are assessed as being able to work between 15-29 hours will be subject to activity testing.
- People in this situation will have to sign activity agreements, where they commit to undertaking a particular level of activity within a fortnight (not always possible because of lack of money, transport, access, etc)
- People with disability will be expected to take part in Work-for-the-Dole activities (again transport, access, physical abilities not understood).
- People who are on Newstart who seek an exemption from activity testing may be required by Centrelink to undertake medical treatment.

Adverse aspects

The Government has proposed a system of suspension of payments where:

- Review and appeal rights are unclear, and difficult to apply in a timely fashion to payment suspensions.
- A harsh eight weeks' payment suspension has been proposed for three activity failures or administrative failures in a 12 month period. **What are people expected to live on during this 8 weeks?**
- The current distinction between activity and administrative offences has been removed, which is likely to result in many more eight-week 'no-payment' penalties. **(This is especially heinous unless staff are fully aware and skilled in understanding disability and its affects.)**
- Two people committing the same 'offence' can have different penalties applied simply because they are at different points in their fortnightly payment cycles.
- A person can lose up to 13 days payment if they are unaware that their payment has been suspended and they do not contact Centrelink until just before the next payday. **(Many with cognitive impairments or Acquired Brain Injury will not understand their responsibilities and reporting essentials and will be penalised for this).**
- The seasonal work preclusion period will be extended to people in receipt of the DSP
- The extension of the income maintenance period to include redundancy payments
- The introduction of the 10% recovery fee for debts to Centrelink

Issues with the Bill

- That the Secretary has the authority to require a person to take a position or to undertake work/activity at a level that is greater than the agreed activity level in the Activity Agreement [refer to s541(2A) and s601(1A)]
- The protections from exploitation through “self-employment” have been removed and are to be put in guidelines [refer to repeal of s541D(1)(d) and s601(2A)(d)]
- The changes to the exemptions from activity agreements for people who are temporarily incapacitated and the ability of the Secretary to direct people to undertake ‘suitable activity’. There should be clear limits placed around what is ‘suitable’. We are strongly opposed to people with disability (or others) being required to undergo compulsory medical treatment.
- The 8 week non-payment period punishment for failing to complete the employment diary correctly is likely to fall disproportionately on people with acquired brain injury and other cognitive impairments, drug and alcohol dependency, mental illness and intellectual disability.
- The repeal of s593(2B)(a) means that the Secretary is no longer required to be satisfied that an activity agreement was designed to assist a person to gain employment or undertake study or training. This is to allow more ‘flexibility’ in the agreements. Activities will no longer be required to “immediately reflect those objectives”. There must be limits on the potential scope of activity agreements.
- The repeal of s606(1) removes all limits to what can be included in an activity agreement and also removes the only reference to the agreement being negotiated.
- There is no mention in s607B of people having a part time activity test obligations. Similarly, s625 does not refer to part time job search.
- The inclusion of breaches from the existing system in the new system will particularly disadvantage people with intellectual and cognitive disability, people with drug & alcohol dependency and some people with mental illness who may not understand the significance of the transfer to the new system and the potential to lose all income for 8 weeks.
- The protection of the 10% limit on travel costs, announced by the Government, does not appear in the legislation.
- It is disappointing that people on Austudy do not get the benefit of the extended eligibility for allowances and the PCC.

Positive aspects

- The removal of the 90 minute rule for travel in relation to both Youth Allowance and Newstart
- The increase in the rate of Mobility Allowance
- The right of return to the DSP for any reason within 2 years

We are concerned about

- The definition of incapacity to work and of the new term ‘partial capacity’ still refer to Award wages
- The separation of disability from other factors in the list of items that the Secretary should have regard to when determining a person’s capacity to comply is welcome [refer to s544B(4)(a)&(b) as an example]

- The guidelines and staff training that will support the determination of when it is reasonable for a person with disability to have voluntarily left employment will be crucial, given the extremely fine line between voluntary and forced redundancy
- Section 630.(1) of the *Social Security Act* requires a person to have a “reasonable excuse” to decline a job offer. This will need to be carefully defined for people with disability, to account for insufficient support and accommodation for disability. **(Does not having transport within the 40 Km zone count as not feasible?)**
- People with disability on Newstart should be protected from exploitive employment situations. For example, they must not be punished for refusing a job that is conditional on them signing an Australian Workplace Agreement that offers below Award wages or conditions.
- People should have legislative protection from inappropriate activity test requirements. Factors such as the increased cost of participating as a person with disability and the inaccessibility of the public environment should be outlined in the legislation covering activity agreements.
- Protections for people with disability who have not complied with an unreasonable activity agreement should be provided.
- People with disability who are subject to an 8 week non-payment period will require sensitive case-management, particularly those with a cognitive impairment, mental illness, or dual diagnosis.
- Extra care and attention needs to be given to people with disabilities to ensure that they are fully understanding the responsibilities and obligations on them.

Changes that need clarification

- Right of return to DSP within 2 years – changes to the Administration Act will provide for people’s pensions to be suspended, not cancelled, even if they have not given 14 days notice. Is this the only place that this issue needed to be addressed?
- The repeal of s607 to 607B is justified on the basis that it is cumbersome and obsolete (see page 84 of the explanatory memorandum). Is this true?
- In relation to s607A(1)(b), appropriate number of hours of work that a person must look for, do s607A(2)(a) and (b) make fifteen hours a minimum or does it allow for discretion to go below that threshold?
- Do s625(2) & (4) mean that all Newstart recipients have to obtain employer certificates?
- To qualify for DSP a person must need a program of support to find and maintain employment. This support must be of a type funded by the Federal Government. What if the person requires this sort of support, but it is provided by family or other informal sources?
- The new Section 94A – what if the person cannot get access to the support/assistance that is identified in the CWCA within the 2 year period?
- What type of activity is envisaged to be listed as prohibited from being included in activity agreements? [refer to s544B as an example]
- The Bill will allow the Secretary discretion over who is required to take part in Rapid Connect. Participation should not be required of people with disability when local employment service providers are in inaccessible premises. This will require an audit of the accessibility of providers. It should also not be required of people with cognitive impairments.
- In reference to the exemption provided to a person from undertaking activity until they have had

their work capacity comprehensively assessed, new s593(1F), the explanatory memorandum says “the period will end when the person, having been required by the Secretary to enter into an activity agreement, either enters an agreement or fails to enter an agreement”. This seems to afford no protection to the person that they will not have to enter an agreement until the assessment is complete.

- How does the new non-payment period system work? How are the days of non-payment determined?
- The extent of the availability of the increased rate of Mobility Allowance to people with disability who are already in employment.
- Who will be eligible for the HCC and for what period will they keep it?

We would like to see

- Activity requirements that take account of the impact of a person’s disability, be relevant to individual circumstances, and designed to improve employment prospects. The legislation should include protections against unreasonable or inappropriate requirements, including:
 - appropriate exemptions from activity testing;
 - limits on the timing and intensity of any activity requirements;
 - offering people a range of options to fulfil requirements, that are not confined to taking up employment immediately;
 - no requirement for people with disability to undertake “Work for the Dole”;
 - taking full account of barriers to participation such as direct costs, episodic conditions, caring responsibilities, location and access to transport, and instability in family or living arrangements.
- People with disability’s combined activity requirements (activity agreements and mutual obligation activities) must not add up to more than a part time obligation.

The penalties system should:

- Require Centrelink to make at least two attempts to contact recipients, and discuss the issues with them, before suspending any payment.
- Standardise penalties to prevent unfairness and to substantially reduce the 8 week maximum ‘no payment’ penalty.
- Maintain the scope, resources and format of the independent Social Security Appeals Tribunal and the ARO system within Centrelink, and give recipients a right of review and appeal against any decision not to fully restore a payment after suspension including the imposition of any ‘no-payment’ penalty.
- Maintain the current “automatic restoration of payment pending the outcome of a review” in the event of an appeal on any no payment penalty.
- Expand existing safeguards to ensure that vulnerable groups that will have difficulty meeting requirements and dealing with Centrelink in regard to suspensions are not unfairly suspended.
- Introduce new safeguards to prevent financial crises in the event that payment is suspended.

Other Issues

Other issues that should be addressed in the legislation are:

- The Government has guaranteed that people on the DSP who obtain employment will be able to

return to the DSP for any reason within two years. For this to be successful, the requirement for a person to notify Centrelink within 14 days of obtaining employment should be removed and the guaranteed right of return should be extended to all people in employment whose DSP was cancelled or suspended in the last two years.

- People with disability should have the right to move to an area of lower unemployment if this is essential because of their condition. For example, the person is able to obtain accessible housing, or requires assistance from family members.
- Currently, people on Newstart are able to study part time and still receive Newstart, as long as they are genuinely looking for employment. People with disability should have the same right, which will require a relaxing of their activity test requirements such that their study and work obligations combined are still within their assessed part time work capacity.
- The system for reporting of activity and income must accommodate the needs of people with a range of disabilities who may, because of their impairments, be unable to frequently attend a Centrelink office (without significant personal cost) or be able to complete standard reporting forms.

Addressing the barriers

What would help?

- financial assistance to meet the costs of participation in the workforce (transport, equipment etc)
- Recognition that support needs are not obvious and should be addressed at the home level, for instance if a person with a disability cannot get out of bed, then there is no point in having a job.
- creating opportunities for people to gain work experience on the job
- providing incentives for employers to hire people with disabilities such as traineeships
- providing re-training to people working in industries or positions that are declining
- technical / equipment assistance and innovation
- better education opportunities at the pre employment and training stage
- recognition of qualifications and experiences gained in other countries and diverse areas
- ensure that employment support policies assist in keeping people who acquire a disability in employment, not just to get a job
- provision of culturally competent services to place people with disabilities in real jobs with meaningful outcomes and appropriate award based wages
- educating employers on discrimination and the merits in employing people with disabilities
- more Employer incentives to employ people with disabilities.
- more flexible training options.
- increase the Mobility Allowance.
- government programmes such as CRS should Fund computers & necessary equipment for people with disability to undertake training
- approach the employment of people with disabilities in a more adaptable manner and consider flexible work practices, such as working from home, working shorter hours, using technology to improve work practices.
- take on board the Productivity Commission Report on Job Network which stated that services for disadvantaged job seekers require better targeting, changes to payment systems and increased options for re-referring job seekers to other programmes. While the Active Participation Model tackles these issues, further changes may be required in the future
- Employment must be included as a whole of government priority by the Commonwealth

Government. Most especially in the Commonwealth Disability Strategy and employment of people with disabilities in the Public Service area.

A National Strategy which includes:

1.

- Disability Awareness campaigns to potential employers
- Advertising for staff with a disability and EEO Practices
- Apprenticeships and other opportunities for people with disabilities
- Human Resources (hiring a person with a disability)
- Guidelines for the interview process
- Equipment, where and how to get it.
- Wages (supported and non supported)
- Recommended conditions of employment.
- promotion and training within the organisation
- problem solving
- training shortfalls in the community
- more.....

Partners in the national advisory committee could include:

- PDCA
- HREOC
- Employers Making a Difference (EMAD)
- Disability Peak Organisations
- Australian Competitive Employment (ACE)
- ACROD
- FaCS
- DEWR
- Diversity @ work
- ANTA representative (or similar)

Further Resources:

- the Disability & Participation Alliance response to the budget - available from Australian Federation of Disability Organisations website: www.afdo.org.au
- the range of ACOSS papers available from www.acoss.org.au – select publications, then social security
- the NATSEM analysis of the impact of the changes to the DSP – go to www.natsem.canberra.edu.au/publication.jsp?titleID=OP0505

Thank you for the opportunity to provide a submission to the Inquiry.

Yours sincerely

Sue Egan - Executive Officer

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