

6.146 Submissions from the Disability Advisory Council of Australia (DACA)<sup>144</sup> and SAID<sup>145</sup> (the latter with Trades and Labour Council input) stated that occupational health and safety issues were still current (for SAID, this referred especially to a phone-in held during June 1988). The South Australian Trades and Labour Council produced an occupational health and safety booklet for people with disabilities (primarily intellectual disabilities) as a result of the inspections which were carried out in 1988<sup>146</sup>, and a major service provider referred to available publications which service providers needed to be made more aware of.<sup>147</sup> The evidence of HREOC<sup>148</sup> referred to occupational health and safety issues briefly; more information was provided in the research undertaken for HREOC by NCID.<sup>149</sup>

6.147 That lack of knowledge about occupational health and safety issues was a problem was indicated by Bedford Industries representatives<sup>150</sup>, and this was specifically that of employer responsibilities and liabilities. The organisation also stated, however, that occupational health and safety issues were a matter of choice as far as employees were concerned.

We would be like any other employer though: we would not necessarily be perfect because it is still individual choice. You could have an individual who just does not wear earmuffs in an area where he should, or one who will not wait for a trolley but will pick up in excess of 14 kilos in such and such a fashion when he should not be doing so. These sorts of things, as you would be aware, are prevalent in industry in general and we are no exception . . .<sup>151</sup>

6.148 In general, workshops in South Australia indicated that there were minimal problems with occupational health and safety standards.

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144. *Transcript of Evidence*, pp. 4796-4870 (Disability Advisory Council of Australia).

145. *Transcript of Evidence*, pp. 70-91 (Self Advocacy for Intellectually Disabled People in S.A. Inc.).

146. *Transcript of Evidence*, p. 76 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.). Discussions between the Secretariat and the South Australian Trades and Labour Council in Adelaide on 30 October 1990.

147. *Transcript of Evidence*, p. 163 (Bedford Industries Rehabilitation Association Inc.). See also *Transcript of Evidence*, p. 4359 (Department of Family Services, Queensland).

148. *Transcript of Evidence*, pp. 5916-17 (Human Rights and Equal Opportunity Commission).

149. See above, Chapter 3, Footnote 53.

150. *Transcript of Evidence*, p. 163 (Bedford Industries Rehabilitation Association Inc.).

151. *Transcript of Evidence*, p. 163 (Bedford Industries Rehabilitation Association Inc.).

We try to encourage safe work practices; we provide safety training for people both in terms of their initial training to operate machinery or in terms of general awareness training in safety issues. We are currently assessing the situation in relation to general protective clothing. Where people are working in an area with corrosive materials or things like that then we provide protective clothing for them, quite clearly, but we are looking at the wider question as to whether people who work in woodwork areas and get a bit of sawdust on them should be provided with overalls and things like that. They are the major ways in which it is done. In each of our plants there is a staff member who has a specific responsibility for safety procedures, including evacuation procedures and all the rest of the stuff. Fire drills are carried out regularly. Safety is given a fairly high priority in terms of the life at Phoenix.<sup>152</sup>

6.149 Nonetheless, the same organisation also conceded, if implicitly, that standards had not previously been high.

There have been a number of cases over the last few months where we have responded very quickly to some situations that needed to be addressed.<sup>153</sup>

6.150 However, most evidence referred to problems in the area without providing great detail. Verbal and written evidence available to the Committee, therefore, was supplemented by Committee visits to various types of employment options. In some of the visits to sheltered workshops, it appeared that occupational health and safety standards were not high; the accident and ill-health rate resulting from this would require separate study, and would also need to be compared with the rates for open employment for non-disabled workers, especially given earlier reference to a high rate of work-related accidents for groups such as people of non English speaking background.<sup>154</sup>

6.151 The responsibility for occupational health and safety standards inspections rests with State governments.<sup>155</sup> Insofar as standards have not been maintained,

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152. *Transcript of Evidence*, pp. 351-2 (Phoenix Society Inc.).

153. *Transcript of Evidence*, p. 351 (Phoenix Society Inc.).

154. See above paragraph 2.30.

155. South Australian workshops were exempt from award conditions. See *Transcript of Evidence*, p. 34 (South Australian Government) and see *Ronalds Report*, p. 157 (9.11) and p. 153 (9.4). The ACTU conceded that its own involvement in sheltered workshops in respect of health and safety standards had not been great. 'Unions have been lax over the years in going into these areas because of the legislative prohibitions that they cannot be faced' (*Transcript of Evidence*, p. 5509 (Australian Council of Trade Unions)). See also the recent move into the coverage of workers with disabilities referred to above at Footnote 131.

as was indicated by one witness<sup>156</sup> this would obviously require intervention of the relevant authorities. One of the reasons given for poor standards in workshops, however, was the absence or ineffectiveness of workers' committees which were seen as *potentially* an important work-based source of standards, but as currently not particularly effective because of the lack of knowledge of the law and lack of experience of workers.<sup>157</sup> This could manifest in a number of ways, including lack of knowledge about the process required for an inspection. The development of advocacy services, particularly self-advocacy, by a number of groups is an effective means of providing training in this area. Acceptance by workshops of Minimum Outcome Standards should also contribute towards overcoming occupational health and safety problems. Publications such as those produced by the Intellectual Disability Rights Service are also extremely invaluable, both in providing information and in encouraging people with disabilities to stand up for their rights.<sup>158</sup>

### Recommendation

The Committee RECOMMENDS:

9. That all occupational health and safety standards in all sheltered workshops be developed and maintained under the State and Territory legislation developed to complement the *Disability Services Act*. No exemptions should be available because of an organisation's 'charitable' status.

### Management practices

6.152 Clearly, the issues of wages, training, skills and worker satisfaction is closely related to the issue of management practice, and the McConnell and Pretty report<sup>159</sup> noted that management in sheltered workshops tended to be poor. Submissions and evidence presented to the Committee gave little explicit evidence of poor management practices or indeed of the operations of sheltered workshops at all. Implicitly though, much of what was discussed in more general terms indicated that the operation of some workshops required improvement.

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156. *Transcript of Evidence*, p. 4883 (Disability Advisory Council of Australia). This witness, however, came from South Australia, and conditions cannot be seen as the same across the States.

157. *Transcript of Evidence*, pp. 70, 75, 76 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.), p. 4883 (Disability Advisory Council of Australia).

158. Intellectual Disability Rights Service (IDRS), *Your Rights at Work* (Sydney, 1987), especially Chapter 7, and *Protecting Workers' Rights* (Sydney 1987), Chapter 5.

159. *op. cit.*

**6.153** Under the *HPAA* 1974 the workshops previously received substantial funding for capital and for staff<sup>160</sup>, and staff funding ratios appear to have been generous (including subsidies for all workshop staff and not just those directly involved with employees). However, accountability processes were limited primarily to ensuring that funds provided had been spent as directed and, in respect of employees, that particular procedures were operative. Such program evaluation as existed was therefore based on inputs rather than qualitative outcomes for clients.<sup>161</sup> One witness, with several years' experience in sheltered workshop operation, considered that accountability in general was limited.

The moneys that Government provides to employment services ought to be spent on services that lead to the individual gaining a good job or getting good pay, and that is what I mean by accountability.<sup>162</sup>

**6.154** Clearly this was a government intention, as is manifest in the administrative manual for Departmental officers. For example, the purpose and objectives of sheltered workshops are clearly stated<sup>163</sup> and a detailed series of instructions were provided by which particular aspects of operations relative to objectives were to be followed. This is only to say, however, that, given the number of workshops approved, staffing difficulties and a limited awareness of performance indicators and outcomes, the theory of the manual was often not put into practice.

**6.155** Technically, the Department accepted the responsibility for protecting workers from exploitation<sup>164</sup>, through ensuring that they received an adequate wage, based on productivity. In reality, this responsibility was not met if claims that high productivity rates were not appropriately remunerated is true.

**6.156** That business methods of sheltered workshops required improvement is suggested by the Department of Community Services and Health's production in 1985 of a basic accounting manual. This work was considered by the author to be 'an explanation of accounting and its reports for those who . . . do not have a background in accounting . . .'. This would appear to suggest that many workshops did not have much idea of required accounting practices, and that they had not been

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160. See Department of Social Security Manual of Instructions for Administration of the Handicapped Persons Welfare Program 1981, Section 4.F.1 (hereafter cited DSS Manual of Instructions).

161. S. Topple, *Accounting and Financial Reporting for the Sheltered Employment Industry*, Canberra, 1985, forwarded to the Committee by the Department.

162. *Transcript of Evidence*, p. 3768. See also p. 3769 (Dr J. Black).

163. DSS Manual of Instructions, Part 2, Section 2.C.1.

164. *Transcript of Evidence*, p. 3768; see also p. 3767 (Dr J. Black). See also below, Paragraph 6.160. State governments, however, had responsibility for occupational health and safety issues.

obliged to demonstrate such practical knowledge in the operation of the workshop as a viable business.<sup>165</sup>

6.157 The type of evaluation process in practice was referred to by ACROD representatives in their evidence to the Committee in 1989.

Prior to that [approximately April 1989] there was no forward evaluation process, other than people thinking we were doing a good or a bad job . . . visiting the facility to have a look occasionally.<sup>166</sup>

6.158 Accountability for income generated through production appears to have been in-house only. The same witness as abovementioned at Paragraph 6.153 stated:

I worked with one organisation for nearly four years. That organisation was getting a lot of money from the Government, and during that time I can recall one visit from the Department of Community Services and Health where they were trying to find out what was happening to the money.<sup>167</sup>

6.159 Therefore, while all organisations were required to maintain separate books of accounts and provide regular statements of income and expenditure to the Department<sup>168</sup>, some statements were presumably of a general nature however much a 'clear and accurate' account was desired by the Department.

6.160 Consequently, while the possibility of cross-subsidisation of services existed it was not considered a matter for the relevant Department to investigate. It is the extent and use of this income which would require more detailed study in any effort to determine the extent of cross subsidisation, inefficiency, and consequent loss to employees of income that could have been received through higher wages.

6.161 Very few witnesses raised the issue of possible cross-subsidisation of services, or the investment of funds into other areas.<sup>169</sup> One who did raise the matter was a person with a disability who was concerned about the lack of accountability of organisations.

I have suspicions that some sheltered workshops, which are very big, have investments in other cities that have nothing to do with disability whatsoever. Should they be making those sorts of investments or

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165. S. Topple, *op. cit.*, p. 1.

166. *Transcript of Evidence*, p. 1468 (ACROD Limited).

167. *Transcript of Evidence*, p. 3768 (Dr J. Black).

168. D.S.S. Manual of Instructions, S.2.C.10. See also 2.C.10.3.

169. *Transcript of Evidence*, pp. 49, 51 (South Australian Government).

should they be returning a large proportion of those funds to their employees?<sup>170</sup>

**6.162** Bedford Industries appeared to suggest that the substantial income generated by its businesses was used in a number of ways that were not related to wages, but were seen as essential given the nature of the organisation. The organisation considered that commercial bodies did not have to provide staff support and hence would be likely to make a profit.

You could have another organisation that undertakes a similar sort of task that does not come from the specific social caring background, bearing in mind that anybody involved in human services would start from that principle, where the utilisation of funds to achieve the particular outcomes are less because they are putting things in a more structured financial, business or whatever is appropriate sense.<sup>171</sup>

We tend to have a few substantial service providers in South Australia. Very few of them have substantial liquid assets; in other words, any surpluses that they generate they convert directly into benefits, facilities, wages, et cetera, as they go along. They are not in the business of providing surpluses which are tucked away somewhere.<sup>172</sup>

**6.163** The organisation stated that its funds sponsored the Chair of Rehabilitative Medicine at Flinders University and the position of Research Fellow in Psychology at the University of Adelaide. In response to a direct question from a Committee member, the organisation representative stated that such support was a 'comparatively small percentage of our operations'<sup>173</sup>, but indirectly conceded that such money could otherwise have gone into wages.

**6.164** While this may be seen as an instance of 'benevolent' usage of service incomes, it would be essential in the future to ensure that this type of subsidisation of other services did not occur if it meant that genuine productivity-based wages were not being paid.

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170. *Transcript of Evidence*, p. 49 (South Australian Government). Cross subsidisation is obviously not limited to sheltered workshops – see Paragraph 6.15.

171. *Transcript of Evidence*, p. 148 (Bedford Industries Rehabilitation Association Inc.).

172. *Transcript of Evidence*, p. 149 (Bedford Industries Rehabilitation Association Inc.).

173. *Transcript of Evidence*, p. 154 (Bedford Industries Rehabilitation Association Inc.).

## Recommendation

The Committee RECOMMENDS:

10. That effective auditing processes be a requirement for all funded services for people with disabilities and that the Department of Health, Housing and Community Services also undertake random auditing to ensure that cross subsidisation is stringently limited.

6.165 In responding to a question, a witness stated that there had been concerns about charitable organisations' accountability requirements.

We need to be examining very carefully the difference between the fundraising efforts of some of these organisations and what they do, the numbers of people who are employed there, the levels of salaries that those people are involved in, and the actual outcome of benefit to the people whom they are all meant to be doing this effort for. There is a huge industry built around the disability area. It is bigger than any of the others.<sup>174</sup>

6.166 At this point in time, there would appear to be little benefit from a detailed examination of the past accounts of sheltered workshops, nor indeed is this likely to be possible. What is possible, and essential, is for the Department of Health, Housing and Community Services to ensure that effective accountability processes are in place and are maintained systematically in all future funding, including that for new employment options. In addition, a continuing realistic assessment of funding levels needs to be maintained, and in respect of sheltered workshops, this could take into account their existing capital assets.

## Recommendation

The Committee RECOMMENDS:

11. That all funded services, including sheltered workshops in transition, establish appropriate accountability procedures, including use of capital and other assets.

6.167 The actual efficiency of production is also difficult to assess through either submissions or oral evidence. ACROD stated that some workshops generated a substantial part of their own income, up to 80 per cent, and hence depended on the Department for only 20-25 per cent income subsidy.<sup>175</sup> However, this in itself is no indication of efficient management practices or otherwise, and the detail of what this income was spent on was not specified. That part of it went into training and

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174. *Transcript of Evidence*, p. 51 (South Australian Government).

175. *Transcript of Evidence*, p. 1456 (ACROD Limited). See also *Transcript of Evidence*, pp. 4251, 4267 (Endeavour Foundation).

other services which, it was claimed, were not funded by the Department, was apparent from other evidence.<sup>176</sup>

**6.168** As suggested above, some organisations which run multiple services and which operate as commercial services, should have some areas of operation which could theoretically provide award wages to staff (including people with disabilities). Because they did not, the issue is raised whether they were effectively commercial, or whether the profits generated were re-directed to subsidise training/development, or the wages/salaries of other areas. One witness suggested that poor management would have been a causal factor of low wage levels.

There are clearly no trained staff in those workshops. If there were, people would not be earning \$5 a week -- they would be earning substantially more.<sup>177</sup>

**6.169** To the extent that inefficient tendering as well as production may reduce income, workshops may have contributed to a reduction or loss of income through inexperience or through a belief that commercial viability was not always a priority. ACROD representatives stated that their business tendering was on a commercial basis<sup>178</sup> and so did Bedford Industries.

We work within industry as opposed to working as an adjunct of industry, and we are perceived to be part of industry not only as a competitor but also a resource provider inasmuch as we train and place people.<sup>179</sup>

**6.170** This may not always have been the case with all workshops, nor is there a clear statement that workshops' 'competitiveness' could have been based on a higher profit margin than that of commercial organisations (depending on the level of skill of workshop employees). In some areas, such as pallet making, the greater part of such contract work is done by sheltered workshops, who are not perceived as asking commercial rates and who in effect undercut each other for a job which generates little income.<sup>180</sup> One witness suggested that the poor management practices of some sheltered workshops reflected their attitude towards people with disabilities, and that it was necessary to improve management in order to improve image. In referring to poor-paying contracts, the witness stated:

It is not necessary for sheltered workshops to take on those contracts. The reply that a sheltered workshop management will make is, "Well,

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176. See above, Paragraphs 6.96, 6.162.

177. *Transcript of Evidence*, p. 700 (Centacare).

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

179. *Transcript of Evidence*, p. 156 (Bedford Industries Rehabilitation Association Inc.).

180. Secretariat discussion with Disability Services Program staff, 21 May 1991.



we will not have any work for people if we knock back that contract". My reply to that person would be to try it and see. I do not believe the assumption that you cannot get other work. It really does come down to what sort of a business person you have at the top and how tough he is . . . the person with a disability is more likely to suffer damage from doing that kind of work than the person who does not have negative things already associated with him.<sup>181</sup>

6.171 Workshops could therefore have generated good income which did not go directly in wages; and undertaken unprofitable jobs, and with a mixture of both, hoped to even things out.

I think perhaps they have to improve their management, or to find a contract that pays higher. Doing computer work is higher value per time spent than soldering stuff . . .<sup>182</sup>

6.172 Other research has indicated that in the past a number of sheltered workshops have not operated on a commercially viable basis.

Like other businesses, workshops need to recognise that quality, service and delivery on-time are selling points, just as much as price. There have been few incentives for workshops to strike the best price. The dominant concern has been the availability of work, sometimes at any cost.<sup>183</sup>

6.173 Other indirect evidence as to management practices is indicated by the use of unsafe machinery and workplaces and by inefficient layout. Further evidence of these problems was gained from Committee visits to workshops as well as from submissions. However, in the case of visits to services, there was no necessary connection between what was observed and the successful or other operation of specific services if the organisation did not provide a submission or give oral evidence. The existence of inefficient production processes, however, is a clear indicator that high productivity for some workshops was either not a priority or was not feasible because of the level of disability of the workforce. One consumer organisation saw sheltered workshops' more recent attempts to become financially viable as basically 'at the expense of peoples' disabilities'. For this organisation, sheltered workshops should have as a 'primary aim' the enabling of workers to gain open employment, rather than financial profit.<sup>184</sup>

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181. *Transcript of Evidence*, p. 3771 (Dr J. Black).

182. *Transcript of Evidence*, p. 90 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.).

183. J. Black, B. Harrison and H. Ziegler, *loc. cit.*, p. 56. See also *Transcript of Evidence*, pp. 45-7 (South Australian Government).

184. See *Transcript of Evidence*, p. 5617 (DEAC - Disability Employment Action Centre).

6.174 The areas in which cost-effectiveness (or possible cross subsidisation from a more to a less productive area) may exist are not clearly defined by any of the major groups involved, nor was there much evidence on the extent to which workshops concentrate higher skilled staff in more profitable areas and have less skilled and/or more disabled workers in routine and possibly low income tasks. However, the mix of skills in some sheltered workshops suggested that both these practices occurred, with higher skilled workers effectively subsidising less skilled. One organisation stated that it contracted for low skill jobs to provide places for a greater number of people who might otherwise not receive any service.<sup>185</sup> Such practices may deprive some workers of the opportunity to utilise high level skills and almost certainly deprive them of additional wages if they are in fact managing or 'carrying' other staff.

6.175 Some practices of management appear to have been avoidable but the extent to which workshops felt locked into production types and methods which are no longer viable may also have been a factor inhibiting change. If work standards, work attitudes, interpersonal relationships and effective supervision are low, the workshop is unable to develop individuals as fully as it might, especially in areas which are commonly seen as 'adult' and 'responsible' (for example, being on time, getting on with others). The development of these practices within the context of normal work patterns – task classification, work performance standards, work performance measurement, and a relationship between work performance and pay<sup>186</sup> – would be necessary in order to develop equity across sheltered employment services and to establish the basis for award rates. However, the extent to which this is possible in both the short and long-term during the transition process will depend on funding, the level of commitment to training and to modern business methods, and on the nature of different work-forces. In this respect, the long overdue National Technical Assistance Unit (NTAU) should be able to provide essential advice on effective business operations.<sup>187</sup>

6.176 The Unit 'will offer organisations the best available practical advice on innovative alternatives to sheltered employment, the technical expertise to deal with financial management, business development and marketing in a competitive commercial environment, and the strategic planning skills to manage and implement change'.<sup>188</sup> The Unit will receive funding of \$3.1 million over ten years and currently has two staff and a project officer.<sup>189</sup>

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185. *Transcript of Evidence*, p. 4237 (Endeavour Foundation). Such jobs would include those utilising manual rather than mechanical labour, so that the job would be labour-intensive.

186. McConnell and Pretty, *op. cit.*, p. 28.

187. See also Paragraphs 6.152-6.163.

188. Speech by the Hon. Brian Howe, Minister for Health, Housing and Community Services, at the official launch of NTAU, 5 July 1991, p. 1.

189. Senate *Hansard*, Estimates E, 12 September 1991, p. E205. See also Recommendation 6 of this Chapter.

6.177 The benefits of a Unit of this nature will no doubt be considerable, and essential to the transition process. There are, however, at least two points which should be made about its establishment at this point. Firstly, it is intended to provide the type of assistance that needed to be provided, at least immediately prior to the introduction of the *Disability Services Act*, if not long before. Secondly, workshop representatives have indicated on several occasions their interest in evaluation and in better business methods<sup>190</sup>, their awareness of the conflict between different aspects of the HPAA and the difficulty in providing various services. The earlier establishment of a support organisation might have helped to avoid some of the worst aspects of confrontation that have been evident virtually up to the present. In this context, the Minister's statement that 'the recent past has also identified significant impediments for the sheltered workshop industry in the move towards greater employment options for employees', is an understatement.<sup>191</sup>

6.178 A substantial part of the adverse criticism of sheltered workshops relates to conditions which have now been changed or are in the process of being changed. This does not mean that sheltered workshops have been free of problems, or that a number of abuses have not occurred. Many sheltered workshops acknowledge that there have been problems, often serious ones, that a number of changes have occurred only through legislation and through the influence of consumer groups, and that in some instances attitudes and practices still exist which need to be changed. What they emphasise, and what is supported by evidence, is that some of the detrimental effects result from factors other than the management of workshops. In other words, a number of the problems were caused by a variety of factors, including previous government policy and a general lack of accountability requirements. Unless there is a recognition of this factor, the maintenance of a good working relationship between workshop management, consumers, consumer advocates and departments is less likely. As suggested above, there is an awareness of the multiplicity of influences, and of the different levels of quality of workshops.<sup>192</sup> This should be the basis of a broad approach to overcoming residual difficulties, with an acceptance by a number of groups of joint responsibility for poor conditions and an equal acceptance by these groups of the need to work together to ensure better conditions in the future.

## Issues

6.179 One of the major problems that needs to be addressed in the controversy about the role of sheltered workshops is the issue of responsibility. Essentially, the question of responsibility should be peripheral. However, this has not been the case, and considerable energy has been expended by all parties on this. Much time has

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190. *Transcript of Evidence*, p. 1470 (ACROD Limited), p. 5378 (JobMatch).

191. Speech by the Hon. Brian Howe, Minister for Health, Housing and Community Services, at the official launch of NTAU, 5 July 1991, p. 3.

192. See Paragraph 3.124.

been spent which could have been used more constructively to the benefit of people with disabilities. This has been wasteful procedure, tying up tangible and intangible resources and reducing the likelihood of organisations working effectively with the Department of Health, Housing and Community Services to achieve an end which all consider desirable.

**6.180** From evidence presented to the Committee, both past and current problems are not the responsibility of one group only. As suggested above<sup>193</sup>, the principles of the HPAA were possibly doomed in the absence of sufficient provision of management and business skills and proper accountability and evaluation procedures. This is a responsibility which must be shared by government and by service providers alike.

**6.181** It is counter-productive to continue refighting old battles. Where the issue of responsibility does assume importance must be in the consideration of current issues and of the future needs of people with disabilities. In this respect, it is essential to clarify the controversy surrounding the transition of sheltered workshops and the acceptability, or otherwise, of various models, and indicate the extent to which the differing viewpoints have hindered or assisted the implementation of the DSA.

**6.182** Neither sheltered workshops nor activity therapy centres were to continue under the *Disability Services Act*. Prior to the announcement in mid November 1991 of an extension of three years to the transition period<sup>194</sup> all existing services were expected to at least be in a transition process by 30 June 1992, a move which many opposed.

The transition process – as we have said many times and has been said by the Ministers, particularly the previous Minister, Neal Blewett – is not about closing down services or de-funding existing services in line with the principles and objectives of the Act. We have said on many occasions – and we repeat it for the record – that many of the service providers providing services under the traditional models have done a very good job and have produced, in many respects, very good services that were perhaps right for the time. They have made a significant contribution to community in doing that. They were funded very substantially by the Government to do that – to set up activity therapy centres and sheltered workshops.

The Department and I believe that we have moved on from that. We are now looking at a new way of providing services which focuses more on outcomes, training, and more on developing services which can deliver real wages which will allow individuals to break the cycle of dependence on income maintenance. It is in this area that we want to

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193. See Paragraphs 6.88-6.90.

194. 'Human Rights – Beyond Welfare', opening address by the Minister for Community Services and Health, the Hon. Brian Howe, MP, at the 1990 ACROD National Convention/AGM, p. 7.

focus the new services and we want to move the existing services along those lines. Many existing organisations will remain as vitally important service providers. They will probably be doing different things, perhaps in different locations, for different people. We certainly welcome the continued involvement of existing and traditional service providers in providing opportunities through the new employment services and in modifying their existing services to fit the new models.<sup>195</sup>

6.183 This process was later expressed more in terms of a commitment by organisations to the principles of the *Disability Services Act*, within a particular time frame, as was emphasised by the Minister for Community Services and Health in late 1990:

The Principles and Objectives of the *Disability Services Act* are operational guidelines that cut right to the heart of real change. They are not satisfied by the simple device of renaming service types, cosmetic alterations or the illusion of change.

I say this because it is very easy to stop short of what is really achievable for people with disabilities. Because of my concern that some will stop short of achievable change I have indicated to ACROD officials that the concept of the factory model and of a special review process for some service types cannot be supported.

I am firmly of the view that if, as is claimed, these services are producing quality outcomes in line with the *Disability Services Act* then they will be able to justify ongoing funding under the DSA.

Equally, however, I will not agree to the transfer of any service to Section 10 funding until I am satisfied that it has been properly reviewed and that it will further the Principles and Objectives of the Act.<sup>196</sup>

6.184 This approach has also been stated a number of times by Departmental officers. More recent developments included the production of the Minimum Outcomes Standards booklet (originally to be signed by August 1991) which committed organisations to observe the principles of the *Disability Services Act*; and the promise in November 1990 to establish the National Technical Assistance Unit to 'provide expert technical assistance for the transition of sheltered workshops to eligible supported employment or competitive employment, placement and training

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195. *Transcript of Evidence*, pp. 4739-40 (DHH&CS).

196. Speech, Human Rights - Beyond Welfare', *op. cit.*, p. 14.

services . . .'.<sup>197</sup> This service became operational in mid June 1991, and was officially launched on 5 July 1991.<sup>198</sup>

**6.185** Much of the controversy surrounding the issue of sheltered workshop employment as opposed to other forms of employment for people with disabilities has been expressed dramatically, with emphasis placed on sheltered versus open employment and on the availability of support for some and not for others. Prior to the Minister's announcement of November 1991, there was considerable uncertainty for many people as to the fate of workshops after 30 June 1992. This was the case both for employees and some support organisations and parent groups, as well as some service providers. This anxiety had not been dispelled by the development of the Minimum Outcome Standards and a timetable for the acceptance of these<sup>199</sup>, although the statements made by the Minister at the official launch of the NTAU may have contributed to reducing the fears of consumers.<sup>200</sup>

**6.186** The issue of transition raises a number of questions about access and equity, and about what is a reasonable rate of transition, both in relation to available funds and services available to clients. Transition in itself, with the exception of a minority of services, appears not to be a problem. It is the time frame, and what must be achieved during that time frame, that appears to have been the centre of disagreement about acceptable and responsible behaviour that has produced considerable tension over the past few years. On the one hand, some organisations believed that the move towards new services, while laudable, was not always properly thought through. Implementation of the DSA, stated the West Australian Special Schools Parent Action Group was 'being carried out according to a "theory" without practical issues being addressed'.<sup>201</sup> Another consumer organisation, while stating clearly that there was little support for the continuation or expansion of segregated employment services for people with intellectual disabilities and considerable support for the new models outlined in the DSA, emphasised:

That said, there are widespread [concerns] that the delays and confusions inherent in the implementation of major changes required by the DSA . . . are not tenable within the timeframe imposed by the Act, and are unlikely to be successful without significant increases in funding support. National Council has long argued that government resources allocated to the support of people with intellectual disabilities are inadequate to meet existing needs, let alone keep pace

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197. Ministerial News release, 22 November 1990.

198. Ministerial News Release, 16 June 1991 'National Technical Assistance Unit Begins Work'. See above, Paragraphs 6.176-6.177.

199. See Paragraphs 6.294-6.297 where proposed changes to the DSA are listed.

200. Speech by the Hon. Brian Howe, Minister for Health, Housing and Community Services, at the official launch of NTAU, 5 July 1991.

201. *Transcript of Evidence*, p. 5247 (WA Special Schools Parent Action Group).

with growth in client numbers and desires for improvement in services.<sup>202</sup>

**6.187** What is apparent is that through confusion, lack of clarity, or deliberate misinformation in a few cases, the time period during which transition had to commence became identified with the total time which organisations had to complete the transition process. Further confusion arose about what transition actually involved so that some organisations which believed they had no trouble with the perceived time limit, appeared not to understand what they had to do within five years, and beyond.

**6.188** In mid 1989 ACROD summed up some of the difficulties service providers faced:

Perhaps the overriding feature of the last two years, or 18 months, has been a lack of clarity and perhaps a lack of consistency in some of the messages from the Department on this important question of the future of sheltered workshops and ATCs. In November 1988 the Minister made a very important speech at the ACROD convention, where he said categorically that there would be no defunding of sheltered workshops and ATCs in 1992. This statement was very much welcomed by those in the field. He did say, at the same time, that there would be need for many to undergo change in the way they operated in their structure or location, but those in the field also took that message to say that no doubt it also meant that there would be many that were producing those good consumer outcomes that would not have to undergo change in their structure, et cetera. But it does seem now that perhaps that was a misapprehension and the Minister himself has said to our President that he regrets that there has been any misinterpretation of those remarks.

It seems as though the Department message now is very much that as at 1 July 1992 certain models will have been changed, or at least there will have been a very firm commitment to change, which is not quite what a lot of those in the field had understood.<sup>203</sup>

**6.189** ACROD noted at the same time that the process of change was complex and that perhaps not enough preliminary/preparatory work had been done to identify needs or possible problems which could affect transition.<sup>204</sup>

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202. *Transcript of Evidence*, p. 1298 (National Council on Intellectual Disability). See also *Transcript of Evidence*, p. 4265 (Endeavour Foundation).

203. *Transcript of Evidence*, pp. 1438-9 (ACROD Limited).

204. *Transcript of Evidence*, pp. 1439-40 (ACROD Limited).

6.190 In evidence to the Committee at the same time representatives of the Department noted that while the transition period was five years<sup>205</sup> it would continue beyond that date 'as long as organisations have made clear moves towards moving to the new service types'.<sup>206</sup>

Existing organisations remain as vitally important as service providers. It is quite possible that they will be doing different things to different people in different locations, and that is part of what we are on about.<sup>207</sup>

6.191 The actual time factor involved in transition therefore, was not limited to the five-year period up to 30 June 1992. This was not evident to one organisation which was already in transition in 1990. 'They gave us five years but some of these people need 10. You do not have the time.'<sup>208</sup> Yet, another organisation was well aware in 1989 that the actual transition process was more gradual.

I think with one of the major initiatives that has been taken in the employment area, we were very much in a confrontation situation over the future of sheltered workshops. A number of organisations that were affiliated with us were certainly very concerned about the future. The interpretations that were being given at that time appeared to say that by 1992 organisations either would demonstrate that they are implementing the principles and objectives and have achieved this, that and the other, or else funding would cease. We believe we have moved a long way since that. Certainly, the more recent stance that has been taken and, we believe, the more appropriate interpretation, is that organisations must demonstrate actions which further the principles and objectives of the Act, rather than achieve them. That has made an enormous difference.<sup>209</sup>

6.192 Again, the extent of responsibility to be borne by different parties in the controversy over transition is not a matter to which considerable time should be devoted. Nonetheless, it is a matter which needs to be highlighted, because it has caused so much distress and because the arguments about Departmental theorists and lack of practicality clearly relate to some uncertainty about what had to be achieved by 1992 as opposed to what might be achieved later. These arguments are

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205. *Transcript of Evidence*, p. 1524 (DHH&CS).

206. *ibid.*

207. *ibid.*

208. *Transcript of Evidence*, p. 4480 (Australian Red Cross Society, Queensland Division).

209. *Transcript of Evidence*, p. 1322 (National Council on Intellectual Disability). See also *Transcript of Evidence*, p. 1464 'organisations are expected to progress towards transition and to have in place, if not necessarily have actually moved over, but to have in place, these transition plans. So they will not be disadvantaged as long as they are seen to be willing to seek change' (ACROD Limited).



an indication that, at the least, there was not sufficient understanding of the distinction made between the commencement and the conclusion periods.

**6.193** Whether through real or apparent misunderstanding, transition has allegedly proceeded in a sometimes confrontationist manner, with some Departmental officials being seen as rigid and inflexible, concerned with ideology and insufficiently aware of practical problems and how to deal with them<sup>210</sup>; and with some service providers being seen as equally inflexible, unwilling to move towards new options or to offer services which incorporated the DSA principles. In referring to this, the National Council on Intellectual Disability submission claimed that problems in implementation of the *Disability Services Act* were 'compounded by the suspicion and misinformation produced by both departmental and agency bigotry'.<sup>211</sup> Another witness referred to 'some prescriptive stances being taken by the Department of Community Services and Health regarding the definition of service types'.<sup>212</sup> Organisations indicated that they had had differences of opinion with the Department<sup>213</sup>, that the Department line had changed<sup>214</sup>, and that there had been a confusing variation in approach.

Concerns were expressed about the Handicapped Persons Assistance Act. Concerns were expressed that things were too rigid. Then we found ourselves in a situation where nothing was firm and legislation was subject to interpretation. Different opinions were being expressed. Some of those opinions were for very hard-line change . . . There was, and probably still is, great suspicion within some parts of the Department that propositions made by organisations are simply seeking to perpetuate the status quo, with cosmetic changes. Similarly, the Department probably views some actions including actions by the National Council as seeking to defend what is. National Council tends to view actions by the Department as being unrealistic.<sup>215</sup>

**6.194** The Minister has said 'I readily acknowledge that Departmental project officers have in some cases been inexperienced and lacked sufficient understanding

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210. *Transcript of Evidence*, p. 696 (Centacare).

211. Submission No. 103, p. 2 (National Council on Intellectual Disability). See also *Transcript of Evidence*, pp. 1560-1 (DHH&CS).

212. *Transcript of Evidence*, p. 139 (Bedford Industries Rehabilitation Association Inc.). See also *Transcript of Evidence*, pp. 345-6 (Phoenix Society Inc.), p. 1180 (Professor T.R. Parmenter), p. 1468 (ACROD Limited), p. 1560 (DHH&CS) and Chapter 3 above, especially Paragraphs 3.75-3.76.

213. *Transcript of Evidence*, pp. 1327-8 (National Council on Intellectual Disability).

214. *Transcript of Evidence*, p. 1322 (National Council on Intellectual Disability).

215. *Transcript of Evidence*, p. 1328 (National Council on Intellectual Disability).

of the history of particular services'<sup>216</sup>, although he has also stated that 'there have been problems on the part . . . of service providers'.<sup>217</sup>

**6.195** Part of the confrontationist atmosphere has been based on the view that organisations are deliberately resisting change; that they have created a profitable business which they do not wish to lose; and that single-handedly they exploited people with disabilities over a number of years. While there may be elements of truth in this scenario, it is essential to remember that some of the differences of opinion between the then Department of Community Services and Health and some service providers in respect of employment options arose from the considerable change in approach by agencies and others that different policies have required over a relatively short period of time. All societies change their ideas and their ways of implementing policies and philosophies, and social institutions are obliged to deal with such change as best as they can. As far as people with disabilities are concerned, the emphasis over a period of years has changed from not considering people with disabilities as fully human<sup>218</sup>, to providing for them in institutional settings<sup>219</sup>, to developing their skills/ambitions on the basis that they are, indeed, part of society.<sup>220</sup> Elements of earlier attitudes persist, often requiring long periods of time to be overcome, as was suggested above<sup>221</sup>, and often leaving service providing organisations in a state of uncertainty, unsure as to the beneficial outcomes and costs of new policy.<sup>222</sup>

**6.196** More importantly, these changes were ones which also required new thinking, new approaches by departmental officials and by government. It has been conceded by Departmental officials that many of the more institutional aspects of services for people with disabilities developed as a direct result of Commonwealth funding superseding the smaller services developed by parents and other groups.

The Handicapped Persons Assistance Act 1974 (HPAA) encouraged organisations to establish large institutional settings in order to take advantage of available Commonwealth funding . . . Many programs had been initiated by parents when no Commonwealth funding was available. Organisations and institutions became larger and more rigid

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216. Ministerial Speech 'Human Rights – Beyond Welfare', *op. cit.*, p. 13.

217. *ibid.* See also *Transcript of Evidence*, p. 1179 (Professor T.R. Parmenter), p. 1469 (ACROD Limited).

218. Royal Commission on Human Relationships, as quoted in *Transcript of Evidence*, p. 1477 (DHH&CS).

219. *ibid.*

220. *Disability Services Act*; see also *Transcript of Evidence*, pp. 477-8 (Jobsupport Inc.).

221. See above, paragraphs 3.46-3.47, 3.128-3.129. See also *Transcript of Evidence*, p. 1520 (DHH&CS).

222. *Transcript of Evidence*, p. 4215 (Epic Employment Service, M.O.R.E. Inc.).

in order to qualify for funding. The form of assistance provided, i.e. capital, building maintenance, rental and 50% salary subsidy – encouraged this process.’<sup>223</sup>

**6.197** The then Department of Community Services and Health acknowledged that ‘the individual person with a disability tended to get lost, despite the original intention of the HPA(A)’.<sup>224</sup> A number of workshops have been able to change their services over a period of time, including through the process of reverse integration<sup>225</sup>, and others are also providers of new employment options. However, some organisations based on these more institutional principles believe that they could not move quickly enough to suit new Departmental policies, however much they might wish to<sup>226</sup>, while others were not convinced that the new philosophy was tenable.<sup>227</sup>

## Funding

**6.198** Central to the argument about transition is the amount of money available to move to new services as well as the disagreement about what a ‘new’ service comprises.<sup>228</sup> While a proportion of the apparent non-acceptance of transition funding must be related to the belief that available funding would only be provided during a five-year period, the funding issue is more extensive. It raises a number of issues about past service provision and past funding levels, and about the perceived inequity of future funds distribution and consequent limited access of people with disabilities to services.

**6.199** Again, the controversy over funding must be seen within the context of a series of complex changes which often means considerable uncertainty. In 1989 a representative of NCID noted:

People in the non-government sector tend to regard government statements with a fair amount of cynicism, so I think the government is going to have to demonstrate to the non-government sector that it is sincere about its more recent statements, that organisations will not close overnight, that organisations which make moves towards adoption of the principles and objectives, that take action furthering

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223. *Transcript of Evidence*, p. 1477 (DHH&CS).

224. *Transcript of Evidence*, p. 1477 (DHH&CS).

225. See above Paragraphs 6.125-6.126 and below Paragraphs 6.233-6.234.

226. *Transcript of Evidence*, p. 345 (Phoenix Society Inc.), pp. 1469-70 (ACROD Limited).

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

228. See Paragraphs 6.185-6.186.

the principles and objectives, will continue as organisations and will work cooperatively.<sup>229</sup>

**6.200** *Per se*, there is no correlation between the development of new services and the absence of services for a number of people with disabilities, and this fact was noted by the same group:

to be fair, we would have to say that not enough attempt was being made anyway to deal with that. It is not simply an issue of, say, the transfer of service models; that is the problem. We, government and society, were not making enough effort anyway to deal with the numbers of new people and it is our belief that we would be facing a real problem now, regardless of whether the Disability Services Act came in or not, or whether we were still under the old Handicapped Persons Assistance Act, and we would still be facing an enormous problem of being unable to meet the demand from new clients.<sup>230</sup>

**6.201** The actual limits of service provision is a long-standing problem, one which has been compounded both by a lack of data and by the former dependence on a submission-based funding model rather than needs-based planning. However, while it is important not to attribute to the DSA itself all problems that exist in the disability services area, it is essential for effective operation of the Act that there be appropriate recognition both of numbers *per se* and of the actual growth in numbers. 'It needs a lot of money to ensure that the same number of people relatively are getting a service.'<sup>231</sup>

**6.202** Certainly, the Minister's and the Department's public statements support the principle of universal access to rights and opportunities.

I want everyone . . . to understand one simple fact: the Federal Government is fully committed to providing a better deal for people with disabilities and ensuring that they have the same rights and opportunities as other Australians. I want you to be clear that we will not back away from this commitment which is part of our approach to social justice. There will have to be measurable improvements to the life opportunities available to people with disabilities and this government will ensure that this happens.<sup>232</sup>

**6.203** However, this is still to be distinguished from universal service *provision*. Even though the relationship between funding levels and a five-year transition period is less dramatic than previously thought for some organisations, the issue of

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229. *Transcript of Evidence*, pp. 1322-3 (National Council on Intellectual Disability).

230. *Transcript of Evidence*, p. 1331 (National Council on Intellectual Disability).

231. *Transcript of Evidence*, p. 1462 (ACROD Limited).

232. Ministerial Statement *Human Rights – Beyond Welfare* (1990) p. 7.

funding is necessarily one that reflects the non-entitlement basis of service provision. In this scenario, sheltered workshops felt that they were at a disadvantage for two reasons. The first reason was that they had not been fully funded in the past and hence had used their excess funds to provide needed services<sup>233</sup> leaving limited cash reserves. The second was that new service types were being extensively funded and that, had the same funds been available to workshops, they would have been able to provide the same outcomes.

The sheltered employment industry in the past was criticised for not having a high enough placement record, but it really boiled down to resources. For example, for the last few years my organisation received funding for one placement officer for 250 people in two facilities. Doing that kind of thing just required resources and we are very pleased that the funding model for CETP is now in place to provide these resources and facilitate a higher percentage of people going into open employment.<sup>234</sup>

**6.204** Their argument, therefore, in this as in other respects, is that with the same funds and the same staff ratios as supported employment or CETP services they would also be able to provide a similar service.

I would have to look at the figures of our funding per client, which is well under \$2,000 a head. If you try to compare a program of under \$2,000 with another program that is getting, say, \$4,000 or \$5,000 a head, you are not comparing apples with apples. If Endeavour Foundation and its sheltered workshops doubled its staffing, I would guarantee that we could have at least as good an outcome as in this other service type, if not better. It is a matter of how many hours one can spend with each individual as regards the outcomes, and if you underfund one and overfund another one, you cannot say then that we must all be like this, unless you are prepared to put those dollars up front.<sup>235</sup>

**6.205** Many people would oppose this view, saying that the attitude of service providers was also essential to effective outcomes; but the absence or poor use of resources clearly has been a problem for sheltered workshops. For this reason alone, earlier assistance, such as is to be provided under the NTAU, would have been invaluable.

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233. See above Paragraphs 6.96, 6.162.

234. *Transcript of Evidence*, p. 1452 (ACROD Limited). See also pp. 1453-4 (ACROD Limited). See *Transcript of Evidence*, p. 4470 (Australian Red Cross Society, Queensland Division).

235. See *Transcript of Evidence*, p. 4265 (Endeavour Foundation).

**6.206** Few organisations approached the funding and transition problem with the apparent equanimity of Bedford Industries.<sup>236</sup> In 1989, the organisation did not see itself as being required to change drastically. If it did, it considered that the required costs would have to be met by Government, otherwise there would be no change.

I am not worried, for the simplistic reason that, if something needed major changes, whilst we are very large we are not an organisation with substantial resources. We work within a prudent cash flow bearing in mind the size of our operations, and that would be understood and perceived. Let us suppose that major changes were involved. I said that on our main site we have two of our major businesses; I and others would quite love to put our furniture manufacturing operation somewhere else but to move a machine shop or things of that nature is extremely expensive. The only way, in effect, that someone from the Government can come along to me and say, 'You should not have this product operation on this particular site. It should be elsewhere', is to say, 'Also here I have half a million dollars – or whatever it is – to achieve that particular objective'. Otherwise it is not really a discussion that we need to enter into.<sup>237</sup>

**6.207** The emphasis by this organisation on funding was on the differences created by different disabilities and on the apparent preference for a 'universalist' or holistic approach being more of an ideological bias than a desirable or realistic end.

The Disability Services Act defines, by its terminology and by its aims and objectives, a broad set of principles which I think are entirely appropriate and entirely acceptable to all. The problem is that disability, of course, is as broad as humanity itself. Thus it is very difficult, except in those broad terms as evinced in the Disability Services Act, to be very specific about a type of service, service delivery or a cost of delivery of service, because those literally are as broad as humanity is.<sup>238</sup>

**6.208** The basis of funding was perceived by this organisation to be potentially inequitable, and their objection was based on the fact that different types of services required different levels of funding.<sup>239</sup> The cost of one supported employment

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236. Bedford Industries did not see itself as operating a series of sheltered workshops (except perhaps for its furniture manufacturing unit) but as running a number of businesses (*Transcript of Evidence*, pp. 157-60 (Bedford Industries Rehabilitation Association Inc.).

237. *Transcript of Evidence*, pp. 158-9 (Bedford Industries Rehabilitation Association Inc.).

238. *Transcript of Evidence*, p. 141 (Phoenix Society Inc.).

239. *Transcript of Evidence*, p. 142 (Phoenix Society Inc.).