



National Disability Employment Framework

July 2015

Submission in Response to Issues Paper

"We need love, and to ensure love, we need to have full employment, and we need social justice. We need gender equity. We need freedom from hunger. These are our most fundamental needs as social creatures."

David Suzuki

"Congress acknowledged that society's accumulated myths and fears about disability and disease are as handicapping as are the physical limitations that flow from actual impairment."

William J. Brennan, Jr.

"Aerodynamically the bumblebee shouldn't be able to fly, but the bumblebee doesn't know that so it goes on flying anyway"

Mary Kay Ash

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Introduction

Queensland Advocacy Incorporated (QAI) is an independent, community-based systems and legal advocacy organisation for people with disability in Queensland, Australia.

QAI's mission is to promote, protect and defend, through advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

QAI does this by engaging in systems advocacy work – through campaigns directed to attitudinal, law and policy change and by supporting the development of a range of advocacy initiatives in this state – and by individual advocacy.

QAI considers that it is time that we addressed Australia's poor record as regards employment of people with disability.

As the Department of Social Services (DSS) is well aware, Australia is lagging behind other OECD countries in our failure to properly support people with disability to actively participate in the workforce. Australia's employment of people with disability is lower than the OECD average. Indeed, Australia has one of the lowest employment participation rates for people with disability, ranking 21st out of 29 OECD countries, with an employment rate of 39.8% for people with a disability compared to 79.4% for people without a disability.¹ Statistics show that only 52.9 percent of people with disability of working age in Australia are either in the workforce or actively looking for work. Of those that receive assistance from Disability Employment Services, only one third achieve an effective outcome when assessed over a period of 26 weeks. The longer-term statistics are not known but are likely to be even lower.

QAI considers this highly unsatisfactory and supports the development and enhancement, as an urgent priority, of appropriate working opportunities for people with disability. QAI is concerned that the Department of Employment's jobs growth projection of 7.2% by 2018 will not match job seeker growth over the same period.² To facilitate the growth of employment opportunities for people with disability, QAI submits that government, medium and larger business should be required to implement affirmative action policies and quotas pertaining to the employment of people with disability,³ discussed in detail in this submission.

QAI notes the serious adverse effects of multiple disadvantage and the impact this can have upon the ability to participate socially and economically in the community. QAI comes from a Social Role Valorisation (SRV) perspective, whereby the creation and support of 'socially valued roles' for people within society is considered to result in the opportunity to obtain the goods society has to offer.⁴

Williams has developed a "model of citizenship support" as a framework for supporting people with disability to realise their life chances and live ordinary, valued lives within the

¹ PriceWaterHouse Coopers, *Disability Expectations: Investing in a Better Life, a Stronger Australia*, 2011.

² Australian Government, Department of Employment, *Industry Employment Projections: 2014 Report*, at <<http://cica.org.au/wp-content/uploads/Industry-Employment-Projections-2014-Report2-2.pdf>>.

³ We acknowledge that it would not be tenable to introduce affirmative action or quotas for small business. However, proposals to increase the employment of people with disability by micro business is discussed below.

⁴ Joe Osburn, 'Overview of Social Role Valorisation Theory' (1998) 3(1) *The International Social Role Valorization Journal/La revue internationale de la Valorisation des roles sociaux* 7.

community. This framework centres around the notion of “personhood”, encompassing personal authority and ‘citizenhood’, which Williams defines as follows:⁵

[A]n active lifestyle that has the prospect of fulfilment for the person concerned. Such a lifestyle is one where, as part of a personally defined set of lifestyle choices, the person is in and part of their local community, contributing and growing through involvement in meaningful valued activities, and participating in a network of relationships characterised by acceptance, belonging and love.

It is underpinned by the premise that each person wishes to have a good life, and that a good life is built and maintained by attention to personal capital, knowledge capital, material capital and social capital.⁶ QAI submits that any measures that facilitate positive community involvement, including community and volunteer work, can have an important positive impact on people with disability provided that such work is not exploitative.

QAI welcomes the move by the Department to place renewed focus and emphasis on employment for people with disability. The introduction of the National Disability Employment Scheme (NDIS) in Australia offers a timely opportunity for a substantial reconfiguration of the framework in a way that authentically improves the situation for people with disability.

In this submission, we respond to the questions posed in the Issues Paper, following the structure of that paper. Before doing so, however, we make some general submissions on the workforce participation of people with disability.

Workforce participation of people with disability

It is now well understood that the right to participate in the workforce is a fundamental human right that is the foundation of many other rights and liberties.

The drafters of the United Nation’s *Universal Declaration of Human Rights*, which was adopted in 1948 and forms part of the International Bill of Rights, specifically enshrined the right to work in Article 23, which provides as follows:

- 1) *Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.*
- 2) *Everyone, without any discrimination, has the right to equal pay for equal work.*
- 3) *Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.*
- 4) *Everyone has the right to form and to join trade unions for the protection of his interests.*

More recently, in the *Convention on the Rights of Persons with Disabilities*, the United Nations again sought to assert and protect the fundamental human right to work, this time specifically in the context of disability, with Article 27 devoted to work and employment:

1. *States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the*

⁵ Robbi Williams, *Model of Citizenship Support: Discussion Paper* (Julia Farr Association Inc., 2010).

⁶ Robbi Williams, *Model of Citizenship Support: A Framework for Advancing Life Chances* (Julia Farr Association Inc, 2012).

course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- a. Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;*
 - b. Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;*
 - c. Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;*
 - d. Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;*
 - e. Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;*
 - f. Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;*
 - g. Employ persons with disabilities in the public sector;*
 - h. Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;*
 - i. Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;*
 - j. Promote the acquisition by persons with disabilities of work experience in the open labour market;*
 - k. Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.*
- 2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.*

In applying the right to work and employment to persons with disability, Article 27 specifically requires recognition of the equal right of persons with disability to perform freely chosen or accepted work in an open and inclusive labour market under just and fair conditions. Building upon the general prohibition by the CRPD against discrimination on the basis of disability, Article 27 demands the prohibition of discrimination in relation to all aspects of work and employment, including conditions of recruitment, hiring, continuity of employment, career advancement and occupational health and safety and to ensure there is reasonable accommodation of disability-related needs in the workplace. Further protections within the scope of this article include that persons with disability are protected from harassment in the workplace, have effective avenues for the redress of work-related grievances and are able to exercise their labour and trade union rights on an equal basis with others.

Article 27 requires that persons with disability have access to comprehensive employment-related support services and education and training, including vocational training and guidance, work-experience, jobseeker and placement services, job retention services and return to work rehabilitation and other support services. Additionally, Article 27 requires:

- promotion of self-employment, work cooperatives, entrepreneurship, and personal business opportunities for persons with disability

- leadership by the public sector in the employment of persons with disability and promotion of affirmative action programs and incentives
- equal protection from slavery and servitude and forced and compulsory labour.

The right to an adequate standard of living and social protection, expressed in Article 28 of the CRPD, builds upon the right to work, as a prerequisite to the achievement of an adequate standard of living and social protection is an adequate income, gained from appropriate workforce participation.⁷

The federal *Disability Discrimination Act 1992* (Cth), and its state counterparts (relevantly in Queensland, the *Anti-Discrimination Act 1991* (Qld)) are relevant to note as the legislative basis for the prohibition of discrimination, both in Queensland and at a commonwealth level. In the absence of a Queensland or Commonwealth Bill of Rights or Human Rights Charter, the anti-discrimination legislative regime remains the most powerful tool for the prohibition of discriminatory treatment against people with disability in the workplace. The DDA aims to eliminate, as far as possible, discrimination against persons on the ground of disability in areas including work; to ensure, as far as practicable, that persons with disabilities have the same rights to equality before the law as the rest of the community; and to promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community.

The right to work in a role that is freely chosen by a person, in fair working conditions and to be appropriately remunerated are therefore fundamental human rights that are recognised as such, most forcefully in the International Bill of Rights and the CRPD, but to a lesser extent statutorily in Queensland and the Commonwealth of Australia.

Most people want to work, both for the economic security and rewards that work brings and for the sense of meaning, purpose, self-definition and status that work offers. For most Australians, their work is seen as part of a continuum in terms of their career development and ongoing financial security. To be a worker is to be included within a specific community and has many social benefits.

People with disability are no different. They can and want to work and to have a career trajectory and financial independence and security. What explains their lower rates of participation in the workforce is not a reduced desire to work but the increased difficulties they face in obtaining employment as a direct result of their disability. The work they may be offered is often not commensurate with their level of ability and potential and they are significantly more likely to be on a lower income and to experience long-term unemployment and poverty, as well as isolation from society and the community.

As noted in the Issues Paper, there are a range of benefits that flow from employing people with disability, not only for the individual but also for the business, including creating a competitive advantage through innovation and by having an employee profile that may better reflect the diversity of the business' customer or client base, securing a future workforce, being an employer of choice and building employee loyalty.

There are substantial subsets of workers and potential workers who have a significant amount to contribute to the labour market whose potential is not presently realised. In the globalised employment market of the 21st century, where work that was previously considered "non-standard" in terms of its working arrangements is now becoming the norm, it

⁷ See also: *Standard Rules on the Equalization of Opportunities for Persons with Disabilities* (1993), to which the Australian Commonwealth and state governments are signatory.

is in the interests of employers to creatively embrace a wider pool of workers than those able to fulfil the traditional “ideal worker” norm. There are also significant benefits that flow from a diverse workforce, particularly in a globalised labour market where employers require workers with flexibility to collectively meet the diverse, expanding needs posed by globalization.⁸ The economic advantages of increasing the proportion of the population actively involved in the labour market are also widely recognized amongst OECD countries.⁹ QAI considers that many people with disability, and many carers of people with disability, have significant untapped potential that could be readily utilised within the labour market.

The ILO has based its economic and social reform program around the concept of ‘decent work’,¹⁰ developing a normative ideal of ‘decent work’ to which all members states are encouraged to adhere. This model is built around the core notions of freedom, equality and security and takes a multi-disciplinary perspective (encompassing the jurisdictions of taxation, social security, education, labour law, industrial regulation and economics).¹¹ QAI considers that the decent work platform is an ideal standard to aspire to in the context of employment for people with disability.

QAI considers that another model that offers many beneficial features is the European Commission’s ‘flexicurity’ model.¹² This welfare state/pro-active labour market policy model promotes flexible and secure labour market work, with opportunities expanded by a strong continuing education system and robust welfare and social security systems to provide income support during transitions between employment.¹³ Flexicurity targets both those inside and out of the labour market and is considered a means of heightening the inclusiveness of European labour markets and lessening the divide between those in secure and precarious employment (or unemployed).¹⁴ QAI endorses this holistic approach.

The Australian economy has remained strong in the face of the unstable global financial conditions of recent times and is continuing to expand. However, significant groups remain marginalised both from and within the labour market, especially people with disabilities. There are significant economic advantages that flow from increasing the proportion of the population actively involved in the labour market. QAI considers that there is a need for creative input from interested parties on ways to create real employment opportunities for

⁸ Margaret Neal, Nancy Chapman, Berit Ingersoll-Dayton, et al, *Balancing Work and Caregiving for Children, Adults and Elders* (Sage Publications, 1993), 8; Jerry Jacobs and Kathleen Gerson, *The Time Divide: Work, Family and Gender Inequality* (Harvard University Press, 2004), 161.

⁹ Barbara Pocock, ‘Work Life “Balance” in Australia: Limited progress, dim prospects’ (2005) 43(2) *Asia Pacific Journal of Human Resources* 198, 202.

¹⁰ International Labour Organisation (ILO), *Report of the Director General: Decent Work* (ILO, 1999); Owens, Riley and Murray, above n 35, 311.

¹¹ Rosemary Owens and Joellen Riley, *The Law of Work* (Oxford University Press, 2007), 311.

¹² The term was first coined by the social democratic Prime Minister of Denmark Poul Nyrup Rasmussen in the 1990s.

¹³ For a detailed discussion of flexicurity, see: Colin Crouch, *Social Change in Western Europe* (Oxford University Press, 1999); GostaEsping-Andersen, *Social Foundations of Postindustrial Economies* (Oxford University Press, 1999); GostaEsping-Andersen and Marino Regini (eds), *Why Deregulate Labour Markets?* (Oxford University Press, 2000); European Foundation for the Improvement of Living and Working Conditions, *Flexicurity*, <http://www.eurofound.eu.int/areas/industrialrelations/dictionary/definitions/FLEXICURITY.htm> (2007); Sonja Bekker, Ton Wilthagen, Per Kongshoj Madsen, et al, ‘Forum: Flexicurity - a European Approach to Labour Market Policy’ (2008) 43(2) *Intereconomics* 568–111.

¹⁴ Guideline No.21 of the Integrated Guidelines for Growth and Employment requires Member States to: ‘...promote flexibility combined with employment security and reduce labour market segmentation, having due regard to the role of the social partners’: European Commission, *Working Together for Growth and Jobs. Integrated Guidelines for Growth and Jobs (2005-2008)* (Office for Official Publication of the European Communities, 2005). This Guideline was adopted by the European Council for the period 2005 to 2010.

people with disability, so that the discussion moves beyond the rhetoric of opportunity to create real opportunities for people with disability in terms of labour market participation.¹⁵

The Department acknowledges that the workforce participation rates of people with disability are too low from any point of analysis, whether compared against the relative rates of employment of people without disability or against international benchmarks.¹⁶ Further, we note that the already dismal statistics on the employment participation rates of people with disability are positively skewed when one considers the amalgamation of people with disability who work in sheltered workshops, or Australian Disability Enterprises (ADEs). Therefore, the already dismal rates of employment actually disguise the significantly lower rates of appropriate and meaningful employment for people with disability.

One of the key markers for the National Disability Strategy 2010-2020 is economic security for people with disability and their families and carers, with the importance of personal financial security to the ability to exercise choice and control and to plan for the future explicitly recognised.

The mandate of the NDIS includes flexibility of employment supports. Therefore the introduction of the NDIS offers an opportunity to develop innovative and effective ways of supporting people with disability eligible for the NDIS. We emphasise two important points in this regard. Firstly, the strategies must be actually effective, from the perspective of the people with disability who are receiving the NDIS employment supports. Second, there are many people that will not be eligible for the NDIS whose need for employment support will remain critical.

The targeting of NDIS support must not ignore those outside the funding scheme.

With this background understanding of the situation regarding workforce participation by people with disability, we will now address the specific questions posed by the Department in the Issues Paper.

What can improve employment outcomes for people with disability?

We consider that, with appropriate support and opportunity, many people with disability have significant, untapped potential to contribute to the labour market. What is required is a shift in mindset that flips the perspective from a system that devalues people and focuses on their disability to one that values people and focuses on their ability. Rather than categorising people as 'unable to work', which is in any event an inaccurate descriptor for a significant majority of those classified as such, a strong focus should be placed on considering the type and level of support required to remove barriers to work for people with disability.

Discussions on work and disability should be framed within a rights discourse – we must first acknowledge the basic human right to work, outlined in detail above, and then consider ways to ensure this right is protected and not violated. This important issue of the need for a shift in mindset and terminology will be reiterated throughout this submission.

Further, it is important for workplaces to embrace the opportunities for diverse and flexible working arrangements that accommodate the varying needs of people with disability. At present, negative employer attitudes to people with disability is a significant obstacle to greater labour market participation by people with disability. The existence of this attitudinal

¹⁵ Barbara Pocock, 'Work Life "Balance" in Australia: Limited progress, dim prospects' (2005) 43(2) *Asia Pacific Journal of Human Resources* 198, 202.

¹⁶ In the National Disability Employment Framework – Issues Paper, it is noted that in 2012, only 52.9% of Australians with disability of working age were in the workforce or actively seeking work, as compared with 82.5% of the same demographic group without disability. This is noted as low by international standards.

barrier is particularly concerning given that people with disability are predominantly proven to be highly productive, loyal and flexible workers if given the opportunity. We consider that dismantling negative mindsets towards people with disability in the employment context is particularly paramount given the considerable obstacles faced by people with disability in their childhood and youth, well before labour market participation becomes an issue. In particular, we note the significant impediments people with disability encounter in the educational system¹⁷ and by virtue of the imposition of onerous assessment and appraisal requirements not applicable to people without disability.¹⁸ In some instances, responses from employers are not necessarily negative but rather reflect an inability to conceive how to include or support a person with disability within the workforce, a scant understanding of the supports available and/or the benefits of inclusivity, or a lack of innovation regarding the potential for niche role creation.

It is important to realise and understand that some disabilities do affect an individual's ability to perform work. It is therefore vital to measure contribution in other ways than only in units produced per hour. It is important that we encourage more weight to be placed upon the quality of work a person is able to deliver.

Some companies are leading the way in modelling an alternative work paradigm that does not merely tolerate but embraces the significant groups of workers that are unable to fit the 'ideal worker' norm yet have a significant amount to contribute to the workplace. The Westpac and IBM corporate examples of developing collaborative links with the Australian Network on Disability prototype a successful, contemporary approach to fostering a diverse, inclusive and productive workforce whilst maintaining commercial success in a competitive market. These models not only highlight the possibilities but also provide industrial leadership in exemplifying the viability of such changes for other workplace organisations.

QAI submits that any reforms to pathways to employment that target people with mental health conditions or a physical or intellectual disability must be required to support the individual's right to self-determination without limitation. QAI takes the position that people with disability have the same right to make decisions about their own lives as other people and that people who require support to do this should have access to this support. There is an important distinction between initiatives designed to assist a person with a disability that are purported to be in the best interests of that person but are really didactic initiatives; and those that support a person by explaining and helping the person to understand and communicate their decision, whilst ensuring ownership of the decision remains with the person. QAI endorses the latter approach and considers this particularly important in the realm of employment, as this is fundamental to self-definition and independence. In this regard, QAI notes the potential positive value of mentors, but considers that anyone involved in employment-related decision-making processes must only be so involved where desired by the person with the disability. It must be open to the person to draw upon support from other, informal support networks as desired.

QAI also considers that people with disability can be adversely affected by stereotypes. This can be particularly pertinent in the mental health context. Historically, there have been negative connotations associated with mental illness that have created a stigma about mental illness, and also generated the correlation between mental illness and a predisposition to violence.¹⁹ While this stigma has been substantially overcome in recent decades, scholars

¹⁷ For example, many students leave school with literacy and numeracy inadequacies that have not been fully addressed by specialist educational assistance.

¹⁸ For example, Job Capacity Assessments (JCAs), Job Seeker Classification Instruments (JSCIs) and wage assessment tools.

¹⁹ Leslie Salzman, 'Guardianship for Persons with Mental Illness – A Legal and Appropriate Alternative?' (2010-2011) 4 *St Louis University Journal of Health Law & Policy* 279, 286.

such as Salzman attribute the historical perspective on psychosocial disability as explaining in part the differential treatment of people with a mental illness within the legal system, which can result in an unjustified assumption of general incapacity based on stereotypes of behaviour.²⁰ As Caivano notes:²¹

People with disabilities, particularly those with intellectual and psychosocial disabilities, have long been subject to limitations on their right to legal capacity. They have endured arbitrary detention and have been deprived of access to basic health interventions. They have faced cruel, inhumane, and degrading treatment, including physical abuse, confinement in squalid institutions, and subjection to restraint and seclusion. Due to stigma and discrimination, people with disabilities in many parts of the world continue to be deprived of legal capacity despite being able to make and communicate decisions, either by themselves or with support.

The difficulty of changing mindsets is enhanced by virtue of the fact that the group of persons concerned is a vulnerable, marginalised, disempowered group.

QAI notes the potential for the development of inclusive strategies designed to raise awareness about the benefits of workplace diversity and to encourage outreach activities within corporate culture. QAI considers that specific positive measures are required to overcome concerns based on stereotypes that lack any substance and are barriers to entry to the labour market for people with disabilities.

What can help reduce barriers for people with disability seeking employment?

A systemic approach to addressing the multiple disadvantages experienced by the majority of people with disability is needed to reduce barriers to work for people with disability.

There remain issues within the educational experiences of students with disability, many of whom leave school with literacy and numeracy inadequacies that specialised education has not addressed, and which a lack of inclusive teaching and learning opportunities in mainstream schools has perpetuated. While many schools are now more equipped to focus on transition for students with disability, there is limited creativity in approaches to work experience opportunities and even more limited opportunities for post-school learning for students needing further literacy and numeracy education. The TAFE system has been undermined and underfunded and does not deliver programs tailored to individual need despite its glossy self-promotion.

Negotiating the system beyond school is further complicated by the introduction of an assessment maze. For students without disability, the senior or leaving certificate is considered to indicate learning outcomes. This too should bear sufficient information to assist students with disability towards their next stage in earning or learning. Instead we have a variety of assessment tools to channel people to various other departments or services, and assessments to determine funding for service providers. It is acknowledged that assessments or appraisals for determining how a person performs in the workplace or for job selection are appropriate. However, forcing people with disability to submit to a multitude of

²⁰ Leslie Salzman, 'Guardianship for Persons with Mental Illness – A Legal and Appropriate Alternative?' (2010-2011) 4 *St Louis University Journal of Health Law & Policy* 279, 288-9.

²¹ Nicholas Caivano, 'Conceptualizing Capacity: Interpreting Canada's Qualified Ratification of Article 12 of the UN Disability Rights Convention' (2014) 4(1) *Western Journal of Legal Studies* 1, 2-3.

tests and demeaning reporting from school leaving to employment is inappropriate and can be a formidable barrier to employment.²²

It demeans a person with disability to be constantly reviewed and assessed and to have to prove their disability on one hand to access services and support, and then to have that used to diminish their opportunities to fair wages and conditions. This is not consistent with Article 1 of the CRPD, in its protection of the inherent dignity of persons with disability. Such processes are also a waste of time and resources that could be better utilised.

Furthermore, the supported wage system is probably the single largest disincentive and defeating mechanism to employment for people with disability. The system has leant far beyond the offering of incentives to employers and become a prop for 'sheltered workshops' (Australian Disability Enterprises) and a potential rort for some open employment situations not unlike the revolving door of trainees used as cheap subsidised labour who are promptly discarded at the end of the tenure. The difference for people with disability can be a lifetime of near-slavery conditions. Below, we discuss ADEs in further detail.

What can help reduce barriers for employers hiring people with disability?

QAI submits that technology is a powerful tool assisting people with disability to interact with others on a level playing field. Information technology has become of heightened relevance in the context of an increasingly globalised labour market, where technology facilitates the transcendence of temporal, physical and geographical boundaries. Access to, and proficiency with, information technology is fundamental at the point of entry to the labour market. Accordingly, QAI supports measures that increase the technological skills of people with disability, coupled with initiatives that ensure that appropriate technological equipment is affordable and available to all people with disability. We consider that appropriate measures in this regard could include subsidies for people with disability to purchase and install appropriate information technology and investment in information technology training for people with disability. The funding for the provision of appropriate technological supports must come from the government, rather than the employer, to ensure that this is not a potential disincentive to employing a person with disability.

We consider that volunteer work can potentially be an effective means by which people with disability can build links with an employer, make a valuable contribution to the workplace, demonstrate their capabilities and simultaneously develop skills that are valuable to the workplace. To foster and support the involvement of people with disability in the labour market in a voluntary capacity, QAI submits that funding incentives should be developed for people with disability who contribute to society through unpaid work. However, we qualify this by emphasising the importance of implementing safeguards to ensure that people with disability are not exploited, by remaining engaged in a voluntary capacity where their role could, but ultimately does not, lead to paid employment. Thus, while it is important to enable people with disability to enjoy the pleasure and fulfilment of work, to make a contribution to society in the way that many people without disability do, it is equally important to ensure that employers don't abuse this situation and use a person in a voluntary capacity who they could and should be paying for their work.

²² The usual assessment protocol includes a Job Capacity Assessment (JCA), Job Seeker Classification Instrument (JSCI) and then a choice of up to 30 wage assessment tools to be applied to a person.

How can we promote the benefits of employing people with disability?

QAI believes that there should be a public awareness campaign of the benefits of employing people with disability for both the workplace and co-workers. People with disability are proven to be loyal and hardworking employees who generally demonstrate greater reliability, have higher attendance records with fewer sick days, have better retention rates, exhibit greater than average flexibility and productivity and do not incur greater workplace risk or compensation claims when compared with employees without a disability. Workplaces that offer a supportive environment for people with disability often report better working relationships and higher staff morale and customer loyalty.²³ Yet despite these documented benefits of employing people with disability, there remain significant barriers to employment for people with disability. QAI considers that a proactive approach should be taken by government to ensuring employers are made aware of the benefits of employing a person with disability.

Wage subsidies are one means by which the government has sought to increase the employment of people with disability. We discuss wage subsidies in detail, below. Here, we note our concern that the use of wage subsidies has the effect of decreasing the status of a person with disability in the workforce, creating the perspective that a worker with a disability is of lesser value than an equivalent worker without the disability. Instead, we submit that there should be greater supports for people with disability to be included in the workplace and that employment agencies should work with employers to create niche roles for employees with disabilities.

QAI welcomes the notion of 'affirmative action and quotas' within larger businesses and recommends the adoption of such measures as soon as possible. We recommend that smaller businesses be encouraged to review the work of other employees and determine if niche roles could be created for someone with a disability. Governments should be leading the way and setting the example for all employers by significantly increasing the rates at which they employ people with disability and by applying affirmative action. Small business can play an integral role in drawing upon the unique strengths of people within communities to create opportunities. Many people with disability, particularly those with an intellectual or cognitive disability or a mental health condition, have strengths that may translate more effectively within the environment offered by a small business. It is highly likely that niche roles developed for employees with disability can be mutually beneficial. When people with disability are supported to work in niche roles in their local community and in particular where one small business does not have sufficient work to support an employee with a disability, there is potential for the worker to have more than one job with more than one employer in their local area. However, it is important not to make assumptions and generalisations about what might suit all or any people with disability best.

QAI submits that government should take proactive steps to raise employer awareness of the benefits of employing people with disability. In the face of negative employer attitudes to employing people with disability, founded upon incorrect assumptions and stereotypes, positive action is required. It is reported that while statistical information is available to employers regarding the benefits of employing a person with a disability, it is not directly provided to them – they must go looking for it. We propose that DEEWR and the Australian Taxation office provide information to employers at BAS and Tax time on the benefits of employing persons with disability.

²³ Australian Government, "Strengthening your business through diversity: A guide for employers", at <<http://www.reconciliation.org.au/workplace/resources/strengthening-your-business-through-diversity-a-guide-for-employers>>.

A Better Future

QAI appreciates the government's commitment to encouraging and supporting the equal and active participation by people with disability in economic and social life, in line with our obligations under the disability discrimination legislation, the CRPD and the NDIS. We agree that the NDIS will provide an important opportunity for a shift in mindset and community attitudes and expectations about people with disability.

Principles for Changes to Disability Employment Services

Do you agree with these as the underlying set of principles for change?

QAI welcomes the focus by the Taskforce on the efficacy of Disability Employment Services (DES) in assisting people with disability at the interface with labour market involvement.

Statistically, we know that only one-third of people assisted by Disability Employment Services currently achieve an effective employment outcome. This is not a successful outcome.

QAI concurs with the findings by People with Disability Australia (PWDA) and the Australian Federation of Disability Organisations (AFDO) that in addition to the need for awareness raising of the Government support available, greater emphasis on training, job suitability and job satisfaction and increased flexibility, key areas for improvement include increasing choice and control for jobseekers, greater focus on employer-employee compatibility, providing continuing support following job placement, dispelling myths about the employment of people with disability and a holistic approach to service provision.

QAI agrees that the principles identified by the Taskforce in the Issues Paper are both important and appropriate and we consider that the challenge lies in translating these theoretical aspirations into practice in a way that positively impacts on the lives of people with disability.

Are there other principles you would include?

QAI submits that underpinning these separate issues is the need to focus on the abilities of the person, rather than their disability and to understand and acknowledge the role of individualised support in enhancing ability.

Further, we consider that there is a need for a change in the terminology used by DES. Categorising phrases such as 'unable to work' are limiting and unhelpful and do not reflect the holistic approach that must be taken to the issue of employment for people with disability, which must also factor in the availability, and impact, of appropriate support.

DES should always promote and enliven the potential of people with disability as employees and approach their employment with the vision of the person's potential uppermost in mind, supporting them to attain that potential via education, training and supports. DES should never suggest to employers that a person with disability will only work to this or that capacity as an end statement. Qualifying and quantifying a person's capacity to perform a job should always include a forecast of the person's potential once they have been given said opportunities via training, educational and/or additional supports. It is highly inappropriate for DES to be in the position of 'selling' the employment prospects of people with disability by suggesting that they should be paid anything less than the basic wage.

Finally, and importantly, we consider that the principles for changes to DES must interlock with other services in recognition of the way in which other services, such as education, health and welfare, have a significant impact upon people with disability that can ultimately shape their employment outcomes. There is the potential to develop the final stated principle to properly reflect the impact of multiple and sustained disadvantage on the ultimate employment outcomes of people with disability in a way that develops the opportunity for these factors to be addressed.

Current Services Overview

How effective are the pathways into these services?

While QAI appreciates the need for some form of classification in this area, we consider that the current six categories are limiting insofar as they potentially curtail the abilities and opportunities of people with disability by acting as dead end pathways. There is a rigidity and lack of fluidity to and between these categorisations.

Above, we have taken issue with the categorisation of a group of people with disability as 'unable to work' at the bottom of the continuum. This is a negative label that is not only inappropriate for a significant majority of the people who are categorised in this way, but also one which ignores the capacity-building potential of appropriate support.

The next level, those classified as 'able to work in specialist supported environment' is also highly problematic. Below, we outline in detail our concerns with Australian Disability Enterprises. It is now understood that many people with disability, particularly those with an intellectual or cognitive disability, can face difficulties in transferring skills and abilities learnt in one context to another. This can mean that any skills that are learnt in an ADE may not be able to be utilised in another working environment without transitional assistance, and can therefore trap people in ADEs indefinitely as their only employment option.

We also note that the level and nature of support required by some people with disability, particularly those with a mental health condition that is episodic in nature, can vary significantly over time. Therefore, discrete categorisation can be limiting and counterproductive.

How well do these programmes work together to support people with disability throughout their life-course, including for conditions episodic in nature?

For the reasons noted above, we do not consider that a compartmentalised approach to employment services for people with disability is appropriate. Rather, we consider that the baseline assumption should be that all people with disability have the desire and ability to productively engage in and contribute to the labour market, with the focus directed towards ascertaining their access and support requirements to do so.

Are there other services which could assist people with disability to find a job?

The role of individuals in the community cannot be underestimated in establishing relationships and contacts in social and work spheres. People with disability and their families will benefit from advocacy, advocacy supports and services (particularly citizen advocacy for people without informal supports) to assist with decision-making, to establish

and maintain employment connections and relationships and to negotiate employment roles and agreements. LACs could also provide some linkages to employers and employer groups, and connect people with disability and their families to advocacy organisations.

What scope is there to move employment services to an individualised funding model?

QAI holds some concern that a move to individualised funding models could mean that people who want to try to access employment and employment service support would be required to pay for the services from their NDIS funding allocation. This would seriously impact on those people with minimal funding and those with higher support needs who desperately want to work to the extent that they allocate a significant portion of their funding to this end and lack adequate funds to meet their other needs.

In this light, rather than moving employment services to an individualised funding model, it may be more appropriate to have well-funded employment services that are funded to provide employment support and liaison with employers for extended periods rather than the time-limited support currently available to people with disability.

As noted below, we consider that the provision of incentives for DES to find jobs for people with higher support needs is appropriate.

Employment Services in Context

How can elements of the disability support system better link with employment support to improve employment outcomes for people with disability?

As noted above, employment for people with disability must be viewed within the context of an understanding of the multiple disadvantages that are experienced by many people with disability throughout their lives. We support a holistic view to the issue of support for people with disability, which integrates education, health and income support services with employment support to the greatest possible extent.

This will require a shared discourse on disability that doesn't on the one hand seek to have a person prove their inability to work to access support payments and on the other show their ability to work in a specific capacity. QAI submits that the discourse should be an empowering one and should specifically consider the integral role of different types of supports in enhancing the capacity and ability of people with disability to actively participate in the workplace and the community.

Are there other contextual factors of the jobseeker that should be considered?

QAI submits that the availability and outcomes of appropriate support for a person with disability is a highly relevant contextual factor to be considered.

Disability Employment Services (DES)

How can DES providers better assist people with disability to prepare for and find a job?

QAI submits that an issue that is of vital importance is to ensure that there is an appropriate match between the person and the job. To send any person for a job that they are not qualified or trained for, without providing them with interim training and support in preparation for this, is to set them up to fail. We need to ensure that there is an appropriate fit between job-seeker and job. People thrive in a workplace when they are given the opportunity to work at an appropriate level.

As previously noted, some people with an intellectual or cognitive disability can have significant difficulty transferring skills learnt in one environment to another. Therefore, it is critical that people are provided with the opportunity to build their skills and abilities within a real environment where they will actually work.

Funding incentives should be available for people with disability who contribute to society through unpaid work. This could be done by funding their support requirements from an alternative source other than post school funding or community access. Opportunities for unpaid work often require one-to-one support for people with higher support needs and this results in overtaxing the meagre amount of funding available to them.

There is an incentive for employers to allow people with disability to undertake work experience/training as they gain skills, and the employer receives the benefit from the unpaid work. Cross-government cooperation to promote this would mean more employers would afford these chances to people with disability. There is the prospect for both state and federal government to support this venture by providing funding for support for people with disabilities to do this unpaid work. Eventually, many people will either be employed in the same workplace, or will gain skills to be employed elsewhere.

There is the risk that some employers will abuse volunteers or those who undertake work experience and workplace training on an ongoing basis. It is important to safeguard people with disability who contribute to a workplace in unpaid capacity from exploitation when and where they could and should be paid for their work. QAI recommend that those who undertake unpaid work in ongoing roles be paid for their work.

How can DES providers better support people with disability in the workplace?

While we emphasise the importance of support for vulnerable groups such as people with disability who are marginalised from and within the labour market, we note that the kind of support really required is that aimed at dismantling the structural and systemic barriers precluding or limiting people with disability from working. Tokenistic supports, in the form of mandatory appointments with Department staff designed to target employment opportunities, or other like bureaucratic processes, are futile in the face of workplace cultures that fail to embrace diversity.

It is important that the interface between earnings and welfare payments are designed to ensure people are not penalised for fluctuations in their income. It is also integral that the system is transparent and easily understood to ensure that there are no financial disincentives for working, whether actual or perceived. We consider that it is appropriate for the fiscal benefits of labour market participation to be accounted for and measures implemented to ensure any disincentives to work are removed.

A person who attempts award wage open employment should not be at risk of losing the support from a DES and the DSP should a job be lost and neither should a person moving from post-school support be at risk of losing re-entry to that support system should their attempt at employment not be successful.

QAI recommends the establishment of cross-government collaboration with a seamless re-entry process for those who attempt work and need to return to their former supports.

Often two years is not sufficient time for some people with higher support needs to attain or retain employment due to a range of issues often not associated with their ability to work. In many instances clients are exited from services, and have to reapply and submit paperwork to be restarted again in another program within the DES.

Many people with disability and their families report that they have been unsupported by a range of DES. Some have been offered menial jobs only despite having the qualifications for highly skilled work. Others report that assurances have been offered but rarely delivered. In many instances programs are driven by the service rather than by the client, and DES are often seen as 'unproductive, inflexible and without creativity'. There is a small number of DES who demonstrate good practice, but people with disability cannot expect the same quality of service dependant on their geography and access to such a service.

QAI recommend that those DES who demonstrate fidelity to a client base with the most significant disabilities and work to further their employment aspirations deserve recognition and support.

People with disability should expect to get the same quality of service delivery no matter where they live. DES should be compelled to operate with best practice measures and move beyond the standard generic employment service response.

Previously, there has been no pathway for a person who moves from a state-funded post-school service program to access a DES in an attempt at open employment. A person may well have experienced some volunteering roles or workplace training, and be encouraged to make that next step by accessing the assistance from a DES and find themselves employed yet unable to cope for a variety of reasons. The 2015 budget has introduced measures permitting young people with disability to receive employment assistance from DES providers while engaging in post-school employment programs. However, there remains a need for a more holistic approach to be taken to this critical point in the lives of people with disability.

How can the employment service model be improved to help providers deliver better support?

QAI recommends that both post-school services and DES be compelled to develop programs that support and nurture relationships with employers for opportunities for workplace training/experiences/volunteering roles for workers with disability.

We consider that providers would benefit from specific training, such as Social Role Valorisation (SRV), a perspective discussed above which privileges the creation and support of 'socially valued roles' for people within society as a means of giving people with disability the opportunity to obtain the goods society has to offer.²⁴

²⁴ Joe Osburn, 'Overview of Social Role Valorisation Theory' (1998) 3(1) *The International Social Role Valorization Journal/La revue internationale de la Valorisation des roles sociaux* 7.

As discussed above, we also consider that there is a need for a reframing of the discourse around disability and work, in a way that is empowering and supportive of people with disability.

Rather than the current onerous and highly bureaucratic assessment processes, which can demean and burden people with disability seeking to enter or re-enter the labour market, an individualised approach should be taken which prioritises matching an individual with an appropriate employment role.

It is still a reality that many DES 'cream' their client bases. People are often referred from service to service in an endless cycle as they are considered too difficult or not part of the targeted clientele because of a need to produce outcomes. The changes to the 'star rating' have not delivered any tangible improvement to outcomes for people with disability. People with disability are often told to look for jobs on websites and in the paper and often do not get any assistance from some of these services.

Does DES need to be redesigned to operate in an NDIS environment?

If the spirit of the NDIS is to be embraced by DES, insofar as it elevates the choice and autonomy of individual people with disability, DES must abandon the categorisation approach and understand that all people, including people with disability, are on a continuum in terms of their ability to contribute to and integrate into the labour market. Further, it must be understood that their abilities are likely to be elevated with appropriate support.

In the context of the NDIS and the provision of supports for people with higher support needs in the workplace – such as people with an intellectual or cognitive impairment, mental illness and multiple disabilities – it is highly recommended that DES specifically target such groups of people who are traditionally ignored or not successfully and sustainably employed.

Australian Disability Enterprises (ADEs)

As noted above, Article 27 of the CRPD specifically establishes the right to work, providing as follows:

States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities.

...

States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

There is a strong consensus amongst people with disability and their supporters and advocates that the advent of Australian Disability Enterprises (ADEs) has not been a success story.

It is reasonable to state that ADE's should never have been allowed to disintegrate to the segregated and closed systems with unjustifiably poor working conditions that they presently are. ADEs were once training centres that were required to progress people into open employment. However, over time, most became day centres for people who likely never had

the opportunity or support to articulate their interests or goals for further education and/or work.

We note that the 2015 budget has brought some long-overdue improvement in this area, introducing changes to DES funding rules whereby people employed in ADEs or sheltered workshops are able to access support to achieve employment in the open labour market. This amendment to the rules will mean that people with disability who are employed by an ADE will be permitted to job-seek in the general labour market, without their access to DES funding being blocked. However, while welcome, this improvement only touches on the surface of the significant changes needed in this area.

QAI submits that it is imperative that all workers, including workers with disability, are remunerated at a rate that is equal or greater to the minimum award wage for the particular industry in which the worker is engaged. We consider that the supported wage system, and Australian Disability Enterprises, functions as a significant disincentive to employment for people with disability and can have the effect of demeaning and undervaluing the contribution made by people with disability to the labour market, in terms of the grossly insufficient remuneration provided and the concentration and confinement of workers to a small and undervalued sector of the labour market.

The experience of ADEs has been that people are indirectly compelled into sheltered workshops because that is their only choice. If they want to work they must work under the circumstances that are available for them. This does not amount to choice by any analysis and is an exploitative and debasing model. It contravenes Art 27 of CRPD as it is essentially servitude.

QAI agrees that some form of appraisal may be required to determine how well a person with disability is able to perform their job and to determine an appropriate rate of pay. However, we assert that any wage assessment tool that, when applied, reduces the wages of a person to a level of such diminished proportions that it does not sustain affordable living is a breach of Article 16 of the CRPD, which assures freedom from exploitation, violence and abuse, and Article 17, which protects the mental integrity of the person. The self-esteem of any person with disability is gravely diminished when they are subjected to such harsh processes. This exploitation seems to be prevailing mostly but not exclusively in sheltered workshop situations.

It is important to consider employment for people with a disability in the holistic context of life. From birth or the acquirement of a disability, a person with disability is subjected to a myriad of assessments and program regimes. They are constrained and often detained in life by the constant reviews and compliances and bureaucratic impositions on their life. Assessments for eligibility for different services or supports and any wages assessment tool applications are independently stressful, but together are over and beyond what other citizens in Australia are required to face.

The recent case of *Nojin and Prior v Commonwealth of Australia*²⁵ found that the use of the Business Services Wage Assessment Tool (BSWAT) was discriminatory. In particular, it was found that the use of competency assessment for a person with an intellectual impairment was discriminatory and not reasonable and that '*...the tool was adjusted so that it would not produce a better result than a simple productivity measure. The only alternative was a worse result. The disparity between the two results has, on the evidence, simply grown over the years.*' The Court allowed that the use of competency assessments may well favour other

²⁵ (2012) FCAFC 192.

workers with disability but there was 'powerful evidence' that it was unfairly skewed against workers with intellectual impairment.

QAI recommends that workers be given the opportunity to be assessed for rates of pay under whatever measure produces the best result. We also commend those workplaces that prefer to pay reasonable rates of pay in accordance with the effort and work performed by workers with disability. It is not unreasonable to assert that people who work a certain number of hours and who do their best efforts be paid accordingly. Non-disabled workers in Australia doing the same jobs have differing levels of productivity in the workplace. They are not paid according to their productivity but by the prevailing award rate. It is only those workers who are paid 'piecemeal' who are paid for higher productivity – for example, highly productive fruit pickers will earn more than slower workers but they are all paid at the same rate.

The worker employed by Stawell Intertwine Services Inc (SIS) in the aforementioned case was predominantly employed to mow lawns. Most often customers pay \$x for a lawn a certain size to be mowed. We do not usually pay by the hour to mow lawns. So whether a person with a disability takes three times as long as a non-disabled worker to mow a lawn is irrelevant. The disabled worker is entitled to receive at least the same payment for the same work.

As noted above, we now know that workers with disability are documented to have increased reliability and loyalty, lower rates of absences and fewer associated costs of insurance and workplace claims. In this context, it is critical to place additional value on the quality of the work a person can deliver. This should constitute a measure of contribution equal to or greater than the mere volume of output.

While it is agreed that employers will more likely respond to incentives to employ a person with a disability, it is our belief that the status of a person with disability in the workforce can be eroded by the 'discounted' rates of pay and incentives. The implication that flows from this is that a worker who has a disability is somehow 'less' valued than someone without a disability.

Can we improve support for people moving out of ADEs into open employment?

The abolition of ADEs is the most effective means of removing the disjunct between ADEs and open employment. As noted above, ADEs represent a failed experiment that have as their cost the dignity of the people with disability who have been sheltered within them. They are effectively a dead end; the irony of ADEs is that while on one hand they fail to equip some people with disability with skills for more appropriate engagement in the labour market, on the other hand they retain highly productive workers to maintain the viability of the service rather than supporting them to move to open employment. The stated vision of ADEs has not translated into any positive outcomes for people with disability.

How can ADEs operate as viable businesses?

For the reasons noted above, QAI does not support the continuation of ADEs. While we consider that there were some positive elements associated with the vision of ADEs, these have not been translated to any extent.

ADEs were designed to provide a training opportunity and resource for people with disability to gain skills and support to move into open employment. The most productive employees are retained in order for these services to remain viable and competitive in the open market. These operatives are often in a position to undercut private enterprise competitors for tendered contracts and manage to deliver within the agreed contracted period at rates that

create artificial costing and force down labour market prices. QAI recommends that these workshops be compelled to find pathways to open employment for their workers as they become proficient within projected time frames.

In order to elevate the status and working and living conditions afforded to employed people with disability, QAI recommends that all people with disability currently working in sheltered workshops be progressively paid at least minimum award rates rather than the current productivity rates of pay. When people with disability work the hours to their best ability it should be sufficient for the people to receive the same pay as anyone else. Any shortfalls that employers cannot meet should be met by government support. Another alternative is for both open employment and sheltered workshop situations that are making profits from the endeavours of their workers with disability to be obliged to award percentages of those profits back to their workers with disability.

QAI is not opposed to incentives, but considers that it is important to ensure incentives are appropriately directed. We assert that incentives should be directed to the workers to elevate their income towards the minimum necessary to enjoy a reasonable standard of living rather than to employers who already enjoy a reasonable standard of living and find those incentives adding cream to a life that is already a world removed in the terms of quality from those of many people with disability.

Support for Employers

How can supports help achieve long-term employment for people with disability?

While QAI encourages supportive working environments and the availability of grants for employers to modify workplaces to accommodate employees with disability, we do not recommend payments of incentives to employers. Government assistance to employers should be to provide funds to modify premises, equipment including phones and IT, technology that supports a person in the workplace and any in-service training to employers and staff on ways to support their new employee with a disability.

Are the support needs of large employers different to the support needs of small employers?

Larger employers are generally in better financial positions to undertake these measure on their own initiative, but will still benefit from sourcing appropriate information from the person with disability and their supporters on how best to include and accommodate their support needs.

How can we encourage more engagement between employers and people with disability?

Systems advocacy directed to large employer groups (retailers association, business councils, chambers of commerce, etc) and via associations (ie Law Societies, Associations of Chartered Practising Accountants, unions, etc) is an avenue of engagement to encourage targets and affirmative action of employment for people with disability.

Individual advocates and LAC's should be supported to engage with local employment opportunities either directly or via DES.

What other supports or approaches could increase employment participation of people with disability?

We acknowledge the proactive approach the government has taken in providing employers with statistical information about the benefits of employing a person with a disability (although as noted we consider that further work is required in this regard) and would encourage that this be augmented with promotion of the quality of work that people with disability can perform. We submit that there should be a significant awareness-raising campaign directed towards enlightening employers of relevant information about employing a person with disability – in particular, the statistics that indicate that many workers with disability are rated with average or above average productivity, do not cost more for workplace modifications, have fewer absences and better retention rates, have fewer claims for worker's compensation and cost less in terms of safety and insurances; and the benefits to a workplace, such as the competitive advantages gained from diversity, as discussed above.

QAI considers that other approaches that could increase the employment participation of people with disability include seed funding for self-employment opportunities for people with disability as well as some cross-government (including local governments and councils) coordinated assistance to promote small businesses owned and operated by people with disability. State government and local government and councils should have affirmative targets for employment of people with disabilities.

National Disability Insurance Scheme (NDIS)

In what way do you think the NDIS can support employment outcomes for people with disability?

While it is important to recognise that, of the approximately 4,230,000 people with disability in Australia, it is estimated that only about 460,000 will receive individual packages under the NDIS once it is full rolled-out, the introduction of the NDIS offers a unique opportunity for change in disability culture in Australia, including in the context of employment. The stated values of supporting autonomy and choice for people with disability should translate into greater choice and autonomy with respect to working roles and we are hopeful that this may have a broad impact in bringing cultural change for all people with disability, not only those funded under NDIS. However, attitudinal change will not result simply from introduction of the NDIS. As proposed elsewhere in this submission, a change in discourse by the Department accompanied by a strong campaign raising awareness amongst employer and employer organisations of the value of employing people with disability and nullifying myths about employing people with disability is required.

What do you think we can learn from the NDIS to improve job services for people with disability?

We are optimistic that the full roll out of the NDIS will mark the introduction of a fresh approach to people with disability in Australia that respects their choice and control over decisions affecting their lives. In the employment context, this could translate into widespread awareness and understanding that, like most people without disability, most people with disability want and need to work and want choice and control over decisions affecting their employment. They want to work for income that supports them and their families and protects their future and for the non-fiscal rewards of work, such as giving meaning, structure and definition to their lives, social relationships and contributing to society. Like most people

without disability, most people with disability want to be able to exercise choice about the type of work they will perform and to have their work form part of a recognised career path that they have chosen.

As stated previously, the NDIS offers context for DES and consequently there should be intentional targeting of employment of people with higher support needs and with measurable outcomes.

Personal Helpers and Mentors (PHaMs)

What more can be done to support people with mental illness in the workplace?

People with intermittent and/or fluctuating mental illness should be supported to take time from work when and as needed until their mental health improves. For small businesses and not-for-profit organisations, this may require additional financial support in order to backfill positions and related training and educational investment for replacement workers in the interim. In some instances, people with mental illness may benefit from working with partnered employees who can fulfil the position in their absence without doubling their workload. This may be an instance where a small business employer would benefit from incentives or financial support.

Life-course and Diversity

Are there particular milestones which have a positive impact on employment prospects for people with disability?

As discussed above, employment for people with disability must be understood in the context of the continuum of the life experiences, including the likelihood to have experienced multiple disadvantage, of a person with disability. We consider that early intervention, in terms of addressing education and health issues impacting on children and youths with disability, at the earliest opportunity, will result in more favourable employment outcomes.

For many people with disability, employment prospects will be enhanced if they are supported into workplaces following the exit from an educational or training experience. It is imperative that people are employed sooner rather than later as unused skills diminish and work ethics erode, and over time people can become resigned to the prospect of long-term unemployment.

What issues need to be considered in relation to specific groups of people with disability?

An individualised approach must be taken that considers the unique needs and abilities of each person. As discussed above, QAI is concerned that the Department's approach of compartmentalising people with disability into discrete categories based on their assessed level of disability is limiting in multiple ways. This is particularly so for those categorised at the bottom of the spectrum – as 'unable to work' – and for those with conditions that are episodic in nature.

What approaches work with the different groups and these different issues?

As noted above, we now know that people with an intellectual or cognitive disability can have difficulty transferring their skills and knowledge base from one environment to another or may simply require more time and supports to adjust. Therefore, appropriate support in building relevant skills within the environment they are to be exercised in is critical, and will be required at points of employment transition.

Conclusion

QAI concurs with the stated objective of the National Disability Employment Framework to 'improve the employment outcomes of people with disability so they can enjoy the economic and social benefits that work brings'.

The multi-dimensional value of work is now clearly understood. Employment is linked to a range of positive outcomes, for individuals, families and communities, including financial, health and psychological benefits.

There are many reasons why people work, of which income is only one factor. There are many positive benefits associated with working, with work and its related social relationships noted as a source of satisfaction, identity and pride and as an important and socially valued way of contributing to society and personal growth.²⁶ Many people are highly motivated to engage in meaningful work.²⁷ This includes many people with disability. Professor Alan Morris' research exploring the attitudes and experiences of people with disability regarding employment documents that most Disability Support Pension recipients under the age of 35 have a strong desire to work, with the inability to work a source of anguish for many.²⁸ The noted barriers, aside from the severity of the person's disability and the failure by many workplaces to make appropriate physical modifications to the environment to enable proper access by people with disability, were workplace cultural issues such as discrimination and inflexible working hours.²⁹

People with disability have complex needs that generally require additional finances to manage, as compared with people who would otherwise be categorised within the same group but without the disability, and therefore employment is particularly important. Families which include a person with disability can be subject to considerable additional financial expenses when compared to families which do not include a person with disability. We consider that it is appropriate to ensure that families which include a person with disability are adequately financially supported. QAI submits that families who have a child or young person with a disability should have improved access to information and greater access to funded supports for training and further education, along with fully funded employment support that is

²⁶ Ian Wolcott and Australian Institute of Family Studies, *Work and Family: Employers' Views* (Commonwealth of Australia, 1991), 9; Susan Faludi, *Backlash: The undeclared war against American women* (Crown, 1991); Richenda Gambles, Suzan Lewis and Rhona Rapoport, *The Myth of Work-Life Balance: The Challenge of our time for Men, Women and Societies* (John Wiley & Sons, 2006), 37. In 1995, 63% of employees in workplaces with 20 or more employees were generally satisfied with their jobs: A Morehead, M Steele, M Alexander, K Stephen and L Duffin, *Changes at Work: the 1995 Australian Workplace Industrial Relations Survey* (Addison-Wesley Longman, 1997), 287.

²⁷ Alain De Botton, *The Pleasures and Sorrows of Work* (Penguin Books, 2009), 78-80; Barbara Pocock, *The Labour Market Ate my Babies: Work, Children and a Sustainable Future* (The Federation Press, 2006), 1.

²⁸ Alan Morris, "Pain and Mythology: Disability Support Pension Recipients and Work" (2006) 7(1) *Australian Review of Public Affairs* 41, 47.

²⁹ Alan Morris, "Pain and Mythology: Disability Support Pension Recipients and Work" (2006) 7(1) *Australian Review of Public Affairs* 41.

not time limited. We consider these measures to be integral in ensuring equitable opportunities for post-school life for people with disability.

Australia has traditionally offered only moderate levels of public support when compared to social democratic welfare states. In recent decades, neo-liberal ideology and economic rationalism have brought an increasing emphasis on economic progress. Consequently, work is considered necessary for productivity and ultimately profit, which is valued in an individualistic, rather than social or collective, way.³⁰ One outcome of this emphasis on individual productivity in a competitive market economy with only a basic welfare safety net is that there is no sense of broad social responsibility for individual hardship – people are largely left to fend for themselves. In this context, employment is particularly critical and the opportunity to engage in appropriate employment should be considered a basic human right and protected accordingly.

QAI will welcome changes to legislation and practices that support fair work and pay conditions for people with disabilities and that reflect Australia's move towards full implementation of the Convention of the Rights of Persons with Disabilities.

³⁰ Matthew Tonts and Fiona Haslam-McKenzie, 'Neoliberalism and changing regional policy in Australia' (2005) 10(3-4) *International Planning Studies*; Barry Hindess, 'Neo-liberal Citizenship' (2002) 6(2) *Citizenship Studies*; Pat O'Malley, 'Globalising Risk? Distinguishing Styles of 'Neo-Liberal' Criminal Justice in Australia and the USA' (2009) Sydney Law School Research Paper No. 09/111; Mark Bray and Pat Walsh, 'Different Paths to Neo-Liberalism? Comparing Australia and New Zealand' (1998) 37(3) *Industrial Relations: A Journal of Economy and Society* 358; Joan Staples, 'NGOs Out In the Cold: Howard Government Policy Towards NGOs' [2007] *University of New South Wales Law Review* 8; Tim Rowse, *Australian Liberalism and National Character* (Kibble Books, 1978), 8; Margaret Thornton, *The Liberal Promise: Anti-Discrimination Legislation in Australia* (Oxford University Press, 1990), 9; Birch, above n 62.