

employment in the public sector by people with disabilities at appropriate wages or salary.

Sheltered employment

6.83 Sheltered employment has a negative image for many people with disabilities, consumer groups, and others. Speaking in 1988, Dr Richard Madden, then First Assistant Secretary, Disability Programs Division, Department of Community Services and Health, summarised these negative images.

While there are exceptions, the performance of sheltered workshops in Australia in terms of their stated objectives, like those overseas, is not impressive. Placements in open employment are few. An examination of the number of training fees and open employment incentive bonuses – which are paid in respect of former workshop employees maintaining open employment for a year – reveals that there has been little movement out of sheltered workshops: the record of placing those most likely to succeed in open employment – people with mild disabilities – has not been good.

The commercial outcome has not been good either. The key indicator here is wage levels . . . as a means of generating wages, the sheltered employment system has been a disappointment, although there have been isolated cases of better performance.

Nor, again with isolated exceptions, have successful arrangements been established to integrate employees in ordinary workplaces. Most workshops remain on sites away from other community workplaces and other workers. To finish off the picture, there is evidence that sheltered workshops are not tendering on a commercial basis for work.⁴⁷

6.84 Although there are sheltered workshops which have always provided a high quality service, sheltered employment, in the form of sheltered workshops, has been a controversial form of employment for a number of reasons. For many, especially those who believe that open employment is a viable option for most people with disabilities, sheltered workshops are seen as having a minimal role in the future. For many former and current employees, they were/are places of exploitation and discrimination. Others see that they could continue to provide employment and training options in the future, albeit in a restructured environment in accordance with the *Disability Services Act*. A few organisations appear reluctant to implement *Disability Services Act* Principles and Objectives at least in the short term. In short,

47. Dr R. Madden, *Transition of Sheltered Workshops Under the Disability Services Act*, p. 2. The paper was forwarded to the Committee by the then DCSH. The research referred to by Dr Madden was J. Black, B. Harrison and H. Ziegler, *Pricing Practices of Sheltered Workshops vs Open Employment. Consumer Implications*, Australia and New Zealand Journal of Developmental Disabilities 13 (1987) p. 57. This is reproduced in *Transcript of Evidence*, pp. 3738-42 (Dr J. Black).

different groups are at different stages, some working according to a particular philosophy or approach that may not be acceptable to DHH&CS staff, others believing that departments are not doing enough, others apparently satisfied with the general rate and direction of change. The result has been that there are certainly clear differences of opinion about the rate of change of disability services and the number of options available.

6.85 Submissions and oral evidence suggest a mixture of factors at work in the current controversial discussion about the role of sheltered workshops both in the past and in the future. The role of various parties in this controversy is considered below⁴⁸, not because there is particular value in going over past disputes but because it is essential to identify areas where relations between the Department and organisations (both consumer and service provider) can be improved in the future. The issues are also discussed because of the importance of the transition process in the successful development of services which can meet the needs of people with severe disabilities, arguably the most disadvantaged group of people with disabilities, and of those persons whose disabilities do not allow them to participate in the workforce on a full-time or regular basis.

6.86 The problems with sheltered workshops in the past, and to some extent in the present, have been stated by a number of witnesses. In respect of this inquiry, information provided to the Committee was variable, and sometimes could not be substantiated. In such instances, the Committee also took into account evidence obtained from visits to workshops. Thus, while general statements were sometimes made which could not always be supported by specific instances some of the statements made about conditions of employment were supported through direct observation. The lack of interaction between 'staff' and employees, for example has been noted by the Committee during its visits to employment services in 1989 and 1990.

6.87 It is also important to note that the relatively small number of persons employed by workshops at any time (currently approximately 11,700 persons) means that their actual role as employers has been limited. Therefore, while it is essential to note the substantial funding which has gone into this employment option, it is also important to stand back and view the sheltered workshop system as never having had a major role in providing employment, nor, some would argue, in training for open employment. That funding continued in spite of this, is a matter worth noting; that a number of people with disabilities appear to have been employed outside this system altogether is also a matter of note. Together, all these factors suggest that the system was cumbersome, expensive and in many instances, neither particularly productive, nor particularly humane. To this extent it was necessary for changes to be made; how much these changes will adversely affect the opportunities of people with disabilities is less easy to determine.

48. See Paragraphs 6.179-6.197.

Characteristics of sheltered employment

6.88 The *Handicapped Persons Assistance Act 1974* (HPAA) emphasised the importance of paid employment and of rehabilitative services, and considered that sheltered workshops should operate as efficient business enterprises. Training, education, the development of social skills and of independence were also a part of the objectives of the HPAA, yet the extent to which these objectives were or could be fully met obviously varied. Education and training programs were established but the extent to which rehabilitation or habilitation was a possible outcome may have been limited, needing a more positive direction, additional staff and more direct lines of communication with other forms of employment, including open employment.⁴⁹ The objectives of paid employment and efficient business operation were extremely difficult to combine and have not always been satisfactorily resolved.⁵⁰ For example, unrealistic tendering processes have been accepted in order to provide work or training.⁵¹ Businesses have been viable only through sub-standard work conditions and the payment of very low wages, a situation that was accepted only because 'employees' received pensions. The other benefits of mainstream employment seem to have been random in their establishment and operation, mostly because of the difficulty of establishing a normal environment in a production model that was not part of the mainstream.

6.89 Even in 1989, one witness stated, sheltered workshops had not met their objectives.

The sheltered workshops that we run in Australia are neither one thing nor the other. They are not organisations which are competing in the marketplace to make Australian industry viable, profitable and competitive with industry in the nations of the world that we have to compete with – they are sheltered and protected. Neither are they areas where many people with disabilities have had the opportunity to develop their full potential.⁵²

6.90 Disabled Peoples' International (Australia) in its submission summed up a number of organisations' and individuals' attitudes about sheltered workshops and their inability or unwillingness to meet the objectives of earlier and more recent legislation.

Despite the recent changes of the "New Directions" legislation, workers in supported employment have found that the move away from "make work" towards real work and real wages is far too slow. Further, sheltered employment offers little scope for worker

49. *Transcript of Evidence*, p. 4801 (Disability Advisory Council of Australia).

50. See *Transcript of Evidence*, pp. 359-60 (Phoenix Society Inc.).

51. See below Paragraphs 6.168-6.172.

52. *Transcript of Evidence*, p. 322 (Intellectually Disabled Services Council).

satisfaction, or the development of skills that generalize to open employment. Workshops continue to remain outside normal community accepted standards for wages and conditions of service. Industrial safety, part time employment, superannuation, unionization, award wages, protection from unfair dismissal and payment of redundancy payments are not generally available to workers in supported employment. This is a situation that would be totally unacceptable to any other Australian worker.⁵³

6.91 This view may portray the ordinary workplace unrealistically by failing to identify some problems that may exist in open employment (for example, the claimed high rate of industrial accidents for some groups⁵⁴). However, it does indicate the factors which have led to a change in government priorities and the increased emphasis in the *Disability Services Act* on the need for workplaces which approach an environment in which the same conditions are available for people with disabilities as for other workers.

6.92 To determine the effectiveness of sheltered workshops in achieving specific outcomes, and therefore as continuing to exist in some form in the future, a number of key issues are examined with the objective of determining problem areas. In so doing, it may be thought that all sheltered workshops are seen as falling into one category, and that many of the difficulties which have been experienced over a period of time are common to all. This is not the case. Some workshops have provided a wide range of services and benefits to their clients, others have developed innovative services and most have been involved in discussions about changing to new services. The needs of clients are obviously important to organisations⁵⁵, and their assessment of needs, where conflicting with departmental policy, should not always be seen as self-interest or social conservatism.

6.93 In considering the major issues of contention that arose from submissions and from evidence of witnesses, some indication is given of the economic viability of sheltered workshops as they previously operated and of the management practices which some of them appear to have worked by. Insofar as these indicate a need to move towards greater accountability and more efficient management, some sheltered workshops have been found wanting, able to continue operations in the past only because of financial and work practices which can no longer be sustained.

53. *Transcript of Evidence*, p. 1342 (Disabled Peoples' International). See also *Transcript of Evidence*, pp. 1481, 1483, 1522 (DHH&CS), p. 4317 (Department of Family Services, Queensland), p. 4835 (Disability Advisory Council of Australia).

54. See above paragraph 2.30. Worksafe Australia figures (May 1991) state that death, injury and illness in the Australian workplace costs over \$9 billion annually.

55. *Transcript of Evidence*, p. 328 (Intellectually Disabled Services Council Inc.).

Wages – ‘a real pay for a real job’⁵⁶

6.94 The issue of wages is a major one, with many submissions stating this as a substantial cause of dissatisfaction.⁵⁷ The average wage in 1990 was extremely low, with 21.1 per cent people receiving SEA earning less than \$10 per week, 60.1 per cent earning between \$11-\$40 and 16.9 per cent between \$41-\$100⁵⁸, and it is clear that it has often been artificially set at a level relative to the pension with the most common maximum payment being the amount able to be earned before the pension is affected at all.⁵⁹

6.95 Workers in sheltered employment who also had become more aware of self-advocacy and of the low levels of wages were outspoken in their criticism of these levels, and of what they saw as government failure to take appropriate steps.⁶⁰ However, the extent to which higher wages were generally viable given operating costs remains unclear. While it is apparent that wages and related benefits (for example, superannuation) have been low or, in the case of award conditions, non-existent for a very long period, the responsibility for this is not simply that of the workshop administration.

6.96 As ACROD stated in its evidence to the Committee, the issue of wages including wages relative to skills and other factors – ‘is quite a complex problem’.

The fact of the matter is that in providing any service, whether it was in a sheltered workshop or another service for that matter, it involves an operating cost; in other words, the cost of providing that service. In general terms, the funding that the Government has given on a per capita basis has not been sufficient to cover the full cost of operating that employment service or whatever.⁶¹

6.97 To a degree, responsibility for this situation has been placed with government, or ‘the system’⁶² with the existence of high marginal tax rates on earnings above

56. *Transcript of Evidence*, p. 4873 (Disability Advisory Council of Australia).

57. *Transcript of Evidence*, pp. 70, 86 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.).

58. See Appendix 14, Table 5.

59. *Transcript of Evidence*, p. 4823 (Disability Advisory Council of Australia). See also *Transcript of Evidence*, p. 3765 (Dr J. Black).

60. *Transcript of Evidence*, pp. 44-6 (South Australian Government), pp. 72, 86 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.).

61. *Transcript of Evidence*, p. 4986 (ACROD Limited).

62. *Transcript of Evidence*, p. 71 ‘it encourages dependency through the pensioner system’. See also p. 84 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.).

certain sums⁶³ and gradual loss of additional benefits being seen as the cause of low wages and as creating a disincentive to be more productive.⁶⁴

6.98 However, while marginal tax rates certainly appear to discourage some people with disabilities, and other people on pensions/benefits, from working or working longer hours, they are not the only causal factor. Wage rates in sheltered workshops have often been tied only to productivity levels, which, if applied without any other consideration, have resulted in extremely low payment when hours worked or amounts of work produced per hour are considered. The issue, therefore, is also one of productivity rate, and this raises the question of whether other factors such as 'effort' as opposed to productivity, need to be introduced in order to provide a reasonable wage. The Spastic Society of New South Wales advised the Committee:

our people are averaging 15 per cent or less of productive output and we are attempting to set up businesses at that level of disability.⁶⁵

6.99 Nor is productivity in sheltered workshops based solely on amount or number of goods produced. An advocacy group in South Australia (SAID) stated that productivity formulae included components relating less to productivity than to factors which might be deemed appropriate behaviour (although it could also be argued that this behaviour is seen as standard in the ordinary open workforce, and hence a necessary part of training). It is important, however, that workshops do not try to establish behaviour patterns which differ from those in the ordinary work place.

Orana would be a good example of where there is a minimum wage for all workers in the workshop and then the wage is determined on not only how much they produce, but also the attitude of the workers towards their work and the amount of effort they put in to improve their work skills.⁶⁶

[the wage] is related to productivity. It is related to a variety of factors, including work behaviour and ranging from attendance and punctuality and things of that nature and to the complexity of the task and skills that people are able to perform. We pay a range of wages that are in some way linked to productivity. The challenge, of course, is to ensure that assessment of productivity is fair and objective, which is not always easy, and to ensure that the total level of the wage is as high as we can get it. Our level of wages at the moment average about \$31 per week. We have some wages as high as \$80 per week. The majority

63. *Transcript of Evidence*, p. 445 (The Spastic Centre of New South Wales).

64. See below, Chapter 7, Paragraphs 7.27-7.45.

65. *Transcript of Evidence*, p. 433. See also pp. 437-8 (The Spastic Centre of New South Wales).

66. *Transcript of Evidence*, p. 77. See also pp. 79, 80 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.).

of our wages would be around about the \$25 per week mark. We would very much like to see those dollar values increased.⁶⁷

6.100 One large organisation, Bedford Industries in South Australia, stated that it paid productivity based wages⁶⁸ which varied at that time⁶⁹ from \$20 minimum to an average of \$45 per week.⁷⁰ Other components appeared to be built-in to wage levels apart from productivity⁷¹, including training and skills development, as well as attitude. In brief the assessment process utilised by the organisation evaluated a range of factors apart from actual productivity – ‘we use a wage situation as an incentive for skills acquisition and access to competitive employment’.⁷² Since the organisation believed that its ‘consumers’ were increasingly within a higher disability group⁷³, it was possible that the wages would decrease, in respect of the productivity component, in the future.

6.101 There were claims by some witnesses that wages were artificially created. In one case, it was stated that parents paid \$20 per week for their daughter (in an Activity Therapy Centre) to be employed as a cleaner, with the final wage being \$25 – that is, a real wage of \$5.

Recently I found out something about one of the activity therapy centres here which is run by one of the churches. The parents came to me because their daughter is working a 40-hour week cleaning people's houses under contract. . . I was asking how much money she got and it averaged out at about \$25 a week. they said, “Mind you, we do not mind about paying the \$20”. When I probed into this, I discovered that not only was she only receiving \$25 but the parents were in fact paying \$20 of that every week as what was called a donation to the organisation. So in fact the organisation was paying out \$5 a week. I think that is outrageous.⁷⁴

67. *Transcript of Evidence*, pp. 346-7 (Phoenix Society Inc.).

68. *Transcript of Evidence*, pp. 148-150, 152 (Bedford Industries Rehabilitation Association Inc.).

69. April 1989.

70. *Transcript of Evidence*, pp. 150, 152 (Bedford Industries Rehabilitation Association Inc.).

71. *Transcript of Evidence*, p. 152 (Bedford Industries Rehabilitation Association Inc.), pp. 346, 350 (Phoenix Society Inc.).

72. *Transcript of Evidence*, p. 150 (Bedford Industries Rehabilitation Association Inc.).

73. *Transcript of Evidence*, p. 150 (Bedford Industries Rehabilitation Association Inc.).

74. *Transcript of Evidence*, p. 45 (South Australian Government). See also *Transcript of Evidence*, p. 699 (Centacare).

6.102 It was also suggested that wages were reduced by various penalties⁷⁵, although this did not appear to be the policy of all workshops.⁷⁶ Where it was the case, the relationship between wages and behaviour, mentioned above⁷⁷ would appear to be reinforced. Where the workshop based wages in part on attitude, any deviation from attitude could be punished in a tangible way; again, not all workshops which suggested that attitude (as part of training) was a component of wages, stated that wages were adversely affected by poor behaviour.

It can be for misbehaviour; it can be for lateness and yes, it has happened in Phoenix. I am not aware that it has happened in recent times. Part of the difficulty that we can face within our organisation, and I guess one of our objectives is to try to encourage a work environment that, if you like, work-hardens people; it gets them used to the disciplines that are required of having to work within a normal work-type environment. One of the difficulties that we have as a result of the relatively small margin between the supported employment allowance – that is, the pension – and the wage that we pay is that a number of people feel that they do not have any obligation to attend work, when it just happens to suit them not to come, because the amount of pay that they are getting is not that much greater than they would get if they just stayed at home. There are occasions where we have absenteeism or lateness that is not deemed to be appropriate, where there have been occasions where after some discussion and counselling with the person we have said, “We are going to have to dock some pay”. That has happened. But that is the basic background against which it happens.⁷⁸

6.103 A further factor is the rate of pay per hour or working week; evidence suggests that this is often extremely low, so that low productivity at low rates will produce a low wage.

The claim is often made that people are paid according to productivity. That statement in itself is meaningless because you have to tie the productivity to some rate of pay.⁷⁹

75. *Transcript of Evidence*, pp. 89-90 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.), pp. 350-1 (Phoenix Society Inc.). Note that there was a contradiction with the organisation stating originally that pay had been docked for misbehaviour and for lateness, and later stating pay was docked only for lateness.

76. *Transcript of Evidence*, p. 157 (Bedford Industries Rehabilitation Association Inc.).

77. See Paragraphs 6.99-6.100.

78. *Transcript of Evidence*, pp. 350-1 (Phoenix Society Inc.).

79. *Transcript of Evidence*, p. 3765 (Dr J. Black). See also *Transcript of Evidence*, pp. 699-700 (Centacare).

6.104 Higher rates have sometimes been available⁸⁰ and these appear to be directly related to skill, so that uniform rates of pay may well not apply across a sheltered workshop, and there are considerable differences between workshops.

6.105 The classification of jobs, the development of work standards, and assessment and review processes also vary among sheltered workshops⁸¹, and contribute to uneven wage levels and to the lack of development of standardised work processes. The lack of national standards has led in the past to there being inequitable situations within workshops, where, for example, a worker with high productivity might still be paid the same wage as those working at lower productivity. Absence of national standards has also meant that employees in workshops which do reward productivity are advantaged relative to workers who are employed in workshops where the principle is to pay everyone much the same.

We have the very unsatisfactory situation of those people who are more productive subsidising the people in that organisation who are less productive. Therefore, we have one of the bitter ironies of sheltered employment, that is, that a group of people who are themselves disadvantaged in our community have the responsibility for subsidising the livelihoods of other people less able than themselves.⁸²

6.106 Insofar as wages are equalised across staff, those with greater productivity (that is, less disabled or more skilled) will be penalised⁸³, although the concept of effort-based wages may be one way of addressing this question. If employees with higher skill levels and greater productivity are paid at rates commensurate with their work, it would be possible to relate skills more to income. This, of course, does not make it easier for people with severe disabilities who may lack the capacity to acquire some skills to obtain a living wage without additional components being built in.

6.107 A number of submissions also raised the issue of more skilled workers not being encouraged into open employment because their labour maintained the productivity level.⁸⁴

80. See *Transcript of Evidence*, p. 443 (Spastic Centre of New South Wales).

81. G. McConnell and A. Pretty, *Wage Determination in Sheltered Employment*, Discussion Paper, 1988, p. ii (commissioned by the then Department of Community Services and Health). A copy was made available to the Committee.

82. *Transcript of Evidence*, pp. 322-3 (Intellectually Disabled Services Council Inc.).

83. *Transcript of Evidence*, pp. 322-3. That this occurred in open industry as well was agreed by the witness, p. 328 (Intellectually Disabled Services Council Inc.).

84. *Transcript of Evidence*, p. 322 (Intellectually Disabled Services Council Inc.), pp. 359-60 (Phoenix Society Inc.), p. 4190 (Epic Employment Service, M.O.R.E. Inc.). The Committee also observed the presence of skilled employees in workshops during its series of inspections; this may be indicative of such employees not being encouraged to obtain positions in open employment.

6.108 It was not clear if such workers would have received appropriately higher remuneration than average, while in the sheltered workshop, and hence benefitted directly from their higher productivity. That some did not was stated by one witness, 'they were working at the 80 to 100 per cent productivity rate – and they were being paid \$40 a week'.⁸⁵ Another witness stated that 'a lot of those people are doing productive work and yet getting very little money for it'.⁸⁶ It is apparent, however, that the lack of opportunity to move is an infringement of their right to fuller participation in society, if this is what they would have preferred.⁸⁷

I think in our forward planning it is one of the things that we have seen as the major challenge to be overcome, that when you are, on the one hand, asking people to produce some commercial outcomes and, on the other hand, trying to focus on the needs and aspirations of the people who work for you, it is by most definitions a strange situation where you are actively encouraging your most productive employees to leave. Our changed organisation structure that we implemented a week or two ago is attempting to separate the management responsibilities for the two aspects of our work, so that the people involved in producing commercial outcomes and running the operations on a day-to-day basis are not those involved in trying to encourage people to do other things with their lives. We believe that, without separation and with a clear distinction between our two tasks, we will be able to manage the process better.⁸⁸

6.109 The question of being free to leave is a complex one. Technically, workshop employees/clients were not obliged to stay if they wished to work elsewhere. However, it is likely that a number of workshops did not assist their more skilled employees to find jobs on the open market or encourage them to think positively about themselves.

6.110 In respect of wages, probably the most important issue is the extent to which sheltered workshop rates of pay are, or are perceived to be, exploitative and discriminatory in terms of being less than can be afforded when productivity and overheads have been taken into account. Yet information on this issue was difficult to obtain.

6.111 Where organisations were tendering at commercial rates, and especially were running multiple businesses generating substantial income, the question of wages is of particular importance. Bedford Industries in South Australia employed a total

85. *Transcript of Evidence*, p. 329 (Intellectually Disabled Services Council).

86. *Transcript of Evidence*, p. 699 (Centacare).

87. *Transcript of Evidence*, pp. 322, 328 (Intellectually Disabled Services Council Inc.). The issue of possible discrimination against female workers (*Transcript of Evidence*, p. 4986 (ACROD Limited)) as well as against more skilled workers was not further developed in the evidence.

88. *Transcript of Evidence*, pp. 359-60 (Phoenix Society Inc.).

of 730 people, 550 of these being 'consumers' (clients/employees) and the others full or part-time 'staff' (that is, non-disabled people). The organisation operated through 20 to 30 independent operations, including ground care and landscaping, contract cleaning, garment manufacturing, and catering.⁸⁹ However, the minimum wage was \$20 per week and the average, in April 1989, was \$45 per week.⁹⁰ The turnover per annum was \$9 million.

6.112 Given the substantial Departmental funding, the organisation appeared to be in receipt of considerable income, and yet wages were generally low. The relationship between productivity rates and income was not detailed, although other information given by the organisation suggested that income was redirected to services, not necessarily to the income of 'consumers'.⁹¹

6.113 The Red Cross in Brisbane, which was operating a workshop in transition, stated that wages had increased in the transition period because of increased productivity.⁹² The average, however at the end of 1990, was about \$30 per week, with a maximum of \$75.

We are two sheltered workshops and an ATC. We are in transition and doing everything within our power to come under section 10 of the Act. This has included everybody at the centre having an IPP. We have a workers committee. We have gradually increased wages to the present average of about \$30 a week up to \$75 at the moment. As money becomes available, based on the commercial enterprise, the wages, based on productivity, are gradually moving up. So they are the sorts of things that we do.⁹³

With Epic Employment, the Red Cross received the Prime Minister's Employer of the Year award in 1990 for 'being the best support service'.⁹⁴

6.114 The organisation believed that an assessment of individuals and skills was required in order to establish a proper wage structure.⁹⁵ Thus, although wages had increased in their service because of productivity, and obviously individual wages varied, presumably because of the same factor, this did not represent more than a

89. *Transcript of Evidence*, pp. 154-5 (Bedford Industries Rehabilitation Association Inc.).

90. See Paragraph 6.100.

91. See below, Paragraphs 6.162-6.164.

92. *Transcript of Evidence*, p. 4463 (Australian Red Cross Society, Queensland Division).

93. *ibid.*

94. *Transcript of Evidence*, p. 4467 (Australian Red Cross Society, Queensland Division).

95. *Transcript of Evidence*, p. 4465 (Australian Red Cross Society, Queensland Division).

rough correlation of wage to skill. This evidence suggested that the production process had been a major difficulty and that this had improved.⁹⁶

‘Real Work’

6.115 A number of witnesses stated that a significant problem with sheltered workshop employment was that it did not provide a real job, and that the occupation provided did not develop skills that could be used to move to more open employment, although this was the basis of the HPAA.⁹⁷ One witness indicated that sheltered workshops did not develop the capacities of clients/employees.

In my view the potential of people working within a sheltered employment environment such as a sheltered workshop are not challenged.⁹⁸

6.116 Yet, direct evidence as to ‘make work’ was virtually non-existent, and very little detail was given about the type of work available that was considered not ‘real’.

The notion of meaningful work needs much more work done on it: Is a disabled person better off as a woodwork machinist in our workshop or as a cleaner in open employment? We are doing research at the moment to identify work tasks that minimise the impact of a person's disability. We must ensure that we are serious about choice and that what is right or wrong, good or bad, is ultimately determined by disabled people making choices, not by well-meaning bureaucrats or advocates making choices for them.⁹⁹

6.117 Sheltered workshops saw themselves primarily as highly commercial in the sense of being competitive in external markets and thereby as within ‘normalisation’ rules although their competitive edge was based on paying lower wages. While noting that ‘there are some services that will obtain work with a view to providing training – they have even used the word “therapy” . . .’¹⁰⁰ ACROD representative, Mr McKenna, believed that such services were in the minority. Nor was there any indication that the work itself of such services (even though described as ‘therapy’) was in itself ‘make work’ – in fact, since other workshops felt they had been undercut in their own tender for the same work it is likely that even ‘therapy’ was ‘real work’. Speaking on behalf of ACROD, Mr McKenna said:

96. *Transcript of Evidence*, pp. 4468-9 (Australian Red Cross Society, Queensland Division).

97. *Transcript of Evidence*, p. 1351 (Disabled Peoples' International), pp. 4823, 4840 (Disability Advisory Council of Australia).

98. *Transcript of Evidence*, p. 699 (Centacare).

99. *Transcript of Evidence*, p. 346 (Phoenix Society Inc.).

100. *Transcript of Evidence*, pp. 4987-8 (ACROD Limited).

The majority of services that I am aware of charge commercial rates . . . to the extent that we are being knocked off constantly on a day-to-day basis by outside commercial enterprises. So we certainly cannot be charging less than competitive commercial rates.¹⁰¹

6.118 In this issue, it is important to distinguish between 'make' work and jobs which may appear to be uninteresting, but are nonetheless 'real' in that they contribute to a process which provides income. While it is true that a number of sheltered workshops are involved, directly or via contracts, in a number of apparently repetitious and relatively low-grade jobs, these may be (a) integral to the workshop's operation, and (b) no different to jobs undertaken by a substantial number of non-disabled people, for example, packing, sorting, labelling. Indeed, they may be no less interesting or demanding in themselves than the jobs which people with disabilities may undertake in open employment (for example, photocopying, registry work in a department, etc.). The issue may be then, not so much the nature of the job as whether it is 'real' because it is not in a sheltered workshop.¹⁰² The attitude of workshop management is also important, with workers possibly feeling that both they and their work were undervalued because they were not treated like other workers.¹⁰³

6.119 Another cause of work being perceived as not 'real' could be the poor levels of productivity and inadequate equipment, etc. The nature of the work itself is often 'real', but the way in which it is carried out, in some cases, would suggest that it is not seen as a serious pursuit. Where workers themselves have been able to become more involved in management decisions, and/or where management has changed to come more into line with commercial practices, it is possible that the same type of work once seen as not 'real' could be perceived as valuable.

Skills development

6.120 Evidence submitted on the lack of skills development was not detailed, and most statements were too general to provide information as to the lack of suitable training which would enable people to compete more effectively on the open market. One witness indicated that in fact there was too much training in workshops – 'interminable training'¹⁰⁴ – which did not lead anywhere. One workshop argued that the options offered in open employment to people from sheltered workshops required lower level skills – in effect, that higher skills were taught and practised in the workshop¹⁰⁵, and that appropriate jobs were not always available in the open market to utilise these skills. Consequently, there is not an easy correlation

101. *Transcript of Evidence*, p. 4988 (ACROD Limited).

102. See above, paragraph 3.83.

103. See Paragraphs 6.99-6.100, 6.102.

104. *Transcript of Evidence*, p. 3766 (Dr J. Black).

105. *Transcript of Evidence*, pp. 347-8 (Phoenix Society Inc.).

between open employment and greater options, and between sheltered workshops and limited training/work opportunities. Given that skills may deteriorate rapidly if not used consistently¹⁰⁶ and that workshops may have to take on a wide range of contract and other jobs to remain viable, the extent and depth of skills/training may be limited but may at least be continual. Hence, the problem may be in part the work pattern and type of job offered by the workshop, particularly when this may provide minimal opportunity for multi-skilling through not separating tasks into components and not providing rotation through aspects of available jobs. There may not be a conscious decision by the workshop itself to minimise training, or to make it less useful for open employment.

6.121 Most major organisations in fact claimed that training was an important part of their job.¹⁰⁷ Sheltered workshop representatives did believe they provided appropriate training and that this was sufficient to assist some people into more open employment.

Depending on the individuals and their disabilities, there is probably a fair justification for suggesting that going through a process of work environment for a period before they were, perhaps, ready to be placed into open employment is quite legitimate. It has still to be resolved with the Department, too. However, there are a number of people who, with varying degrees of support, could probably go straight into competitive employment and training with the support of on-the-job training.¹⁰⁸

6.122 Nonetheless, they did not believe that this training alone would be sufficient to enable an individual to achieve ordinary productivity within a sheltered workshop.

I do not think we should expect a huge number of people to benefit without adequate resources of training staff to assist them in achieving the higher productivity to earn the higher income.¹⁰⁹

6.123 While some workshops argued therefore that some of their staff were well-trained, they believed that overall they did not have sufficient resources to provide the type of training required for easy movement into open employment. They saw this as being available under the new service types.¹¹⁰

106. *Transcript of Evidence*, p. 5290 (Mr B. Blakeman).

107. *Transcript of Evidence*, p. 4469 (Australian Red Cross Society, Queensland Division).

108. *Transcript of Evidence*, pp. 1452-3 (ACROD Limited). See also *Transcript of Evidence*, pp. 4473-4 (Australian Red Cross Society, Queensland Division).

109. *Transcript of Evidence*, p. 1454 (ACROD Limited).

110. See below, Paragraphs 6.203, 6.292.

6.124 However, it has been suggested by some of those who do have experience in the field¹¹¹ that training has not been a priority in sheltered employment. Some witnesses considered training to be a major component in the development of skills leading to successful employment in other than sheltered workshops.¹¹²

6.125 Some workshop managers are attuned to the importance of training and to particular types of training, especially the relationship between training and what is perceived as a normal working environment. The personnel manager of Summit Industries in Tasmania noted that modelling or example training appeared considerably more effective than a more direct 'educative' approach, and, in discussing the benefits of 'reverse integration', stated:

We have had quite remarkable results . . . because people can learn in an environment where there are many very positive models to imitate. Ideally, it would be better if that happened in the community or in open employment, but where that is not possible it seems to us that reverse integration is a worthwhile intermediary step because it does provide people in long-term supported employment with a chance to rub shoulders with and learn from people with very good work habits.¹¹³

6.126 This would suggest that experiences in work which are considered to be more normal may be seen as 'acceptable', even though some of the actual working environment may remain the same. Training may not differ in content, in that it may still be about particular skills; however, if it is done indirectly, or the 'trainer' has a positive manner which the other employee responds to, in tone or manner, this may be a key factor in obtaining a good result.

6.127 Evidence provided on the support needs of people, especially those using supported employment services, suggest that the level of disability itself is not always the single most important factor. If people are institutionalised¹¹⁴ or overprotected at home and need to develop social skills, or have not developed these or ordinary living skills prior to beginning work, they may require additional support levels. This would suggest that integration is beneficial, although 'employment' itself is not necessarily a component of such integration.

111. *Transcript of Evidence*, pp. 83-4 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.), p. 1175 (Professor T.R. Parmenter), p. 5386 (Summit Industries).

112. *Transcript of Evidence*, pp. 4475-6 (Australian Red Cross Society, Queensland Division).

113. *Transcript of Evidence*, pp. 5386-7 (Summit Industries).

114. See below, Paragraphs 6.130, 6.134-6.136. See also Paragraphs 2.46, 3.58, 3.66, 3.113, 3.120.

6.128 A further factor is that a workshop may have provided training but it may not have provided, or not been able to provide, training in those more general skills which help to make specific skill training effective.¹¹⁵

our experience would indicate that people have to see the difference between training and development . . . you can train people to learn skills but often you can only develop a person's employability by exposing him or her to certain situations.¹¹⁶

6.129 Hence, where the issue is primarily training in life skills as well as in job skills, workshops may need to re-evaluate their training policies. This was noted by other witnesses.

I guess the difficulty also has been that we have looked on moving into competitive employment as a clean cut from employment services, and I think for some people that might be a mistake. It might be that they need ongoing support of a very specific kind for the rest of their lives, not a training kind but just ongoing support of a physical kind, perhaps, in order to hold that job competitively.¹¹⁷

6.130 A representative of SAID indicated that people with mild intellectual disabilities 'are only socially disabled'¹¹⁸ and did not need to be in sheltered workshops. Once there, the witness stated, they became institutionalised, and lost the capacity to deal with the outside world and to succeed in open employment. The solution, at that stage, was training – although the ideal would be for people with disabilities to spend a shorter period of time in sheltered workshops.

I think the whole system encourages that dependency and that is the trouble. It is very institutionalised to provide help for disabled people and the people who have the jobs are all very giving and it is that whole paternalistic sort of thing. In turn, people who are disabled accept that as reality and are scared to move on. I think the change has to come on the whole sphere of the community, in community attitudes, the Equal Opportunities Act, and just where the government money goes. So it is a transition. It is definitely a transition.¹¹⁹

115. *Transcript of Evidence*, pp. 445-6 (Spastic Centre of New South Wales).

116. *Transcript of Evidence*, pp. 5837-8 (Department of Social Security).

117. *Transcript of Evidence*, p. 3773 (Dr J. Black). See also *Transcript of Evidence*, pp. 1167-8 (Professor T.R. Parmenter), p. 5389 (Summit Industries).

118. *Transcript of Evidence*, p. 83 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.). See above, Paragraphs 2.9-2.13. This issue of general social disadvantage, especially if linked to low income, is one which needs to be addressed.

119. *Transcript of Evidence*, p. 84 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.).

6.131 One witness stated that sheltered workshops could have a useful role in training over a relatively short time (2-3 years) to make people attractive to the open market. However, the witness believed that some workshops did not currently meet that objective, particularly because they did not meet the specific needs of the individual.

One of my biggest complaints about sheltered workshops . . . is that very little equipment is adapted to the different physical needs of the disabled person in the particular workshop. Therefore, those people are not going to be able to compete on the open market because they are not going to be able to be trained on equipment that is specially designed for them, whereas if you go to a number of the large workshops in Sydney, they do specifically adapt equipment to meet the requirements of that disability. That equipment can be picked up and walked out and put into an open employment situation. I think we should be going that way; we should be using their expertise to create openings.¹²⁰

6.132 Where this was, or continues to be, the case, productivity is presumably unnecessarily reduced and hence workshop operation is ineffective.¹²¹ In this area, the NTAU may be able to provide necessary support and assistance.

Worker satisfaction

6.133 Comments in a number of submissions and from witnesses suggested that there was little satisfaction obtained from the jobs available in some sheltered workshops. The above discussion suggests, however, that major problems may be not the job itself but the environment, the manner in which the job is presented, and whether it is seen as a job which was transferable to the outside world, as well as the attitudes to workers expressed by workshop staff.

6.134 Additional factors, relating to the work environment on a personal level, would also include the attitudes and relationships of employers and their employees. As suggested in Chapter 3¹²², this relationship has often been seen as a negative one, although this is not because of its inherent nature but because of the individuals concerned. Working in a situation where one feels demeaned or in a situation of dependency can be extremely undermining, and a major contributing factor in limiting individuals' capacity to make decisions, to stand up for themselves and to become involved in new activities or work experiences. Where the abuse of human rights exists, this is clearly a matter of concern and must be addressed by service providers and by funding departments. Where the inadequate response to

120. *Transcript of Evidence*, p. 292 (HETA). See also *Transcript of Evidence*, p. 4475 (Australian Red Cross Society, Queensland Division).

121. See below, Paragraphs 6.152-6.177.

122. See above Paragraphs 3.113-3.120.

employees' needs results from poor management and inappropriate attitudes, these may often be appropriately dealt with by the people concerned and their advocates.

6.135 A number of these problems are likely to continue because of the nature of the relationship between some service providers and the people who utilise their services. The Endeavour Foundation in Queensland, for example, considered that their service users were not employees but clients, and that this relationship was not one which could be easily changed because it affected all aspects of the organisation's services.

The Foundation holds a special brief for people with an intellectual handicap. It does not regard its adult clients as school pupils, but it respects the schoolmaster's idea of education, care and responsibility for his charges. Nor does it think of its clients as patients, for it rejects the hospital model. But there are elements of those two ideas which properly should be weighed into the mix of ideas which surround the relationship between client and service provider. The mix involves emotions to do with love, family and care. In essence, the Foundation desires a benevolent relationship with its clients. It regards its clients as people to be cared for in circumstances in which their interests are put first.

This is not the same relationship that the Foundation enters into with its staff. The Foundation does not regard clients attending service facilities called sheltered workshops as staff. It does not employ them in a commercial sense as a labour force. To try to reorder that relationship to one of employer-employee would not serve the long term interests of clients, their families or the Foundation.¹²³

6.136 Most people would argue both about the nature of this relationship and about the statement that it was not one of a schoolmaster and pupil. Such a view of the relationship may have considerable effects in terms of other aspects of an employment relationship. Included in these aspects are the security of employment, tolerance of behaviour patterns, and some flexibility in work methods. To some extent, then, what some observers or participants may see as an unsatisfactory work relationship (affecting job satisfaction) may have benefits which are not obvious. The Endeavour Foundation stated that its delineation of the relationship meant it assumed responsibilities which a 'commercial' employer would be unlikely to take on board:

Because we know we are providing a service for a person who has special needs, I believe we have to have that higher duty of care than in a straight employer-employee relationship. I guess in a normal workplace – I have come from the commercial area a number of years ago and if one of my employees, in the old days, had had a behaviour

123. *Transcript of Evidence*, pp. 4250-1 (Endeavour Foundation). See also *Transcript of Evidence*, p. 4986 (ACROD Limited).

incident and smashed walls and those sorts of things one would tend to say, "On your bike; go and pick up your pay and go away". Here we know that people have unpredictable behaviours. We know that that is what we are about. We are there to try to address those unpredictable behaviours and to try to assist the person to be more accepted in the community overall. But a normal employer would not put up, you might say, with a lot of the behaviours the normal sheltered workshop puts up with.

So we are saying that we have all of those duties of care of an employer-employee relationship. We would not sack employees; we do not do productivity-type assessments of employees and say, "If you do not perform at a certain rate, you are out the door". That is not our issue. We are there to try to develop a person. If the person could only operate or work at, say, 10 per cent capacity – if you want to use figures – and we have worked with that person and helped them move up to 20 per cent capacity and helped them fulfil themselves, we have done very well, though in commercial terms it would be a disaster.¹²⁴

Award Conditions

6.137 Insofar as normal standards of occupational health and safety are not being met by sheltered workshops (or by other forms of employment) these matters should be addressed and rectified. While organisations/services operating sheltered workshops have stated that it is not possible for them to pay award wages, many do believe that award conditions are flexible and essential in an environment which is respectful of the individual and concerned to provide standards akin to those in the normal working world.

In relation to working conditions, in the reverse integration system we have found that there is a standard that comes with that sort of situation. This is very beneficial to disabled people. Previously when all the employees were disabled and the staff were not it was quite a polarising situation with conditions for one group developing in quite a different way from conditions for the other group. In the reverse integration system we found that all those workers under the award wages system set a standard that we could not ignore – that is, they demanded award wage conditions, which they got. We decided to adopt those conditions for everyone across the board. The only thing we cannot do in that situation is that we cannot meet award wages for people with disabilities. But there is no reason why any sheltered workshop cannot apply the award conditions across the board. We have found that has helped a lot of disabled people understand more about their rights and their protection in that situation.¹²⁵

124. *Transcript of Evidence*, p. 4273 (Endeavour Foundation).

125. *Transcript of Evidence*, pp. 5389-90 (Summit Industries).

6.138 Some organisations also stated that they provided a range of award conditions such as workers' compensation, holiday pay, annual leave and sick leave.¹²⁶ In some cases, long-service leave was provided¹²⁷, but if it was not seen as a proviso of Departmental funding, it was not currently available from other organisations.¹²⁸ Discussing award conditions in April 1989 a Trades and Labour Council representative, speaking through SAID¹²⁹, indicated that work conditions in many workshops (in respect of issues such as superannuation) required considerable attention; the witness noted, however, that some of the conditions negotiated for (such as productivity superannuation) put 'disabled workers' 'far ahead of some of the workers in open employment in South Australia'.¹³⁰ While there is an absence of an employer/employee relationship in some cases, there is no necessary absence of a range of employer/employee conditions and staff may be in receipt of all benefits except wages.¹³¹

6.139 A representative of ACROD noted that the issue was not so much one of employer/employee relationships but of the different background and concerns of organisations.

I think, like all these things, we do not live in an ideal world . . . There has always been this conflict within the voluntary sector obviously – are you a welfare service; are you a training service; are you an educational service; or when do you cross the line and your people become employees – and I do not pretend to have any black and white answers, but I can certainly understand some strong views in that area and some ambivalence in some organisations, but it is an issue that should be addressed.¹³²

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126. *Transcript of Evidence*, p. 4274 (Endeavour Foundation), p. 4983 (ACROD Limited).
127. *Transcript of Evidence*, p. 1451 (ACROD Limited).
128. *Transcript of Evidence*, p. 4026 (Intellectual Disability Rights Centre), p. 4274 (Endeavour Foundation).
129. *Transcript of Evidence*, p. 74 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.).
130. *ibid.*
131. *Transcript of Evidence*, p. 4268 (Endeavour Foundation). See *Ronalds Report*, Chapter 9, pp. 146-159. The Committee notes that on 23 August 1991 the Australian Industrial Relations Commission upheld the application of the Federated Miscellaneous Workers' Union (FMWU) for the coverage of the workers in one sheltered workshop in New South Wales. The award would give the same conditions available to non-disabled workers, with wages based on 'skills, productivity and qualifications'.
132. *Transcript of Evidence*, p. 4985 (ACROD Limited).

Worker involvement

6.140 Many organisations have client committees which are involved in decision making, thus fulfilling some of the DSA guidelines as to participation in decision making processes.

Every one of the Endeavour Foundation's services has a client committee. In some of the workshops the clients have passed a motion not to have a client committee. That has occurred in a number of instances. But we do have a client committee there where the clients elect their own spokespeople, et cetera, and they meet on a monthly basis to discuss various issues. In most circumstances we attempt to have an independent moderator and record taker at those particular meetings . . . there is no barrier to any client being elected to any position in the Foundation. They can be members, they can go through the normal election process of any person in the organisation and can seek office in that way, but there are none who have done that at this point.¹³³

6.141 However, a number of witnesses stated that the workers' committees which did exist had not been of much assistance to workers.¹³⁴ In part this could have been the result of the inexperience of workers and their inability to use a committee or to develop their arguments for improving a number of working conditions. This problem was seen as gradually being overcome by better training and by workers' gaining practical experience.¹³⁵

6.142 Another reason for the ineffectiveness of some workers' committees was that they were not in possession of power and were considered 'very tokenistic'¹³⁶ and

. . . do not seem to be based on the legislation, and there has not been much consultation carried out.¹³⁷

6.143 Another organisation noted that although there was general concern to meet employees' participation requirements, as well as other aspects of workers

133. *Transcript of Evidence*, p. 4268 (Endeavour Foundation). See also *Transcript of Evidence*, pp. 164-5.

134. *Transcript of Evidence*, p. 70 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.).

135. *Transcript of Evidence*, p. 358 (Phoenix Society Inc.).

136. *Transcript of Evidence*, p. 76 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.).

137. *Transcript of Evidence*, pp. 76-7 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.).

conditions, there were often legal impediments to consumers being on boards of management.¹³⁸

6.144 Again, proper consultative procedures and valid worker representation is an integral part not only of the *Disability Services Act* Principles and Objectives but of the Minimum Outcome Standards originally to be agreed to by August 1991¹³⁹ and now to be in place at 30 June 1992 for funding to be continued. Hence, while a number of workshops in the past and at present may not have established effective committees/consultative processes, this problem is likely to be overcome for some workshops in the near future.¹⁴⁰

Occupational health and safety

6.145 The issues of both occupational health and safety, and of receiving award conditions (if not wages) were ones raised quite often. There was little specific evidence in submissions or at public hearings detailing the problems that currently existed. That they did in the recent past, however, particularly with relation to health and safety standards, has been stated by a number of organisations and individuals.¹⁴¹ ACROD representatives stated that most member organisations met State regulations with respect to health and safety¹⁴²:

we are supervised by the Department of Industrial Relations. Our organisation has 500 people with disabilities and we have occupational health and safety committees. We also have a safety manager whose sole duty is to ensure that we are meeting the criteria of the government department and the law and, I would say once again, there is probably a majority of services that are doing and fulfilling those obligations. If some are not, I can assure you that they are probably in the minority.¹⁴³

138. *Transcript of Evidence*, p. 4983 (ACROD Limited).

139. Minimum Outcomes Booklet, pp. 17-18, 21-22.

140. Opening address to 1991 ACROD National Convention by the Minister for Health, Housing and Community Services *Australia and Disability – Where to Now?*, p. 7.

141. *Transcript of Evidence*, pp. 3771-2 (Dr J. Black), p. 4873 (Disability Advisory Council of Australia).

142. *Transcript of Evidence*, p. 4272 (Endeavour Foundation), p. 4982 (ACROD Limited).

143. *Transcript of Evidence*, p. 4982 (ACROD Limited). See also *Transcript of Evidence*, pp. 1450-1 (ACROD Limited).