

# NSW DISABILITY NETWORK FORUM

## Submission to the Disability Employment Framework

### About the NSW Disability Network Forum

Initiated in June 2011, the NSW Disability Network Forum (the DNF) comprises non-government, non-provider peak representative, advocacy and information groups whose primary aim is to promote the interests of people with disability. The aim of the NSW Disability Network Forum (DNF) is to build capacity within and across all organisations and groups so that the interests of people with disability are advanced through policy and systemic advocacy. The Council of Social Service of NSW (NCOSS) provides secretariat support to the DNF.

### NSW Disability Network Forum Member Organisations:

Aboriginal Disability Network NSW	Multicultural Disability Advocacy Association of NSW
Association of Blind Citizens of NSW	NSW Consumer Advisory Group - Mental Health
Brain Injury Association NSW	NSW Council for Intellectual Disability
Deaf Australia NSW	NSW Disability Advocacy Network
Deaf Society of NSW	People with Disability Australia
DeafBlind Association NSW	Physical Disability Council of NSW
Deafness Council (NSW)	Positive Life NSW
Information on Disability and Education Awareness Services (IDEAS) NSW	Self Advocacy Sydney
Institute For Family Advocacy	Side By Side Advocacy Incorporated
Intellectual Disability Rights Service	Council of Social Service of NSW

### Introduction

The DNF welcomes the opportunity to input into the review of the National Disability Employment Framework. Employment is important to the self-worth and social status of all working age members of our community, and for people with disability, it is particularly important to their inclusion, self-worth and social status. Given this importance, it is critical that the Framework reflects the principles of empowerment, inclusion, choice and control on which the National Disability Strategy (NDS) and the National Disability Insurance Scheme (NDIS) are based.

The DNF urges that the review be used as an opportunity to redesign the Framework to create greater opportunities for people with disability to gain employment in the open market and avoid segregation. With the labour participation rate of people with disability aged 15-64 at 54% in 2009<sup>1</sup>, which ranks Australia 21<sup>st</sup> out of 29 OECD countries,<sup>2</sup>, a paradigm shift is clearly required.

This submission will argue that each element of the Framework must be based on person-centred principles, and that all levels of government need to work together to ensure structural barriers impeding the employment of people with disability are addressed.

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<sup>1</sup> See Australian Bureau of Statistics (2012) 4102.0 "Australian Social Trends, March Quarter 2012, Disability and Work" at <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features40March+Quarter+2012>

<sup>2</sup> OECD 2010, *Sickness, Disability and Work: Breaking the Barriers - a Synthesis of Findings Across OECD Countries*, p.51 available at [http://www.oecd-ilibrary.org/social-issues-migration-health/sickness-disability-and-work-breaking-the-barriers\\_9789264088856-en](http://www.oecd-ilibrary.org/social-issues-migration-health/sickness-disability-and-work-breaking-the-barriers_9789264088856-en)

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## Embedding person centred principles into the Framework

The DNF commends the principles on which the Framework is based. However, in a paradigm of choice and control, the principle of “increased open employment options” will not go far enough in and of itself. The United Nations Convention on the Rights of Persons With Disabilities specifies the labour markets should be “open inclusive and accessible” to persons with disabilities.<sup>3</sup>

To give weight to action against this principle, the Framework must set out a clear policy direction where people with disability are individually supported to work in open employment, regardless of their impairment type or level and segregated employment is phased out. Examples demonstrate that this approach is possible, leading to benefits in the workplace and a valuable contribution by the employee with disability:

- With advocacy from the DeafBlind Association and assistance with communication solutions, a deafblind woman is able to work in open employment.<sup>4</sup>
- Job customisation has assisted many people with intellectual disability to gain open employment.<sup>5</sup> For example, a Disability Employment Service (DES) provider could brainstorm the skills of an employee with disability, and look for jobs to match their skills. Using this approach, a person with intellectual disability was able to gain employment as a labourer.<sup>6</sup>
- People with ‘high support needs’ can run their own businesses with support. For example, a young man with autism runs his own business (Adam’s Apple Deliveries) delivering fruit to nearby grocers, with the help of support workers.<sup>7</sup>

The DNF is concerned that current structures in disability employment run counter to the notions of inclusion, choice and control. For example, people with disability employed in Australian Disability Enterprises (ADEs) are segregated and paid wages far below award— an arrangement which has recently been sanctioned by the Australian Government in the *Business Services Wages Assessment Tool Bill*.<sup>8</sup> This Bill establishes a framework whereby past employees of ADEs paid as little as \$1.79/hour can agree to receive half the compensation to which they are entitled, sending a message that the Government supports unfair wages for people with disability. Additionally, many DES providers appear to have low expectations of people with disability. Experience of DNF members demonstrate that DES providers focus on getting people with disability into jobs, not ensuring that those jobs are retained. This focus is created by the DES providers receiving an Outcome Payment if the job seeker stays in the placement for 13 weeks and another payment at 26 weeks<sup>9</sup>. Unfortunately, less than half of DES reach this mark,<sup>10</sup> leading to instability

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<sup>3</sup> Article 27(1) United Nations Convention on the Rights of Persons With Disabilities

<sup>4</sup> DNF Position Paper on Independent Advocacy and Information 2014.

<sup>5</sup> See information about job customisation at Disability Employment Australia “Employers Guide to Partnering With Disability Employment Services” at <http://www.personnelgroup.com.au/disability-employment-services/how-we-work-employers> and [http://guide.disabilityemployment.org.au/proposing/job\\_customisation](http://guide.disabilityemployment.org.au/proposing/job_customisation)

<sup>6</sup> Nye C. (2014) “Thinking about the Art of Asking”, *Belonging Matters*, Issue 21, p3-7.

<sup>7</sup> See video of Adam’s Apple Deliveries at <http://incharge.net.au/adams-apple/>

<sup>8</sup> See Harrison, D. (2015) “We’ll give you half: Senate’s deal for underpaid intellectually disabled workers” *Sydney Morning Herald*, 15 June 2015, at <http://www.smh.com.au/federal-politics/political-news/well-give-you-half-senates-deal-for-underpaid-intellectually-disabled-workers-20150615-ghoa2f.html>

<sup>9</sup> Department of Employment (2012), *Disability Employment Services Performance Framework Guideline*, available at <http://docs.employment.gov.au/node/5892> p8.

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and loss of confidence for the employee with disability. These payments may create a perverse incentive for DES providers to organize placement which are not suitable in the long term. Given this situation, the provision of an Outcome Payment if the job seeker remains employed for 12 months, rather than 26 weeks, would be more appropriate.

A model which would implement person-centred approaches to job support option for the individual, rather than the DES, to receive an allocation of funding to purchase the supports they need to break into employment. This model would drive innovation and maximise positive outcomes for people with disability. For example, people could use their allowance to employ a provider to write a CV or buy suitable clothes for an interview.

## **Recommendation 1**

That each element of the Disability Employment Framework be based on person-centred principles.

## **Recommendation 2**

That the Australian Government create an option whereby the individual, rather than DES, be given their budget for employment assistance to purchase supports appropriate to them.

## **Mutually obligation ignores systemic barriers to employment**

The Issues Paper states that Job Active will seek to “increase job seeker activation by removing the option of passive welfare and introducing stronger mutual obligation requirements”. This statement does not recognise the barriers many people with disability face in terms of fulfilling “mutual obligation” requirements.

Firstly, many people with disability face barriers as a result of their experience of disability: they have had a poor education that has not prepared them for the workforce and have experienced reduced access to vocational and other training opportunities. This results in many people with disability being poorly prepared for the workforce. Accordingly, it is important that transition to work programs properly prepare people with disability for the workforce.

Education and employment are the responsibility of both Federal and State government, and a plan needs to be developed outlining the responsibilities of each level of government, and identifying actions and timelines for addressing these barriers.

The DNF notes the current Senate Inquiry into education of students with disability. The strengthening of mutual obligations outlined in the Issues Paper seems somewhat inconsistent with the recognition from Government that students with disability have experienced serious educational disadvantage. The DNF believes stronger mutual obligation requirements without concerted action to reduce systemic barriers to education and employment will result in disadvantage for people with disability. Before any action to strengthen mutual obligation is taken, the DNF urges the Government to:

- show evidence that systemic barriers have been addressed and minimised; and
- provide safeguards that ensure that people will not be further disadvantaged where past barriers continue to impact on their employment prospects.

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<sup>10</sup>Department of Employment (2013) “Employment Services – building on success: Issues Paper”, p8, available at <https://docs.employment.gov.au/documents/employment-services-building-success-issues-paper-0>

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Secondly, people experience barriers in the environment. Inaccessible public transport means that cost of getting to many jobs becomes prohibitive. The built environment is a further barrier with many workplaces continuing to be inaccessible. Additionally, people with disability can experience financial disincentives to employment: For example, the cost of transport (such as taxi fares) means that some people can actually be worse off as a result of moving from the Disability Support Pension into employment, especially if moving into casual employment or a low wage position.

Any educational disadvantage faced by people with disability is compounded by attitudinal barriers from prospective employers. 'Passive welfare' is not a path of choice, but can result from countless unsuccessful applications. People with invisible or episodic disability face the additional obstacle of employment support providers or employers not understanding their disability and being less willing to make adjustments. DNF members report that mental health consumers may also be unfairly punished by the compliance framework related to their participation requirements.<sup>11</sup>

### **Recommendation 3**

That action be taken to address systemic barriers people with disability face in employment, including by drawing up a plan outlining the responsibilities of each level of government, and identifying actions and timelines for addressing these barriers.

### **Recommendation 4**

That the Australian Government shows evidence that systemic barriers have been addressed and minimised; and provide safeguards that ensure that people will not be further disadvantaged where past barriers continue to impact on their employment prospects.

## **How can the NDIS support employment for people with disability?**

The DNF observes that successful employment outcomes are crucial to the sustainability of the NDIS, as the greater the participant's economic independence, the less support they will need from the NDIS.

Where a person with disability is not eligible for support from a provider, the NDIS can assist them to develop skills and undertake training to prepare for work. This capacity building could include assistance with training or travelling to and from work, developing relationships with colleagues and communication skills. However, the employer is responsible for funding reasonable adjustments to enable access to a workplace.<sup>12</sup>

It is important that appropriate supports are available to assist people with disability in employment, as the lack of availability of this support will provide an insurmountable barrier to employment. Auslan and deafblind interpreters are an interesting case study of this kind of support.

In NSW, there has been long-term under-investment in Auslan and deafblind communication training, while the Commonwealth Government has continued to increase demand through funding

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<sup>11</sup> Department of Education, Employment and Workplace Relations, (2008) *Employment Assistance for people with mental illness literature review* p.14-17.

<sup>12</sup> National Disability Insurance Agency, 2014, *Operational Guideline – Planning and Assessment – Supports in the Plan – Supports for Employment, Vocational Training and Higher Education (v 1.0)*.

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national schemes such as the National Auslan Interpreter Booking Service (NABS), the Employee Assistance Fund (EAF) and NDIS. Auslan and deafblind communication training has received some additional funding for 2015 under *Smart and Skilled*, but it needs to be funded on an ongoing basis to mitigate the skills shortage as the NDIS increases pressure on the workforce.

The Deaf Society of NSW reports that demand for Auslan interpreters has jumped by 119% over the year the NDIS has been implemented in the Hunter region, which is serviced by only a handful of interpreters. This has led to an increasing provision gap, with 337 bookings unable to be serviced. Interpreters from surrounding areas can be used in order to alleviate the pressure on the local workforce, leading to the question of whether the participant's funding covers interpreter travel costs.

The current 'one size fits all' system involving a cap of \$6 000 on interpreting and captioning services available through the EAF, is inequitable. People employed in higher level roles will need more interpreting or captioning hours to go about their business, while other need less. Some employees also need access to English support in the workplaces, for situations such as reading of contracts, performance appraisal papers and live translation of documents in English.

The above demonstrates that making open employment accessible to people with disability will require a range of supports to be available in an ongoing manner. The DNF suggests the Government:

- analyses the availability of workplace supports now and develops some projections in order to ensure workforce planning and training programs are in place to meet future need; and
- maps out existing provision against identified need in order to establish areas of support that are currently not addressed.

## **Recommendation 5**

That the Australian Government:

- analyses the availability of workplace supports now and develops some projections in order to ensure workforce planning and training programs are in place to meet future need; and
- maps out existing provision against identified need in order to establish areas of support that are currently not addressed.