



PEOPLE WITH DISABILITY
AUSTRALIA

A voice
of our
own

Ask What We Want

Ensure employment services encourage
meaningful work for people with disability

PWDA and the Antipoverty Centre

February 2022

Copyright information

Ask what we want

Copyright © People with Disability Australia Ltd. 2022

First published 2022

Published by People with Disability Australia

Level 8, 418a Elizabeth Street, Surry Hills, Sydney, New South Wales, Australia 2010

Email: pwda@pwd.org.au

Phone: +61 2 9370 3100 Fax: +61 2 9318 1372

URL: www.pwd.org.au

All rights reserved. Without limiting the rights under copyright reserved above, no part of this publication may be reproduced, stored in or introduced into a database and retrieval system or transmitted in any form or any means (electronic, mechanical, photocopying, recording or otherwise) without the prior written permission of both the owner of copyright and the above publishers.

Original illustrations / Photographs by [Name of Artist/Illustrator/Photographer]

Printed by People with Disability Australia

People with Disability Australia and the Antipoverty Centre 2022, *Ask What We Want: Ensure employment services encourage meaningful work for people with disability*, authored by Antipoverty Centre researchers Kristin O'Connell and Jay Coonan for PWDA commissioning editors Giancarlo de Vera and Amanda Ellis, People with Disability Australia, Sydney.

ISBN 978-0-6454251-0-9

Table of contents

About us	1
<hr/>	
About PWDA	1
About the Antipoverty Centre	2
Definitions/terminology	3
<hr/>	
Introduction	5
<hr/>	
Executive summary	7
<hr/>	
Recommendations	8
<hr/>	
Key recommendation	8
Detailed recommendations	11
Part 1: Towards improved disability employment services	21
<hr/>	
Vision	21
Program aims	22
Upholding our rights	23
Approach	25
Part 2: Why are disability employment services failing?	30
<hr/>	
Context	30
Problems	47

Activity testing	54
Part 3: Centring people with disability	56
<hr/>	
Participant experience	57
Desegregated model	59
Compliance measures	65
Ecosystem of supports	66
Incentives	70
Oversight	71
What should success look like?	74
Appendix A	78
<hr/>	
Concerns with recommendations from the BCG report into ESAt	78
Digital first	80
Appendix B	83
<hr/>	
References	83

About us

About PWDA

People with Disability Australia (PWDA) is a national disability rights and advocacy organisation made up of, and led by, people with disability.

At PWDA we have a vision of a socially just, accessible and inclusive community in which the contribution, potential and diversity of people with disability are not only recognised and respected but also celebrated.

PWDA was established in 1981, during the International Year of Disabled Persons. We are a peak, non-profit, non-government organisation that represents the interests of people with all kinds of disability.

We also represent people with disability at the United Nations, particularly in relation to the Convention on the Rights of Persons with Disabilities (CRPD).

Our work is grounded in a human rights framework that recognises the CRPD and related mechanisms as fundamental tools for advancing the rights of people with disability.

PWDA is a member of Disabled People's Organisations Australia (DPO Australia), along with our partners the First People's Disability Network, National Ethnic Disability Alliance and Women with Disabilities Australia.

DPOs collectively form a disability rights movement that places people with disability at the centre of decision-making in all aspects of our lives.

'Nothing About Us, Without Us' is the motto of Disabled Peoples' International (DPI).

About the Antipoverty Centre

The Antipoverty Centre is a new organisation established in May 2021 to counter problems with academics, think-tanks and other people in the political class making harmful decisions on behalf of the people they purport to represent.

At the Antipoverty Centre we are activists, advocates and researchers with deep expertise in poverty, disadvantage and unemployment, because we live with them. We defend and fight for the rights of people like ourselves who experience violence at the hands of an economic system designed to oppress us. It is our mission to shift how people speak about and respond to poverty Australia.

We work closely with peer support groups, activists and grassroots civil society organisations to complement their work. Our goal is to help ensure the voices and rights of people living in poverty are at the centre of social policy development and discourse. We believe there should be no decision made about us without us.

The Antipoverty Centre is not politically aligned and does not accept funding that places political constraints on our work.

Definitions/terminology

activity testing: requirements placed on people who receive certain income support payments including the Disability Support Pension, JobSeeker, Youth Allowance and Parenting Payment, who must meet fulfil obligations each month to continue receiving their payment

Disability Employment Services (DES): the current employment services program for people with disability, which is accessed by activity-tested and voluntary participants

disability employment services provider: generalist disability provider, as implemented under the current model

Disability Support Pension (DSP): a social security payment for people with disability who are deemed to have permanent reduced or no capacity to work; some recipients are activity tested

employment services: disability, specialist and mainstream employment services, including jobactive, Disability Employment Services, ParentsNEXT, online and enhanced services under the New Employment Services Model and any other similar program

Employment Services Assessment (ESAt): a screening assessment tool used to determine reduced work capacity of activity-tested recipients of an income support payment

income control: programs such as the Cashless Debit Card and Basics Card imposed on some income support recipients, described by the Australian Government as income management programs

income support payment: all government allowances, including all working age payments and the age pension

jobactive: the mainstream employment services program for activity-tested recipients of an unemployment payment

mainstream provider: default provider for most people entering employment services, which is currently jobactive but is soon to be replaced by online and enhanced services

New Employment Services Model (NESM): the successor mainstream employment services program to jobactive

online employment services: self-managed digital employment services for people who are assessed as having low barriers to work

parking-and-creaming: the practice of employment service providers maximising opportunities for outcome payments by requiring different levels of activity from people on the basis of a job agency's expectation of whether someone is likely to get a job¹

specialist provider: provider with a specific focus on and expertise in a particular disability or disabilities

unemployment payment: the two mainstream payments for unemployed people, JobSeeker (and its predecessor Newstart) and Youth Allowance Other, which are activity tested

working age payment: Parenting Payment, Disability Support Pension, Carer Payment, Youth Allowance Student and Apprentice and a number of other payments that are only available to people below retirement age, which are not unemployment payments, although some recipients are activity tested (for example, single parents, some DSP recipients younger than 35)

¹ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (DRC), *Issues Paper: Overview of Responses to the Employment Issues Paper*, 12 May 2021, <https://disability.royalcommission.gov.au/publications/employment>, accessed 28 January 2022.

Introduction

People with Disability Australia and the Antipoverty Centre welcome the opportunity to comment on the [New Disability Employment Support Model \(NDESM\)](#).

The issues people with disability face finding long-term sustainable employment are systemic. Our barriers are based in ingrained discrimination in society. Many are the result of accumulated disadvantage that arise from our experiences of education, high rates of poverty, inadequate access to healthcare and exclusion from social participation. Employment services cannot overcome these barriers in isolation.

This submission is dedicated to identifying the potential for employment services to support us – people with disability – into sustainable open employment in concert with making other necessary policy changes.

I would give anything to be able to live the life I see other people around me living, to be the person that our ableist social structures are designed to accommodate. But I'm not. – Anon

The [Disability Employment Service](#) program (DES) and the future NDESM purportedly aim to address barriers to employment but offer only superficial responses. It must be acknowledged these programs will not solve entrenched discrimination or overcome the effects of macroeconomic policies that stack the labour market against us.

The [Department of Social Services](#) may view systemic discrimination as outside the scope of this review, however structural barriers and the efficacy of employment services are intrinsically linked; the latter cannot succeed without concrete action on the former. Employment services, and social policy more broadly, must account for and respond to the reality of systemic discrimination. Employment services can and should be designed to provide support, skills and training that alleviate the stresses people with disability face.

DES should be succeeded by an inclusive and supportive model, in which the priority is to establish trust between providers and the people they are supporting. It should offer people choice and control over their path to meaningful employment and help people realise the training and employment goals they determine for themselves.

Everyone who wants paid work can work in open employment. Programs should be based on this understanding and strive to help people achieve this reality. Program providers should work with employers to match people with sustainable employment, tailored to their individual strengths. Caseworkers should be a stable presence in people's lives and actively assist them with issues they may have in their new jobs, and link participants with other available supports that may benefit them.

Activity testing is not good for anyone, and is especially harmful for people with disability. The Australian Government must end punitive activation policies such as [mutual obligation requirements](#) and offer alternatives that people seek out because programs are of high quality. Employment services should offer new forms of activation that inspire people and give them a sense of hope and control over their own life. The system should not be restricted to people who currently access DES but be designed to help every person with disability who wants assistance in the labour market.

Meaningful support will enable us to develop skills and have a better chance of finding employment, without punishing us when our individual efforts do not result in a job. It is our concern that the short window of time for this consultation cannot deliver the positive benefits of meaningful support and should therefore be extended so a high-quality program can be developed to replace DES.

A transformation of employment services is needed, and will only be achieved if DES participants and unemployed people with disability are given a leading role, and time is taken for deep consultation. We must not be the ones who pay a price for arbitrarily imposed deadlines or the desire to get us out of the way in time for an election.

We hope that you seriously consider the recommendations we have worked hard to develop for you, and that employment services can deliver programs we can all be proud of.

Executive summary

People with Disability Australia urges the Australian Government not to press ahead with a rushed and inadequate review of Disability Employment Services. The reasons for the low rate of people with disability in the labour force and in employment are complex, and cannot be addressed by reviewing DES in isolation.

A new approach to supporting people with disability into fairly paid work is desperately overdue. Continued segregation, tweaks to existing practices and retaining failed provider models will do little to improve our work prospects. Another missed opportunity is as good as a decision to throw billions away without benefit to people with disability. Failing to do the necessary work now will deprive people with disability of adequate support for years into the future and leave us right back where we started when it is time for the next review.

It is unacceptable to implement new policies that have not undergone proper scrutiny, or to pre-empt consultation by planning to adopt recommendations and new policies before people with disability and our advocates have given their support. To uphold its commitments to people with disability the Australian Government must:

1. extends the current Disability Employment Services model by one year and work with disability representative organisations to design a comprehensive review
2. removes all penalties for failing to meet mutual obligation requirements to protect people from losing their poverty payment and experiencing an increased risk of homelessness
3. directly invites people with disability who are in DES and jobactive to play a central role in the design of a new model through an open call for expressions of interest. Participants should not be selected or recommended by providers.

We must not be punished for unemployment. Disability must not be erased through a form of means testing for people with disability to justify taking away support and pushing us into inadequate mainstream services.

Instead, work with us to create a new, person-centred way of supporting people with disability into work that is based on trust and gives us agency to act independently and make our own free choices.

Recommendations

Key recommendation

1. That the Australian Government extends the existing Disability Employment Services (DES) model by one year to allow for proper consultation and input from people with disability and our advocates, to allow for the implications of the New Employment Services Model to be understood, and ensure people who use employment services are given the opportunity to take the lead in designing a DES replacement. All penalties must be suspended during this time.

Rationale for key recommendation

This consultation process is unfortunately setting us up to fail.

Insufficient time

The three short months available for advocates to prepare submissions as part of this review is inadequate and ignores the extent of failure and the severe workforce discrimination that must be overcome to make Disability Employment Services work optimally for people with disability.

The time that has elapsed since the consultation paper was published has included some of the most significant COVID-19 outbreaks since the pandemic began, and this has immensely strained the disability sector and advocates, as the sector continues to push for responses from Australia's governments that do not put the lives of people with disability at risk.

The DES consultation timeframe has included the summer shutdown period, when the current Omicron outbreaks have particularly escalated in Australia, and while many people with disability are in self-imposed isolation due to inadequate government responses to managing the Omicron variant.

Employment services systems and programs that actually work for people with disability cannot be designed overnight. Our current system has been moving in the wrong direction, and it will take more than a few months of short review to create a vision and framework that reflects our needs.

Unreasonable burden

The disability rights sector has also been overwhelmed by the volume of activity required of us in recent times: to participate in consultations, prepare submissions and engage with the Australian Government on a large number of important areas of disability policy.

In 2021 alone, on top of trying to advocate for people with disability as governments neglected their duties of care in their pandemic responses, we have worked to advocate for people with disability in relation to the [Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#) (the Disability Royal Commission), the [DSP impairment tables review](#), the [senate inquiry](#) into the purpose, intent and adequacy of the Disability Support Pension, the New Employment Services Model, [Australia's Disability Strategy 2021 – 2031](#) (the successor to the [National Disability Strategy 2010–2020](#)), and [Employ My Ability – the Disability Employment Strategy](#), among many bill inquiries and community consultation activities.

We are time poor, have limited resources, and our job is made all the harder by so many related processes running concurrently without any consideration for the relationship or consequences of decisions in policy areas that affect each other.

Many of us involved in these processes have disability, and governments' approach can exacerbate them or make them worse. Running processes concurrently, without consultations informing each other, is unnecessary and is unlikely to produce the best outcomes for people with disability.

Failure to include people with disability

Despite numerous government commitments to self-determination for people with disability, we have regrettably seen the Department of Social Services not follow the co-design principle of 'nothing about us without us' which is so valued by people with disability in our community.

The reference group and working groups established by the department did not include DES participants, until PWDA nominated someone to co-chair one of the working groups. People who have used employment services are the experts and must be given a leading role both in both designing the consultation process and as part of the consultation itself. Small focus groups run by people who have never used DES or jobactive themselves are tokenistic at best.

Inadequate coordination and lack of transparency

As discussed further in part 3, the department seems to have largely decided who will be served by the employment service that replaces DES well before this consultation is over, with strong indications that the Employment Services Assessment tool used will be revised to restrict access to disability providers – a recommendation we reject vehemently. This plan, along with the timeline provided to prepare submissions, has undermined the consultation process and means people with disability and disability advocates cannot have confidence in any outcomes that are a result of consultation.

The DSS and [Department of Education, Skills and Employment](#) (DESE) need to be transparent, and must share any work that has been done in relation to potential ESAt changes and consult with the disability community for proper oversight. ESAt's exclusion from the DES review consultation process is an unacceptable oversight. DSS should also disclose any work it has been involved in with DESE in relation to the development of the New Employment Services Model.

Implications of constraints

This submission includes very limited recommendations regarding program design for both pre- and post-employment support, and approaches to tailoring job plans, due to the unreasonable timeframe provided. Likewise, if more time was made available, we would plan to submit more detailed proposals on early intervention and support over the life course, and outline how we believe participant involvement in incentives and oversight could work in practice.

Given the opportunity, we would also provide detailed input into the redesign of steps to be followed before a person is cut off from their social security payment. We have specific proposals for these steps, but require more time to fully develop and document them.

Detailed recommendations

We make the below recommendations in the event that the Australian Government ignores advocates' and employment services providers' calls for an extension of the current system so more substantive work can be done to develop a DES replacement.

If this time eventuates we plan to seek opportunities to provide expanded recommendations, particularly in relation to programs and practice, participant involvement in program oversight, and the framework for a desegregated employment services model.

Addressing systemic barriers to sustainable employment

These recommendations we outline below are consistent with those we included in [PWDA's submission to the senate DSP inquiry](#). The latest recommendations address systemic barriers to open employment that undermine the ability of employment services to support people into a sustainable job.

These systemic recommendations are:

2. That the Australian Government fully incorporates the United Nations [Convention on the Rights of Persons with Disabilities](#) (CRPD) into all Australian domestic laws and approach the provision of all public and social services affecting people with disability according to the principles laid out in the CRPD and other relevant international human rights instruments.
3. That the Australian Government immediately removes participation requirements for all people with disability who receive any social security payment and abolish all practices that penalise people, financially or otherwise, for choosing not to access employment services. PWDA notes that the Australian Government's remote employment and community development program, the [Community Development Program](#), has been discontinued and emphasises that it should not be replaced with any compulsory program, like the government plans to do in 2023. Participation requirements should also be removed for people without disability on any social security payment.
4. That the Australian Government ends segregated employment, including abolishing [Australian Disability Enterprises](#) (ADEs), [Supported Wage System](#) award or arbitration arrangements and all policies that allow employers to pay people with disability less than mainstream award rates for their work. Efforts to end cheap, segregated employment should prioritise alternatives that offer security and inclusion, where people with disability are able to collectively and/or individually determine a work model that suits their circumstances.
5. That the Australian Government develops policies and strategies to support people with disability to self-determine their transition from ADEs into open employment, minimising paternalistic practices. This self-determination push should prioritise providing people with what they need to plan for their future, independently of supporters wherever possible.

6. That the Australian Government immediately lifts all working age income support payments above the Henderson poverty line while more work is done to develop a new measure of poverty. Payments for people with disability should be set at least 25% above the poverty line of people without disability, to reflect our higher living costs. All social security payments should be tied to the Henderson poverty line and increased annually until a better measure is established.
7. That the Australian Government immediately abolishes Centrelink income control programs such as the Basics Card and Cashless Debit Card.

Desegregating employment services

8. That the Australian Government moves to a desegregated employment services model to provide all people with disability confidence that they will have access to a provider that suits their needs, including a range of specialist providers that tailor supports based on specific disabilities, to prevent people with disability being forced to access mainstream or generalised disability services.
9. That the Australian Government ensures employment services are the responsibility of a single department to reduce complexity, confusion, administrative burdens and other barriers to access for people with disability.
10. That the Australian Government fully resources a publicly delivered centre of expertise which is a knowledge hub that is staffed with disability, accessibility and inclusion experts.

Guaranteed access to support

11. That the Australian Government ensures all people with disability of working age have access to a range of employment services that provide them with meaningful support and assistance in getting a job, regardless of whether they receive an income support payment.

12. That the Australian Government provides people with disability voluntary access to employment services from the age of 14, including post-placement support services, to facilitate part-time and casual employment outcomes that will assist people's skills development and their transition from school to the workforce.
13. That the Australian Government grants access to disability employment service providers on the basis of a diagnosed disability or medical condition, including flagging if the provider chooses to continue the segregated employment services model. The Employment Services Assessment tool ESAAt or other assessment tools should not be used to exclude people with disability from accessing a specialist employment services provider.

Enabling participant choice

14. That the Australian Government allows participants to fully exercise choice over their provider, and allow people to elect to use a mainstream provider or disability specialist based on their provider preference rather than the outcome of an ESAAt or similar assessment tool. This should prioritise providing people with what they need to make informed choices independently of supporters wherever possible. Assessment tools would still be used to assist with efforts to identify a person's capacity and support needs, but not dictate the placement of a provider to them.
15. That the Australian Government removes geography-based constraints and other limitations, allowing participants full choice to select a provider they feel will best meet their needs regardless of location. Participants must still be guaranteed access to in-person services if this is their preference and may choose to access a disability specialist as well as mainstream providers to meet their support needs. This is enabled by the desegregated employment services model and additional support through the [National Disability Insurance Scheme](#) (NDIS). Allocation of services among providers will be designated in the participant's support plan developed in consultation with their preferred provider.

16. That the Australian Government provides participants ample time and information to assist in selecting an appropriate provider when entering employment services. A minimum of four weeks should be permitted with no financial penalty, payment delay or effect on payment-backdating arrangements for activity-tested participants. This should prioritise providing people with what they need to make informed choices independently of supporters wherever possible.
17. That the Australian Government ensures participants are able to easily transfer between providers, without requiring approval from the provider. There should be no limit on the number of times a participant may change provider.

Program design and activities

18. That the Australian Government improves the ESA and develop an assessment process that fully recognises a person's general barriers to employment (for example education level, work history, unpaid work obligations such as caring and other factors that also affect people without disability) as well as barriers and discrimination related to their disability.
19. That the Department of Social Services and the Department of Education, Skills and Employment ensure a mandatory process is followed at the first appointment with service providers to clearly communicate rights, accountability mechanisms and service options, including an invitation to express interest in participating in an advisory panel or licensing panel (see related recommendations 38, 39 and 45). There are consistent reports of employment services providers' systemic failure to follow similar existing requirements.
20. That the Australian Government introduces meaningful vocational exploration as a core component of employment services by default, where a participant can opt out if they do not feel they require support in understanding their own strengths and aspirations.

21. That the Australian Government ensures all employment services providers are required to present participants with a wide range of options and let them take the lead in designing their own job plan, and allow these plans to be highly customised based on barriers and support needs that are identified through ESA or a similar process, including the outcomes of vocational exploration.
22. That the Australian Government increases the availability, diversity and use of tailored programs that are designed to respond to people's support needs based on their specific disability.
23. That the Australian Government creates and expands additional programs to supplement employment services offerings, based on evidence about successful employment interventions and supports for people with different disability types. These programs should be integrated with employment services and accessible to more people. They should also be easier to access.
24. That the Australian Government ensures all age-restricted programs have a staged transition to exiting after the upper eligibility age is met for existing participants, particularly for youth-targeted programs.
25. That the Australian Government ensures people with disability have long-term ongoing workplace support, including the removal of time restrictions on the duration of post-placement support services.
26. That the Australian Government introduces disability employment programs that place an emphasis on customisation and adaptation of jobs, including support to people with disability to have their needs and accommodations incorporated in employment contracts.

Complementary programs

27. That the Australian Government develops and implements skills and education programs to equip people with disability to take up senior and executive positions and provide career development assistance for other people with disability in all industries, including the public service.
28. That the Australian Government waives tuition fees at TAFE and public universities for people with disability.

Protecting activity-tested participants

These recommendations are only applicable in the event that the Australian Government chooses to ignore the evidence showing that activity testing is a barrier to work² and harms health,³ and instead continues its mutual obligations regime.

29. That the Australian Government redesigns compliance measures within employment services to ensure a robust series of steps are in place that must be followed before a person's payment can be reduced or cut off.
30. That the Australian Government adjusts current settings to expand the pool of people who are exempt from penalties for not meeting activity-testing requirements. Penalties for failing to fully meet so-called mutual obligations requirements should be limited to people who are more financially secure, technologically confident and have the capacity to independently complete all activities. In general, this would restrict penalties to those who are eligible for online services on the basis that they are not expected to be on an unemployment payment long-term.

² Gerards, R. and Welters, R., 'Does Eliminating Benefit Eligibility Requirements Improve Unemployed Job Search and Labour Market Outcomes?', *Applied Economics Letters*, 2021, 1–4, <https://doi.org/10.1080/13504851.2021.1927960>, accessed 28 May 2021.

³ Devine, A., 2020, *I'm proud of how far I've come. I'm just ready to work. Exploring the relationships between the life circumstances of people with psychosocial disability and their engagement with the Australian Disability Employment Services program* [thesis], University of Melbourne, accessed 30 January 2022. Australian Senate Education and Employment References Committee, *Jobactive: failing those it is intended to serve*, February 2019, Commonwealth of Australia, Canberra, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/JobActive2018, accessed 30 January 2022.

31. That the Australian Government ensures any activity-testing requirements reflect people's individual capacity and needs, regardless of whether a participant uses a mainstream or specialist disability provider. People with disability using mainstream employment services, whether in a segregated or desegregated model, should not be punished with harsher requirements than those experienced by people in disability employment services.
32. That the Australian Government removes responsibility for policing adherence to participation requirements from providers. This should be achieved by moving this responsibility to the public sector under the newly established Digital Services Contact Centre or a similar body within the Department of Education, Skills and Employment that is tasked with managing compliance requirements and penalties for people in online employment services.

Provider standards

33. That the Australian Government fosters sustainable careers for caseworkers by mandating minimum training (including cultural safety training), skills support, ongoing professional development and wages that are higher than present levels.
34. That the Australian Government awards employment service contracts to specialist providers based on their demonstrated capability to support specific a disability cohort or cohorts, rather than to the generalist disability providers used under the current model.
35. That the Australian Government requires all employment service providers, including mainstream providers, to meet a core set of disability competencies and standards.
36. That the Australian Government replaces the existing segregated Disability Employment Services model with disability-cohort specialist providers integrated with the mainstream employment services system, with more stringent and tailored standards required to ensure providers have an in-depth understanding of the primary disabilities affecting people on their caseload.

37. That the Australian Government provides resourcing for community-controlled organisations to deliver employment services for First Nations people with disability.

Provider incentives and oversight

Provider selection

38. That the Australian Government ensures the licensing panel responsible for selecting disability providers include Disability Employment Services program participants, ideally drawn from the advisory panel (see related recommendation number 45). Providers must not play a role in selecting DES participants for the panel.

39. That the Australian Government ensures providers do not have any decision-making role in the granting of licences or licensing review process. Provider input in these processes should be actively sought through focus group participation, surveys and interviews.

Incentives

That the Australian Government removes perverse financial incentives for private employment services providers that lead to the practice of parking-and-creaming.⁴

40. That the Australian Government removes perverse incentives for program referrals to related entities, including tight restrictions on the circumstances in which an employment service provider may refer a participant to a training or health organisation that is a related entity. These restrictions should apply to both for-profit and non-profit private organisations.

41. That the Australian Government measures and rewards 52-week employment, education and training outcomes for people with disability.

⁴ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Issues Paper: Overview of Responses to the Employment Issues Paper*, 12 May 2021, <https://disability.royalcommission.gov.au/publications/employment>, accessed 28 January 2022.

42. That the Australian Government creates a direct role for participants in determining outcome payment amounts for employment service providers.
43. That the Australian Government introduces new requirements for all wage subsidy programs, in which subsidies are to be partially repaid if the placement does not lead to ongoing employment for at least 6 months after the subsidised period has concluded.

Accountability

44. That the Australian Government department or departments responsible for employment services prioritise and heavily weight the expertise, views and experiences of people using employment services when measuring program quality and outcomes. It is our observation these service users with disability are currently almost entirely excluded from the process of assessing provider performance.
45. That the Australian Government establishes an advisory panel comprising at least 80 per cent people with disability who are using employment services, to monitor program quality and provider performance on an ongoing basis.
46. That the Australian Government ensures comprehensive data and findings related to all programs intended to increase employment opportunities and outcomes for people with disability are available publicly and published in a timely fashion, including for trial programs.
47. That the Australian Government establishes independent and impartial oversight through a new employment services ombudsman.

Part 1: Towards improved disability employment services

Vision

Almost everyone has the capacity to work, and everyone who has the capacity to work can work in open employment.

The entire employment services and disability support ecosystem must become safe, more accessible to, inclusive of and responsive to the needs of people with disability. In particular, employment services must be culturally safe and designed to adequately support those facing intersectional discrimination and other barriers to work.

Employment services must be non-discriminatory, supportive and universally available to people with disability. They should be person-centred and designed to foster trust between caseworkers and participants, and not be used as a form of punishment.

Efforts to support people with disability into employment should lead to sustainable work and careers that are safe, fulfilling and protect people from the high rates of poverty they experience. To achieve this, every person with disability must be able to access support if and when they need it on a voluntary basis. Programs must be simple to access, holistic and act as part of a well-integrated web of support services. The system and its outcomes must be transparent.

This submission addresses PWDA and the Poverty Centre's concerns about the direction of employment services and puts an emphasis is on the untapped potential of employment programs. We present a vision of what meaningful employment services for people with disability should be, and urge the Australian Government to embrace this vision.

Employment outcomes for people with disability have not improved in decades.⁵ It is time for the government to reorient its approach to a model genuinely equipped to help us.

I would give anything to be able to live the life I see other people around me living, to be the person that our ableist social structures are designed to accommodate. But I'm not. – Anon

Program aims

Better employment outcomes for people with disability are essential to advancing our rights under the United Nations Convention on the Rights of Persons with Disabilities. Any programs designed to achieve employment outcomes must also uphold and advance our rights.

The aim of Commonwealth employment services system should be to deliver supports that enable people with disability to exercise choice and control over their vocational and career aspirations, and to attain sustainable, suitable open employment that meets these aspirations.

Federal employment services should form a bedrock of programs and supports that have an explicit goal of increasing our participation in mainstream economic life and the labour market, including at all skill levels and in senior leadership positions. Quality employment services should increase our independence and lead to improved lifelong earning outcomes for us.

Employment services have a key role to play in addressing the following three barriers identified in the *Employ My Ability* disability employment strategy, which is an associate plan of *Australia's Disability Strategy 2021 – 2031*.⁶

⁵ Department of Social Services (DSS), *Employ My Ability Disability Employment Strategy – Australia's Disability Strategy 2021–2031*, Australian Government, Canberra, 2 December 2021, <https://www.dss.gov.au/employ-my-ability>, accessed 4 February 2022.

⁶ DSS, *Employ My Ability*.

- item 3 – a lack of assistance in finding, securing and maintaining employment.
- item 4 – difficulty in accessing skills training and education.
- item 5 – difficulty negotiating reasonable adjustments/accommodations in the workplace.

Disability and mainstream employment services and supports should work effectively with other government programs.⁷ They must improve employers' attitudes and people's understanding of our needs, reducing discrimination against us and increasing our opportunities.

In pursuing these aims, it will be essential that every person with disability is respected as an individual. Employment services must not evolve into recruitment agencies that pigeonhole us based on our disability. The Australian Government's priority should be to continuously improve programs and practice to build an extensive body of knowledge about best practices and good practices in disability employment.

All employment programs must be designed to assist people with disability into high-quality jobs, not just any job, and provide meaningful support in skills and capacity development that reflect each person's goals and aspirations.

Upholding our rights

Employment services, like all disability policy, must be rights based. The Australian Government's current suite of employment and social policies breach human rights instruments that Australia and the states and territories are committed to implement.⁸ Every opportunity must be taken to address these breaches. Employment programs must fully adhere to the CRPD.

⁷ DSS, *Employ My Ability*.

⁸ United Nations, *Convention on the Rights of Persons with Disabilities*, 2007, 2515 UNTS 3, opened for signature 30 March 2007, entered into force 3 May 2008, <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>, accessed 28 January 2022.

The Australian Government needs to show respect for and trust in people with disability, rather than start from the position of needing to punish people to motivate them. In turn, well-designed employment services will increase people with disability's trust in government and service providers.

Employment and social security

We have the right to employment, and we also have the right not to work and to receive an adequate social security payment regardless of our employment status. To facilitate our right to employment, every person with disability must have access to employment services programs regardless of their work capacity or income level.

Policies must recognise that regardless of the quality of support we have received, individuals cannot overcome structural barriers such as planned unemployment, and that we are entitled to live a full and healthy life to the greatest extent possible.

Social security payments such as the Disability Support Pension and JobSeeker must be increased so they do not leave those of us who rely on them living in poverty. Existing income control programs forcibly restrict the items that people subjected to them are able to purchase, and remove participants' agency and control over how bills are paid and who they are paid to. Income control programs are racist and target First Nations communities in violation of their rights. They must be abolished.

Self-determination

We have the right to determine our own choices and future to the greatest extent possible independent of our supporters, and the right to live and work. The employment services system must give people with disability full agency, individually and collectively, in its design, implementation and practice.

Non-discrimination and equality of opportunity

The above changes are essential to achieve our right to non-discrimination and equal opportunity in every facet of our lives. We also have the right to participate in mainstream life. Our education, housing and employment must not be segregated from people without disability – as the Disability Royal Commission has seen, this is a recipe for exclusion, exploitation and abuse.

It is the responsibility of government to take concrete steps and provide resourcing to reduce discrimination in the workforce and make workplaces more inclusive and accessible.

We do not need to be siloed from mainstream support services as we are in the current employment services model. Mainstream services must be inclusive of and accessible to people with disability, and disability supports must be integrated as fully as possible within mainstream systems.

In the case of transitioning away from a segregated employment services model in Australia, it is only appropriate if this pathway leads to greater flexibility and access to specialised support for people with disability. Desegregation should not be pursued independently of recommendations in this submission that are designed to substantively increase the availability of disability providers and the accessibility of mainstream providers, including by expanding access to disability specialists.

Approach

Person-centred

People with disability must be able to trust their supporters. To foster strong relationships between caseworkers and participants, we need to have agency and to have our individual needs understood and respected.

Disability and mainstream employment services and supports should have a focus on the following items identified in *Employ My Ability*:⁹

- creating more genuine choice and control for people with disability
- providing tailored supports that meet the needs of people with disability and employers.

Tailored support that gives people with disability control over their goals and how to achieve them must be embedded in every part of the employment services system. Employment services should not only be designed to respond to the specific needs and barriers created by people's disabilities, but also carefully tailored to their individual circumstances and aspirations.

Participants should have full choice over who their provider is, what is in their job plan and which programs they access. Programs must be designed so that everyone, in particular those with intellectual and other cognitive disabilities, is enabled to make decisions independently of supporters wherever possible.

To be successful in achieving sustainable outcomes for people with disability, the nation needs person-centred, strengths-based employment services and jobs that are tailored to the individual circumstances, talents and skills of people with disability. Our job plans must include activities and programs that reflect these circumstances, talents and skills, and not include anything that is arbitrary or undermines our progress.

⁹ DSS, *Employ My Ability*.

Early intervention and support over the life course

Many people with disability are disadvantaged in the open labour market by the time they leave school because they have fallen behind their peers. This is the product of a range of factors, including segregated schooling, a lack of suitable jobs, and inadequate support to seek and sustain the types of part-time or casual jobs many young people have in their teenage years.

We note that Anglicare Australia's submission covers a successful program addressing barriers for teenagers with anxiety and social barriers to assist them in gaining experience in the casual workforce. The program is not currently running due to a lack of funds. We encourage Department of Social Services to fund new and expanded trials of this program.

To facilitate long-term sustainability of jobs and lifelong career development for people with disability, existing mechanisms that remove people's access to disability employment services at arbitrary points in time should be removed and specialist employment services should be available to any person with disability any time they would like support.

Post-placement support needs to be more comprehensive, without time limits, and include better direct support to employers. Complementary career development programs should be better integrated with employment services to increase referrals and improve access.

Continuous improvement

The Australian Government must move away from its historical set-and-forget approach to employment services.

There are many complex factors that inhibit the effectiveness of employment services for people with disability, and failing to review and iterate programs on an ongoing basis consigns them to the waste heap until they are presented with another opportunity to present a litany of concerns and failures in a few years time.

Robust mechanisms are needed to ensure ongoing knowledge-sharing and program development throughout the life of the Disability Employment Services program successor.

Lessons and improvements must be coordinated and implemented across government, providers, employers, practitioners and the research community.

A cornerstone of this submission and the concurrent working group process being run by the DSS, is the introduction of a new body to act as a hub of knowledge and to facilitate ongoing program development. In this submission we refer to this as a centre of expertise.

A centre of expertise or similar body has the potential to play a transformative role in improving the effectiveness of employment services and sustainable outcomes for people with disability. This entity should not be a private organisation. Instead, it could be housed within a government agency or university setting. The centre should employ a minimum percentage of people with disability, and should have researchers and practitioners who are experts in disability employment programs, accessibility and inclusion.¹⁰

The centre would:

- coordinate a community of practice for each disability cohort served by specialist providers
- set general standards required of all employment services providers and specific additional requirements for disability specialist providers, based on the needs of the cohort they serve
- receive complaints from people with disability and work with people who use employment services to ensure the system is serving the needs of those who use it
- collect data and information about employment services outcomes to facilitate continual or continuous improvement within providers
- design and deliver capacity development programs to both employment service providers and employers

¹⁰ Any quota should relate to people with disability, not those without disability who may have experience with family members with disability or working with people with disability at workplaces.

- oversee an accreditation system for providers and employers
- provide a helpline to answer questions and connect employers and employment service providers with relevant information and programs to improve disability inclusion and access programs and other support to achieve this.

Participants are the true experts in the supports and programs designed to assist them. The views and experiences of people using employment services must be prioritised over all other parties and at every point of review when measuring program quality and outcomes.

All monitoring review processes, including government-commissioned outsourced reviews, must be open and transparent. The disability sector, particularly disabled people's organisations, must be notified of such processes in advance and before contracts are awarded. All data regarding progress and outcomes should be published regularly, as is the case with the existing [DES Monthly Data](#). This should include more information about cohort-, site- and provider-based progress and outcomes.

Part 2: Why are disability employment services failing?

As PWDA and the Antipoverty Centre wrote in a submission the Australian Senate's Disability Support Pension inquiry:

The largely coercive and punitive nature of Disability Employment Services (DES) has made what should be a genuinely helpful program an expensive failure,¹¹ with only 2449 people achieving a 52-week employment outcome in November 2021.¹²
– PWDA and the Antipoverty Centre

Context

The number of people with disability in employment services has ballooned over the past decade, and no progress has been made on the employment rate for people with disability. The vast majority of people with disability in employment services are surviving on abhorrently low welfare payments, and are forced to access employment services as a condition of their payment.

In a labour market stacked against people with disability, the employment services system has failed to reward providers for giving meaningful support to participants if they do not find paid work.

¹¹ Boston Consulting Group, *Mid-term Review of the Disability Employment Services (DES) Program Draft Report*, 26 June 2020, Department of Social Services, Canberra, <https://www.dss.gov.au/disability-and-carers-programs-services-disability-employment-services/mid-term-review-of-the-disability-employment-services-des-program>, accessed 12 August 2021.

¹² DSS, 'DES Data 30 November 2021' [dataset], *DES Monthly Data*, December 2021, Labour Market Information Portal, Canberra, <https://lmip.gov.au/default.aspx?LMIP/Downloads/DisabilityEmploymentServicesData/MonthlyData>, accessed 17 January 2022.

The information in this section of our submission strongly supports our call for an extension to the time available to redesign employment services for people with disability. It illustrates the disturbing trends in outcomes for people with disability, and the extraordinary accumulation of failures over multiple iterations of Commonwealth disability employment services.

There are deep systemic problems blocking people with disability from employment, and federal employment services are currently contributing to these. Further adjustments that ignore systemic problems will only continue to fail. There is much work to be done to completely reimagine employment services and programs into services that will be genuinely supportive and achieve meaningful progress for people with disability.

The cycle of bad employment outcomes for people with disability begins with education outcomes, then traps them in a self-perpetuating cycle of exclusion due to the fewer opportunities granted to people during school and in after-school years. This cycle of exclusion is then exacerbated further by widespread workforce discrimination and lack of reasonable accommodations. Retooling and rejigging the Disability Employment Services program is not going to solve this, instead the program must be redesigned as part of a complete systems overhaul.

Caseload characteristics

The makeup of the employment services caseload exposes the failures of both disability and mainstream employment services and the false dichotomy between the two, given the high proportion of people with disability in the jobactive program.

Half of people in all employment services have a disability

As of December 2021, there were about 1.17 million people in employment services across the DES and jobactive programs. Nearly half of these people – 47% – are people with disability, and close to 240,000 of those are in the mainstream jobactive program.¹³

Between October and December 2021, the proportion of people with disability in mainstream employment services has crept up from 26.84% to 27.78%, to around the same levels seen before the COVID-19 pandemic began.¹⁴ With more than 550,000 people in employment services having a disability, and this figure barely shifting since mid-2020, it is clear all the programs need to be reoriented to better serve their needs.¹⁵

This participation rate was stagnant before COVID, before Australia experienced a spike in people accessing income support as a result of pandemic-related job losses. At no point since September 2017, when the figure was first included in regular jobactive caseload data, has the number of people with disability in mainstream employment services fallen to less than 170,000. In the year before the pandemic hit, the number was back on the rise. Between January 2019 and January 2020 there was an increase of 5500 people with disability in jobactive and 58,000 people in DES.

Under-reporting of disability

For a variety of reasons, caseload figures reported by Department of Social Services likely underrepresent the real number of people with disability in employment services. Some people choose not to disclose their disability at all due to stigma and fear of discrimination.

Many people who rely on social security payments cannot afford diagnoses, or cannot afford specialist access to get the medical documentation they need to confirm diagnoses.

¹³ Department of Education Skills and Employment (DESE), 'jobactive and Transition to Work (TtW) Data – December 2021' [dataset], *jobactive and Transition to Work (TtW) Provider Caseload by Selected Cohorts*, January 2022, Labour Market Information Portal, Canberra, <https://lmi.gov.au/default.aspx?LMIP/Downloads/EmploymentRegion>, accessed 17 January 2022. DSS, 'DES Data 31 December 2021' [dataset], *DES Monthly Data*, January 2021, Labour Market Information Portal, Canberra, <https://lmi.gov.au/default.aspx?LMIP/Downloads/DisabilityEmploymentServicesData/MonthlyData>, accessed 17 January 2022.

¹⁴ DESE, *jobactive and TtW Provider Caseload by Selected Cohorts*. DSS, DES Monthly Data.

¹⁵ DESE, *jobactive and TtW Provider Caseload by Selected Cohorts*.

Neuroatypical people and those with intellectual disability, learning disability and acquired brain injury may not be diagnosed due to a range of complex factors.¹⁶

The practice of Centrelink rejecting medical evidence for participants seeking mutual obligation requirements suspensions if their condition is deemed permanent may also contribute to the invisible caseload of people with disability.

Relationship to DSP changes

Changes to the DSP have seen hundreds of thousands of people with disability kicked off the support pension or refused access to a disability payment.¹⁷ This led to a year-on-year increase to the amount of people with disability on unemployment payments without any changes to discriminative attitudes and behaviour in society. From there, the only logical course was that the number of people entering DES has increased rapidly.

According to the Australian Institute of Health and Welfare:

reduction in the proportion of DSP or Carer Payment recipients since 2012 is largely driven by a decline in the number of DSP recipients – falling from 4.6% to 3.7% of the population aged 16 and over between June 2012 and June 2021. This downward trend coincides with an increase in the proportion of Newstart Allowance recipients assessed as having a partial capacity to work – from 26% to 42% between 2014 and 2019 – AIHW¹⁸

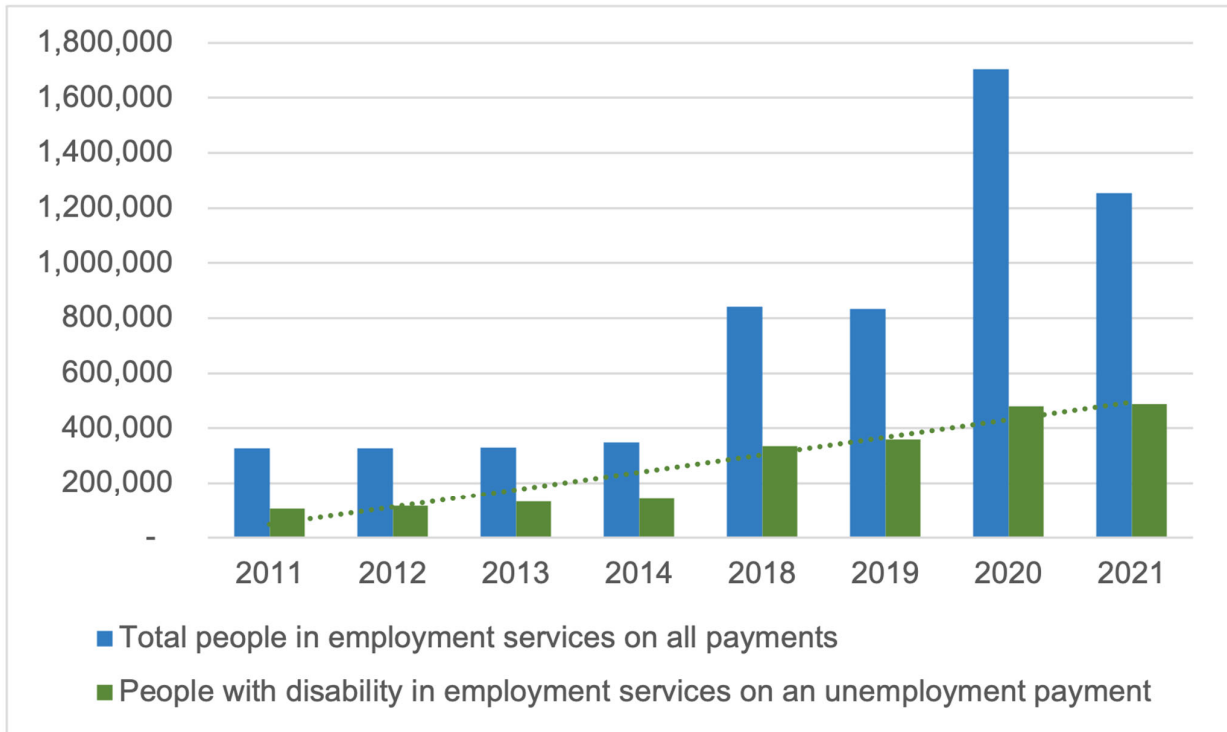
¹⁶ Devlin, H., 'Thousands of autistic girls and women "going undiagnosed" due to gender bias', *The Guardian*, 15 September 2018, <https://www.theguardian.com/society/2018/sep/14/thousands-of-autistic-girls-and-women-going-undiagnosed-due-to-gender-bias>, accessed 30 January 2022.

¹⁷ Australian Federation of Disability Organisations, *376,287 people have been moved from the DSP onto the Jobseeker Allowance* [tweet], 27 January 2022, Twitter, <https://twitter.com/AfdoOffice/status/1486531865322274823>, accessed 30 January 2022.

¹⁸ Australian Institute of Health and Welfare (AIHW), 'Disability Support Pension and Carer Payment', *Australia's Welfare*, 28 September 2021, Australian Government, Canberra, <https://www.aihw.gov.au/reports/australias-welfare/disability-support-pension-and-carer-payment>, accessed 14 December 2021.

As shown in the figures below, following changes made to the DSP impairment tables in 2011 and other subsequent policy changes introducing activity testing for the support pension's recipients younger than 35, there has been an overall increase in the number of people with disability in employment services.

Figure 1: Relative number of people with disability in employment services¹⁹



Note: Department of Education, Skills and Employment has not published data about the number of people with disability in the jobactive program between 2015 and 2018. DESE did not provide this information upon request.

¹⁹ DSS, DES Monthly Data. DESE, 'Caseload 2010-2011' [dataset], *Job Services Australia Data*, 13 July 2016, data.gov.au, Canberra, <https://data.gov.au/data/dataset/job-services-australia-data>, accessed 8 August 2021. DESE, jobactive Caseload Data – September 2015 to June 2021.

From a 2021 study by Collie:²⁰

The reduction in DSP recipients over the study period are starker when set in the context of the strong concurrent growth in both labour force participation and the working age population of Australia. Between July 2012 and June 2018 the number of employed persons rose by 8.9% to 12.54 million. During the same period the working age population grew by 10.9% to 16.37 million. While the potential pool of DSP applicants was growing strongly, the number of recipients and the number of new applications being granted was declining. – Collie

Increase in PCTW over time for people on unemployment payments

There has also been an increase in the number of Employment Services Assessment tests leading to people with disability moving from mainstream employment services to DES.²¹

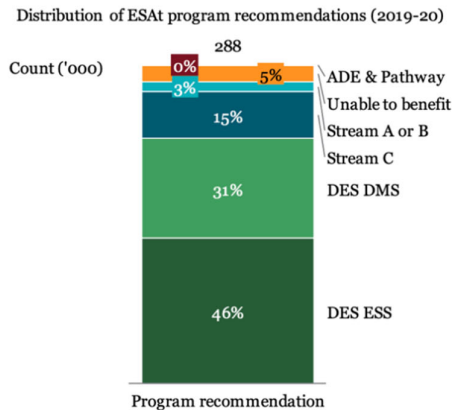
²⁰ Collie, A., Sheehan L., and Lane T., 'Changes in Access to Australian Disability Support Benefits During a Period of Social Welfare Reform', *Journal of Social Policy*, 2021, 51(1), 132-154, <http://dx.doi.org/10.1017/S0047279420000732>, accessed 27 January 2022.

²¹ BCG, Mid-term Review of the Disability Employment Services.

Figure 2: ESA^t outcomes

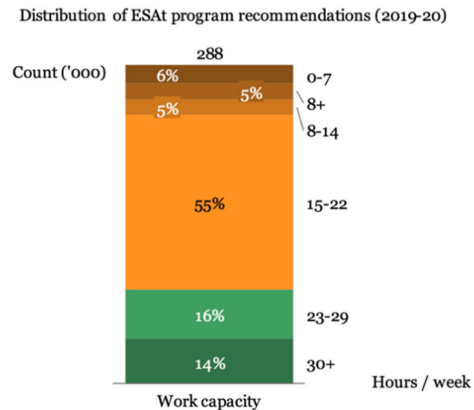
More than three-quarters of completed ESA^ts recommend DES, and 70 per cent are assessed as low work capacity (<23 hours/week)

~77 per cent of completed ESA^ts recommend DES program for participants



Source: DSS; BCG analysis

~65 per cent of completed ESA^ts result in work capacity assessments under 23 hours/week



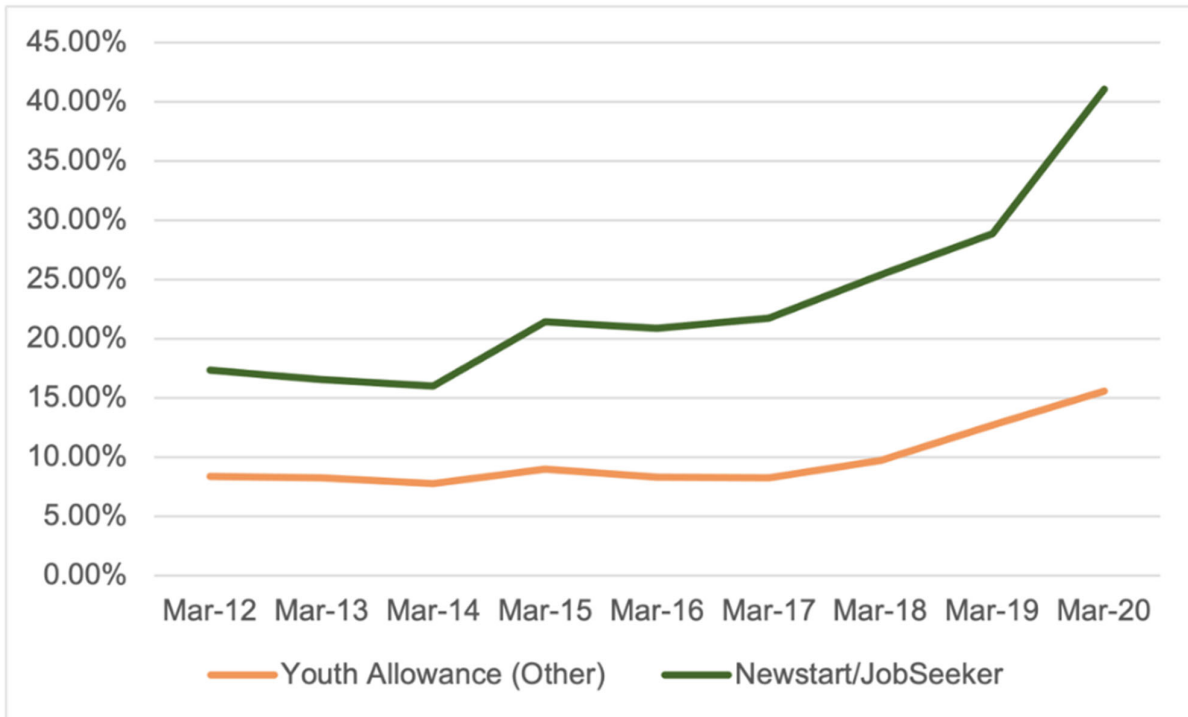
Page 269

1

The percentage of people on the JobSeeker payment (formerly Newstart), with adjusted participation requirements, more than doubled between 2012 and 2020. In September 2021 there were more than 370,000 (37%) people on the JobSeeker payment who were deemed to have partial capacity to work.²²

²² DSS, 'DSS Demographics – September 2021' [dataset], *DSS Payment Demographic Data*, data.gov.au, Canberra, <https://data.gov.au/dataset/ds-dga-cff2ae8a-55e4-47db-a66d-e177fe0ac6a0/details>, accessed 29 December 2021.

Figure 3: Percentage of unemployment payment recipients with reduced or nil participation requirements²³



Note: DSS has published PCTW as a single figure since 2015. For earlier years, the figure combines designations for 'incapacitated', people known not to have participation requirements and those in the Disability Management Service sub-program.

Key cohorts

The two largest groups on the DES caseload are people with physical disability (43.5%) and psychiatric disability (40.1%).²⁴

²³ DSS, 'DSS Demographics – June 2021' [dataset], *DSS Payment Demographic Data*, 9 August 2021, data.gov.au, Canberra, <https://data.gov.au/dataset/ds-dga-cff2ae8a-55e4-47db-a66d-e177fe0ac6a0/details>, accessed 10 August 2021.

²⁴ DSS, DES Monthly Data.

Primary Disability	DMS	ESS	Total DES	Percentage
Physical	75,981	60,795	136,776	43.5%
Psychiatric	52,060	74,040	126,100	40.1%
Specific Learning	1,349	6,394	7,743	2.5%
Intellectual	401	9,291	9,692	3.2%
Neurological	4,208	7,181	11,389	3.6%
Autism	915	11,472	12,387	3.9%
Hearing	1,011	2,214	3,225	1.0%
Acquired brain injury	590	2,446	3,036	1.0%
Vision	1,065	1,881	2,946	0.9%
Speech	85	351	436	0.1%
Deafblind (Dual Sensory)	29	158	187	0.1%
Unknown/Not Stated	161	126	287	0.1%

Table 1: Primary disability of participants in the DES program’s two sub-programs, the Disability Management Service and the [Employment Support Service](#).

First Nations people, homeless people, people who have been incarcerated, refugees and older people are disproportionately represented in employment services generally, and within DES. Discrimination and other work barriers experienced by these groups compound barriers to work created by their disability.

Of the 550,000 people with disability in employment services:

- 55.7% are older than 45²⁵
- 7% are indigenous
- 7.3% are homeless
- 7.9% have been incarcerated
- 4.8% are refugees

²⁵ DSS, *DES Monthly Data*.

The proportion of First Nations people with disability in DES has grown more than any other cohort despite the fact that Aboriginal and Torres Strait Islander people are more likely to be on an unemployment payment than the DSP and experience higher rates of disability.

Table 2: Change in proportion of people in DES who experience other forms of intersectional discrimination²⁶

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	Change
% First Nations	5.42	5.85	5.32	5.39	5.48	5.84	6.25	6.36	7.42	7.40	7.66	141%
% CALD	22.21	22.23	22.40	21.66	21.15	20.53	20.10	20.07	20.84	20.06	20.84	94%
% homeless	7.30	7.09	7.04	6.89	6.91	7.01	7.28	7.31	8.37	8.18	8.09	111%
% refugees	4.66	4.73	4.85	4.77	4.67	4.57	4.62	4.79	5.33	5.22	5.28	113%
% ex incarcerated	6.63	7.21	7.42	7.46	7.63	7.79	8.10	8.19	9.03	8.98	8.84	133%

Note: Figures are from July each year, except for 2021. June 2021 figures have been used for 2021 as July 2021 data had not been published at the time we prepared this submission.

Poverty is a barrier to employment

There are more people with disability living in poverty than those without disability. Living in poverty is itself a barrier to employment that perpetuates the poverty cycle. Improving employment services in isolation from addressing other barriers to employment, particularly those created by poverty, will inevitably hinder their effectiveness, regardless of the quality of service, programs and practice.

Unemployment payments

The number of people with disability forced to survive on unemployment payments has increased in the wake of the post-2011 DSP changes noted above. These payments are currently about half the poverty line, without accounting for the extra living costs that are associated with disability.

²⁶ DSS, *DES Monthly Data*.

It costs 50% more for people with disability to achieve the same standard of living as a person without disability.²⁷ The higher living costs and barriers to employment caused by being forced to live in poverty on low social security payments are covered comprehensively in our submission to the DSP inquiry in section 5.1.²⁸

Nearly 80% of DES participants – about 245,000 people – are on an unemployment payment, which is a dramatic increase over the past decade.

Table 3: Increase in proportion of DES participants on unemployment payments²⁹

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
DES caseload excl non allowees (00s)	1,238	1,256	1,294	1,432	1,555	1,660	1,705	1,804	2,202	2,690	2,842
# on unemployment payment (00s)	814	866	1,005	1,125	1,236	1,387	1,462	1,552	1,875	2,340	2,482
% on unemployment payment	65.75	68.92	77.63	78.55	79.47	83.51	85.73	86.04	85.15	86.99	87.33

When including jobactive participants, there are about 480,000 people with disability in employment services on the JobSeeker payment. The dramatically low payments made under JobSeeker mean additional barriers to work are being placed in front of people with disability by the Australian Government, because they are unable to afford food, healthcare and other basic necessities they need to stay well enough to find and keep a sustainable job.

²⁷ Vu, B., Khanam, R., Rahman, M. and Nghiem, S., 'The Costs of Disability in Australia: A Hybrid Panel-Data Examination', *Health Economics Review*, 10/1 (2020), 6, <https://doi.org/10.1186/s13561-020-00264-1>, accessed 10 August 2021.

²⁸ Coonan, J., O'Connell, K., Hayden, D. and de Vera, G., *In Our Own Words: People with Disability Australia's submission to the Senate Community Affairs References Committee Inquiry into the purpose, intent and adequacy of the Disability Support Pension* [submission], 13 August 2021, People with Disability Australia, Sydney.

²⁹ DSS, *DES Monthly Data*.

Unsafe employment

The deep poverty experienced by people with disability on support payments means people are more likely to take unsuitable and unsafe jobs in order to try and meet short-term living costs. This is on top of the coercion experienced by people in the system who are made unsafe when they are wrongly told by providers they must accept work offers or have their payments stopped, when they have a right to refuse inappropriate employment.

My current pace of work is unsustainable, but also still barely covers my cost of living, let alone potential medical treatment. – Eve

Pushing people with disability into unsafe jobs can aggravate their disability and in turn reduce their long-term work capacity.

Mutual obligations exacerbate poverty

In their current form, mandatory participation requirements in employment services are exacerbating the harmful effects of poverty suffered by people surviving on social security payments.

People are forced to spend money from their meagre payment to fulfil mutual obligations regardless of whether these activities are useful or lead to a job, and poverty is deepened when ill health or other factors cause people to have their payment stopped when job plan requirements are not met. Payment suspensions also increase the risk of homelessness.

The labour market is working against us

Even if DES is replaced with high-quality employment services, its ability to achieve positive outcomes for people with disability will be constrained by macroeconomic policies and social factors that disproportionately harm them and other marginalised groups.

*Why don't they stop to ask why somebody isn't working?
It's not just cos they want to be poor. – Anon*

In our 2021 DSP inquiry submission we observed the labour market does not adequately accommodate people with a disability and is not likely to do so in the foreseeable future. We argued there is a need for Government intervention and direct investment in projects and programs to create open and self-directed employment opportunities for people with disability who are seeking paid work.³⁰ We still believe this is necessary.

Low participation and employment rate for people with disability

Australia has among the lowest rates of employment of people with disability in the OECD,³¹ with only one in 2 people with disability employed.³²

In 2018, the unemployment rate for people with disability was 10.3 per cent, more than double the unemployment rate of people without disability (4.6 per cent).³³

Some 53.4% of working age people with disability are in the labour force, compared with 84.1% of those without disability. The gap in the participation rate for people with disability compared to the mainstream population has not improved since 2003.³⁴

Unemployment is designed into the economy and people with disability are often 'last to be hired, first to be fired'. This can be seen in recent trends where between June and December 2021 the number of people with disability in jobactive dropped by nearly 20% – from 1,013,452 to 854,174 – while the number of people with disability in the program dropped by only 5.1% over the same period.

³⁰ Coonan et al, *In Our Own Words*.

³¹ Australian Law Reform Commission, 'Equality, Capacity and Disability in Commonwealth Laws IP 44', *Specific Legislative Areas*, 12 November 2013, https://www.alrc.gov.au/publication/equality-capacity-and-disability-in-commonwealth-laws-ip-44/equality-capacity-and-disability-in-commonwealth-laws/specific-legislative-areas/#_ftnref192, accessed 15 December 2021.

³² Organisation for Economic Cooperation and Development, *Society at a glance 2014: OECD Social Indicators*, 2014, OECD Publishing, https://doi.org/10.1787/soc_glance-2014-en, accessed 15 December 2021.

³³ DSS, 'Targeted Action Plan: Employment', *Australia's Disability Strategy*, Disability Gateway, 3 December 2021, <https://www.disabilitygateway.gov.au/document/3151>, accessed 13 December.

³⁴ DSS, *Employ My Ability*.

Unemployed by design

The Australian Government's intention is to maintain an unemployment rate of 4–5% at any given time. The flow-on effects of this policy mean there is a substantial cohort of people locked out of the workforce who are either never given an opportunity to gain experience and build up employment history at all, or have past skills and experience that diminish in value over time in the eyes of employers.

The result is that more and more unemployed people face longer term unemployment which is itself a barrier to work. People who experience discrimination or have fewer suitable employment options because of their disability are among the worst affected.

As of December 2021, 88.5% of people in DES are classified as long-term unemployed, with 52.4% having been unemployed for 3 or more years.³⁵

In this context it is not only immoral but also illogical to apply punitive measures to unemployed people.

Lack of entry-level opportunities

Young people with disability are often excluded from the types of work opportunities taken up by their teenage peers, particularly as many common jobs such as those in the hospitality and retail sectors are demanding physically and require significant social interaction with customers. In addition, young people with disability may have less capacity to take on an additional workload on top of school.

This means that many people with disability are already at a disadvantage in the labour market by the time they leave school. This problem is compounded by the limited availability of entry-level jobs, for which they are also competing with other people who have more work experience, and the greater barriers to attaining tertiary qualifications faced by people with disability.

³⁵ DSS, *DES Monthly Data*.

People with disability are facing extraordinary competition for the small number of jobs available. In December 2021 there were 34,540 entry-level jobs advertised.³⁶ At the same time, there were 277,952 long-term unemployed people in DES alone, or 8 people per entry-level job.³⁷ This does not factor in other candidates who are also applying – 33 people in employment services for each level 5 vacancy, as well as employed people looking to change jobs and unemployed people who are not in employment services.³⁸

Workforce discrimination

People with disability face active and passive discrimination in the workplace, including co-workers and employers making negative assumptions about their work capacity and failing to make reasonable or appropriate accommodations and adjustments.

As stated in the Australian Government's new disability employment strategy:

*Discrimination, prejudice and negative stereotypes continue to present significant barriers for people with disability. These barriers can impact a person's ability to participate in society, including finding employment.*³⁹
– Australian Government

The Australian Human Rights Commission (AHRC) found that a high proportion of working-age people with disability who reported discrimination (46.9% of those unemployed; 46.2% of those who were full-time employed and 34.6% of those who were part-time employed) said the source of discrimination was an employer.⁴⁰

³⁶ National Skills Commission, 'IVI_DATA_SkillLevel – January 2006 onwards' [dataset], *Vacancy Report*, January 2021, Labour Market Information Portal, Canberra, <https://lmip.gov.au/default.aspx?LMIP/GainInsights/VacancyReport>, accessed 17 January 2022.

³⁷ A person unemployed for one year or more is classified as long-term unemployed.

³⁸ Anglicare Australia, *Jobs Availability Snapshot, 2021*, Anglicare Australia, Canberra, <https://www.anglicare.asn.au/publications/jobs-availability-snapshot-2021>, accessed 13 December 2021.

³⁹ DSS, *Employ My Ability*.

⁴⁰ Australian Human Rights Commission (AHRC), *Willing to Work: National Inquiry into Employment Discrimination Against Older Australians and Australians with Disability*, 2 May 2016, AHRC, Sydney, <https://humanrights.gov.au/our-work/disability-rights/publications/willing-work-national-inquiry-employment-discrimination>, accessed 12 August 2021.

Before I had the stroke I had worked as an OHS adviser for a transport company for the last 7 years. In March 2013, after I found out about my brain aneurysm, I told my manager. I was fired within 2 months with no proper reason.

In 2017, CPL helped to get me a part-time disabled job with Stoddarts in Darra. I was working 10 hours a week because I could not do more than that. It was split over three days – 3.5, 3.5 and 3 hours. I would work in the morning and get very tired in the afternoon. I had to move rather than driving from Eagleby to Darra which cost me 3 tolls each way on the motorway. I only lasted at Stoddarts for 6 months until they made me redundant. I have not worked again. Thank you for allowing me to say about what I did, and how hard it is to live on DSP. – Anon

Young people with a disability face some of the greatest barriers to work, as youth unemployment is stubbornly high and Australia has some of the worst employment rates for people with a disability in the OECD.⁴¹ Small and medium-sized enterprises (SMEs) have been more hesitant to hire people with disability⁴² due to the perceived costs to the business required to make reasonable adjustments.⁴³

The Federal Court of Australia found the Business Services Wage Assessment Tool (BSWAT) was being used to set below-award wages for people with disability in segregated workplaces and this was discriminatory and in breach of the *Disability Discrimination Act 1992* (DDA).⁴⁴

⁴¹ Children and Young People with Disability Australia, *Submission to the Inquiry into Sustainable Employment for Disadvantaged Jobseekers* [submission], August 2019, <https://www.cyda.org.au/resources/details/72/inquiry-into-sustainable-employment-for-disadvantaged-jobseekers>, accessed 27 January 2022.

⁴² Council of Small Business Australia, *Making it Easier for Small Business to employ people with disability*, 13 September 2018, Truth Serum, Melbourne, <https://www.dss.gov.au/disability-and-carers-research-and-data/making-it-easier-for-small-business-to-employ-people-with-disability-research-report>, accessed 16 December 2021.

⁴³ People With Disability Australia, *Disability Community Calls For reform After Discrimination Claims Become 'Impossible To Prove'* [media release], 2 July 2021, <https://pwd.org.au/media-release-disability-community-calls-for-reform-after-discrimination-claims-become-impossible-to-prove>, accessed 16 December 2021.

⁴⁴ *Nojin v Commonwealth and Another* [2012] FCAFC 192

PWDA urges the Australian Government to act on our recommendations in relation to the DDA made through various inquiries and submissions to address these and other issues.

Effects of the pandemic

The COVID-19 pandemic's impact on the labour market has meant that there are more people in the market, competing for less secure employment with little hope of wage increases in the near future.

There are now 22% more people on unemployment payments and 30% more in employment services than there were at the beginning of 2020, and this is expected to worsen again as the economic impacts of the Omicron wave are felt.⁴⁵

The total number of people with disability in employment services programs has been relatively stable since a spike in March 2020 and has not fallen below 300,000 since September 2020.⁴⁶

Table 4: People in employment services programs

	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21
DES	280,180	283,981	299,215	305,869	309,994	315,926	311,402	314,204
jobactive	186,343	246,530	256,734	250,817	259,484	249,414	243,329	237,337
Total	466,523	530,511	555,949	556,686	569,478	565,340	554,731	551,541

This, paired with the pre-existing discrimination of people with a disability, means that medium- to long-term employment prospects are worse, while health-and-safety risks are higher due to the COVID-19 variants circulating in the community.

⁴⁵ DSS, *Labour Market and Related Payments Monthly Profile publications*, Department of Social Services, Canberra, <https://www.dss.gov.au/about-the-department/labour-market-and-related-payments-monthly-profile-publications>, accessed 29 January 2022.

⁴⁶ DSS, *DES Monthly Data: DESE, jobactive and TtW Provider Caseload by Selected Cohorts*.

In previous waves of the COVID-19 pandemic, penalties for failing to complete mutual obligations were suspended, meaning that people who did not feel their activities were safe could opt-out without risk.

In contrast, the Australian Government has refused to suspend penalties during the Omicron wave, and we are receiving widespread reports of people with disability who are at higher risk of dying if they catch COVID being forced to attend DES and jobactive appointments and activities in person.⁴⁷

In addition to people with disability being put in unsafe situations by employment services providers in this way, many people are being inundated with unsuitable job offers from providers and labour hire companies, increasing the risk that they will be coerced into unsafe employment under threat of having their payment cut off.

Problems

DES, and the broader employment services system, has been a catastrophic failure for people with disability. Unqualified caseworkers and perverse incentives have led to widespread reports of people with disability ending up in inappropriate, unsustainable jobs, causing harm to their health.

A lot of people on JobSeeker are on it because they're not in a position to work, they might not be on DSP, but that's just because it's impossible to get on DSP – you're going there and being forced to look for jobs that you are not going to take. They force you to just take whatever job comes up comes up, they're not interested in what you actually want to do. – Anon

Punitive activity-testing requirements are also producing worse health outcomes.

⁴⁷ Henrique-Gomes, L., "It's really scary': welfare recipients forced to attend in-person appointments despite Omicron surge', *The Guardian*, 17 January 2022, <https://www.theguardian.com/australia-news/2022/jan/16/its-really-scary-welfare-recipients-forced-to-attend-in-person-appointments-despite-omicron-surge>, accessed 17 January 2022.

In some cases, participants have reported that exposure to bullying and abuse by jobactive and DES providers has caused long-term harm to their mental health, and unsafe activities have caused physical harm. The system in its current form not only harms people with disability, but creates disability.

If my DES provider literally tells me that I won't get a job, then there's no point to any of it ... I appreciate she was probably just trying to put me at ease about my expectations, but whew. The system's not made for me so if when this medical certificate runs out I get treated worse, well, that's the system working as designed. – Phoebe Autumn

Many participants do not believe the employment services system is intended to help them find a job, nor is it capable of doing so.

Harm to participants

The extent of harm done to participants by forced participation in employment services and the dynamic created between caseworkers and participants, as a result of activity testing, is covered extensively in our submission to the senate DSP inquiry⁴⁸.

The current segregated model of employment services means many people with disability are trapped in jobactive.

Coming to terms with being disabled is terrifying, and just because we can't do the things other people can do, it doesn't mean we don't want to. When I am bedbound and my brain isn't working properly and I'm struggling to survive on income support, it doesn't mean I want to be like that. – Anon

⁴⁸ Coonan et al, In Our Own Words.

Participants feel disempowered and fearful, with little sense of agency, choice or control over their circumstances.

People do not trust providers, nor the system overall. This is the product of linking punitive compliance with a system that is purportedly intended to provide support and assistance.

If I had access to Individual Placement Support it might be easier to get a job after being unemployed for 11 years. I won't use any of the government services as I have been abused and treated unkindly. Just more trauma. They need to shut all the private services down. Wherever there is a profit motive people are open to being used and abused. They make people worse. The power imbalance is unfair. – Anon

Participants feel it is a waste of their time and energy to make a complaint or to transfer away from a harmful provider because they do not feel anything positive will come of it or that things will improve.

Access and eligibility

The segregated model means many people are stuck in jobactive that leaves people with disability subject to harsher forms of activity testing, and higher rates of penalties due to the different mutual obligations between jobactive and the current DES.

Restricting access to employment services excludes people with disability who want assistance and activity testing social security payments forces people with disability to participate in a system that is harmful.

This is likely to end with people trapped in jobactive in stream C or parked as the system is inappropriate for them and will exacerbate and extend a person's time as unemployed. This could result from a poor ESA assessment that may not factor in the complex nature of a person's disability.

The number of people with disability in jobactive is recorded by Department of Social Services, however we do not have any information or data to understand their circumstances, or their treatment by their jobactive provider – work must be done in this area before transition people through to the New Employment Services Model.

People with an intellectual disability are excluded from employment services, adding an additional barrier to open employment. People with intellectual disabilities who are assessed as having work capacities of less than 8 hours should not be funnelled through to Australian Disability Enterprises, but be given the opportunity to participate in open employment.

If a person is able to work in an ADE, it is quite obvious that they are able to participate in open employment – and, with no barriers, having access to a holistic employment support service would allow them to do so.

In our senate DSP inquiry submission, PWDA and Antipoverty Centre covered alternative models⁴⁹ of employment support for people with disability that the Australian Government could support and create, giving people control of their own labour and contributing directly in the community – instead of in 21st century–style closed workshops.

Appropriateness and adequacy of supports

The generalised nature of supports offered in DES is an additional barrier to people with disability entering open employment, and challenging the structural nature of discrimination against them.

Employment service providers may offer both jobactive and DES supports from the same office, and the only discernible difference between the two are the guidelines that they enforce. This raises serious concerns about whether or not an agent is qualified enough to assist a person with disability.

⁴⁹ Coonan et al, *In Our Own Words*.

Given that employment services are supposed to operate as a support service for people with disability who are seeking work, agencies should ensure that their staff have appropriate qualifications and skills.

My mum had to convince her Disability JSP to wear a mask and get vaccinated because she 'doesn't really follow all that silly news.'
It was a phone appointment mid-2021 and the person did not plan on getting vaccinated and had no requirement to do so. Mum would prefer to remain anonymous because she is fearful of backlash. – Anon

The fact that there is a lack of staff having suitable qualifications and skills means trust is compromised at the beginning of a relationship if a person with disability does not feel understood or supported – this issue then constrains the relationship and limits the nature of support.

People often experience a frequent change in agent, meaning that any relationship that is built between agent and person is undermined, leading to people with disability feeling unsupported and exhausted when having to constantly share their experience with new people.

All the paid internships & training in the world wouldn't have helped me get up & down a long flight of stairs many times every workday. (There was no lift.) A staircase I only learned about when I went for a job interview. A job interview my JSP sent me to. Knowing I'm disabled. The JSP had repeatedly told me not to mention disability. "You're not disabled! You just have barriers!" They arranged that interview for me & instructed me to attend, without even bothering to ask the employer if the workplace had stairs. the next interview the JSP sent me on, the business owner said hiring a person with disabilities would be 'disruptive to the workplace.' Anon

The experiment with the [JobMaker Hiring Credit scheme](#) has proven that wage subsidies are not a cure all for employment either, nor are they proven to dismantle barriers to employment.⁵⁰

Discrimination in the labour market is too great a force to throw money at in order to dismantle. There needs to be better programs of support in place to ensure actual real employment outcomes for people with disability.

Outcomes and incentives

The largest failure is the marketisation of employment services, as providers have based their outcomes on ensuring that people are forced into any form of employment, rather than being a support service to assist people to find sustainable long-term employment.

(Job agencies) have absolutely no incentive to listen to people, treat them like human beings and try and get them into work that's going to make them feel fulfilled, and not make them feel like just the lowest. – Anon

The focus on employment has incentivised perverse financial outcomes for providers through parking-and-creaming.⁵¹ In the star-rating system that was in operation prior to changes made due to COVID-19, there was no consideration for how supported people felt with a provider, or their perception of the job agency's performance.

The key performance indicators of individual agents are based on the outcomes-based incentive model that DES operates under. It is not a program that is based on support and meaningful outcomes, instead it is a profit motive-based system.

Providers are awarded contracts regardless of the quality of their support or assistance.

⁵⁰ Karp, P., "An utter failure": Coalition blasted over scheme for older job seekers with just half of pledged amount spent', *The Guardian*, 14 October 2020, <https://www.theguardian.com/business/2020/oct/14/an-utter-failure-coalition-blasted-over-program-for-older-unemployed-as-underspending-revealed>, accessed 29 December 2021.

⁵¹ DRC, Overview of Responses to the Employment Issues Paper.

Oversight

The only oversight mechanism that exists in the current DES model is the same as is available for jobactive.

The first step that a person must take to resolve an issue with their provider is to address it directly with their agent, and then with the manager of that agency.

If taking these steps fails to achieve an outcome, a person is then recommended to approach the National Customer Service Line, where they log their complaint with Department of Social Services.

From here the process lacks transparency and accountability on the side of the department, as any penalties or if the provider was judged as correct in their judgement is not necessarily relayed to the person.

The complaints process is an arduous and particular process for people to undertake, especially on top of dealing with their disability and day-to-day lives, let alone having to navigate a bureaucratic system in order to advocate for their rights which are not entirely clear at the best of times.

There is no proper ratings system where people are able to find out if the agency in their area is suitable for their needs, or what its actual long-term outcomes are.

The star-rating system, which was a market tool to determine provider outcomes to decide licensing, was the only rating system a person could use to inform their decision to select a provider – even if the judgement was inadequate.

This has led to community legal services, not-for-profit and grassroots advocacy groups to lead the charge by supporting people with disability as they seek assistance and justice from their provider.

It is totally inadequate that nothing has been done over the years to address a serious flaw in the system where people with disability are not protected from abuse at the hands of their employment service providers.

Activity testing

Evidence show that activity testing is a barrier to work⁵² and harms people's health.⁵³

People have the right not to work and to guaranteed social security payments, particularly people with disabilities that fluctuate and cannot be treated fully – a major reason why they are excluded from the Disability Support Pension. People should have the ability to suspend any programs, without punishment, to take the time they need to care for their health and wellbeing, and to conduct care work.

The activities had a massive effect on my health. This is why I blocked it out. I have been able to get medical exemptions but you could only get one. I think it's three months. Being linked with a JSP and having to attend those appointments and getting cut off if you forget, or miss the appointments, or are unwell, it took a massive toll. Particularly on my mental health. – Anon

The justification for mutual obligations is to enforce compliance to seek employment. What alternative motivational method could be proposed?

As we noted in section 5.4.5 of our senate DSP inquiry submission, research shows mutual obligations do not work. People subjected to these requirements take longer to find a job, and end up with worse jobs, than those in comparable circumstances who are not forced to participate in activities.⁵⁴ A report into time use during COVID found that 'the [COVID] supplement and suspension of mutual obligations increased respondents' engagement in labour market and other economic activities.'⁵⁵

⁵² Gerards, Does Eliminating Benefit Eligibility Requirements Improve Unemployed Job Search and Labour Market Outcomes?

⁵³ Devine, 'I'm proud of how far I've come. I'm just ready to work'. Senate Education and Employment References Committee, Jobactive: failing those it is intended to serve.

⁵⁴ Gerards, Does Eliminating Benefit Eligibility Requirements Improve Unemployed Job Search and Labour Market Outcomes?

⁵⁵ Klein, E., Cook, K., Maury, M. and Bowey, K., *Social security and time use during COVID-19*, 25 March 2021, Swinburne University of Technology & Centre for Excellence in Child and Family Welfare, Melbourne, <https://www.cfecfw.asn.au/treating-families-fairly/>, accessed 10 August 2021.

Many people believe the activities they are required to do inhibit their ability to improve their skills and ability to find suitable work, and that they are pointless.⁵⁶

Structural factors

Activity testing individualises the so-called problem of unemployment on the false premise that an individual's actions can exert influence over structural failures. No matter how well disability employment services are designed, most of these structural factors cannot be addressed by improving the quality of support provided to people with disability. It follows that it is illogical and needlessly punitive to force people with disability to engage with services that may not meet their needs, and may reduce the time available for activities that are more likely to improve their chance of getting a job or caring for their health.

The design of the disability employment service is largely unable to address the following factors that inhibit employment opportunities for people with disability:

- there are not enough jobs
- there is discrimination in the labour market
- places of employment are not accessible for people with disability
- people with disability are least likely to be employed in the jobs that are available
- poverty is a barrier to employment.

⁵⁶ Anglicare Australia, *Asking Those Who Know: A Survey of Australians on Centrelink Payments* [submission], December 2020, <https://www.aph.gov.au/DocumentStore.ashx?id=9f803a7e-224b-4180-9b7c-759bec746150&subId=707620>, accessed 12 August 2021.

Part 3: Centring people with disability

The social model of disability requires that the whole community, particularly through actions of government, take collective responsibility for dismantling barriers to people with disability's full participation in society. It is therefore the Australian Government's role to develop comprehensive policies that provide equal opportunity for us to attain secure and sustainable employment.

I would love to be able to get to a point where I am able to work at a full-time level doing something I am passionate about in a workplace that is flexible enough for me to be able to work around my health issues.

– Anon

The program that succeeds Disability Employment Services must learn from the current system's failures and realise the fundamental problems stems from its inability to address structural barriers and to individualise support in response to a person's needs, capacity and goals. Work is needed at all levels of government to begin the process of dismantling systemic barriers, which are not individual but the product of discrimination. The first step is to stop punishing and harming people for being unemployed.

While much more needs to be done by the government to assist people towards securing appropriate, sustainable jobs, employment services cannot end there. The government's DES replacement must play a continuing role in the workplace where participants feel this support is necessary.

In our submission to the DSP inquiry, we have said that Department of Social Services should begin to transition people on unemployment payments onto the DSP. Likewise, all people with disability should have access to specialist employment services. People with disability should only access mainstream services if they choose this option for themselves.

'Enhanced services' under the New Employment Services Model must not become a clearing house for people with disability made invisible by the Australian Government, by being parked in programs that are not designed for us.

The department must guarantee proper support to everyone with a disability and not those who it cuts out in an attempt to make budgetary saving measures. Austerity has been the biggest discriminator against people with a disability, and the department is continuing to embed that source of discrimination into programs designed to assist people with a disability.

Participant experience

The key to a successful DES is ensuring that participant experience is at the core of the program. A person-centred approach is the only way that providers can ensure that programs are developed for people with disability to maximise their work experience and enable them to use them in employment.

Programs and practice

All aspects of employment services, including related employment, education and training placements, should respond to a person's needs based on their disability, not their status as a person with disability.

Disability and the way it affects our lives is diverse and barriers cannot be effectively addressed if our experiences are treated as generic. The federal government should increase the diversity and use of tailored programs. On an individual basis, employment services should be customised, carved and adapted, based on our needs, in the same way jobs should be.

The programs that are made available should be based on evidence of what has proven to be effective in employment for people with a disability. The development of these programs or sub-programs should be done with the collaboration of people with disability, and lead by people who have overcome barriers to employment. Employers and workplaces that have spent time ensuring their work environment is suitable for

sustainable employment for people with disability should be among those employers people are connected with for work.

Employment services must also be connected and integrated with other support services that are made available for people, or that a person is currently in. This will allow for coordination of all support programs to prevent overlap and to establish what is being covered, and what is needed to better support the person at each step of their pathway to employment.

This will also allow for the ability to tailor support for individuals and hopefully achieve better employment outcomes.

Participant control

Participant control on an individual level must guarantee that people with disability have the power, choice and control over their agency in employment services; when they are customising their job plans, in vocational exploration and the types of employment options they are exploring and applying for.

Agency should also be established prior to people signing up to a job agency, with people being able to make the choice to join a certain employment service that will best suit their prospects, even if it is outside of their labour market.

It must also extend beyond the individual and foster collective participant control in the decision of program development, and any changes to the nature of support services.

The best people to consult in improving services are those who have been failed by the system before. There are plenty of people who have remained in the system for a number of years and know exactly what they are missing out on, but they have been consulted inadequately.

Career building and sustainable employment

There is clear evidence that people with disability are less likely to successfully transition from school to work or further study than people without disability. Contributing factors include: A lack of appropriate career development and transition to work activities while at school, such as participation in work experience.⁵⁷ – Department of Social Services

Employment services should be hubs made available for the community to find ways to build and progress in their career, particularly if they are in casual or insecure employment.

This would be beneficial for younger people who are uncertain about pathways, skills or training that might be available to them, to help them develop their interests and strengths, and assist them in their current employment.

This is one way in which discrimination towards disability can be countered earlier on in a person's life – by having the resources to develop skills and explore vocations from an early age at a site open to the community, not just people who are receiving social security payments.

Desegregated model

A fundamental principle of justice and inclusion for people with disability is desegregation. The existing segregated employment services model has failed people with disability. The model has failed people who have been able to access DES, and people trapped in, or moved in and out of, jobactive – 237,337 people in December 2021 or 27% of the jobactive caseload.

To advance the rights of people with disability the Australian Government must walk the talk, and create a fully accessible, non-punitive, integrated employment services system. Continuing to silo people with disability deemed worthy is in effect a means test for

⁵⁷ DSS, Employ My Ability.

disability, and forces people to prove and reprove their condition to avoid the more severe jobactive requirements. This is not only onerous, but expensive, and inaccessible to many people with disability surviving on the JobSeeker payment.

The federal government must design a single, desegregated employment services model that holistically addresses the needs of all people with disability. In practice, under the current segregated model, providers are working with people with disability in both the jobactive and DES programs. Desegregation would remove artificial barriers between mainstream and disability employment services, and raise the overall standards required of providers, making them more accessible to both participants and staff.

A desegregated model does not mean reducing access to specialist disability services. Whether activity tested or otherwise, the model we envision would provide participants with more choices, more appropriate provider options and more control over the support they access. No changes should be made to assessments or eligibility criteria that restrict access to people who have been able to participate in Disability Employment Services.

All employment services must sit within one department, and the process for changing provider should be as simple as submitting a form to be processed. It should not involve an administrative burden, confusing requirements and the inconsistent processes of two separate programs overseen by two separate departments.

Mainstream providers

A desegregated model would include mainstream providers, available to anyone on the employment services caseload. People with disability should have access to mainstream providers if they prefer, but this should not be a result of barriers to accessing disability specialist support.

Under the current model many jobactive providers are not accessible, either in their physical office spaces or processes and information. This is replicated in the DES program.

As with all workplaces, businesses and educational institutions, and throughout society, mainstream providers should be fully inclusive of and accessible to people with disability. The standard these services meet must be significantly raised to achieve this.

All providers should meet stringent physical access requirements, including the ability to make environmental adjustments such as lighting, ambient noise and availability of private spaces. They should also be required to produce all resources in plain English, and Easy Read English where appropriate. Staff should also be provided training about how to write in plain English.

Caseworker-to-participant ratios should be adjusted across all employment service providers to ensure that caseworkers have adequate time to understand participant needs and provide meaningful support.

The staffing profile for mainstream providers should include a minimum number of people who have used employment services, working towards meeting a quota of 25%.

This would not only improve the quality of services and build trust between caseworkers and participants but also provide work opportunities for people in the system.

Each provider should also be required to have a training and education expert as well as university-qualified social workers and counsellors on staff. The number of staff with these qualifications should also be based on caseload numbers to ensure participants have adequate access.

All providers must also be required to participate in a community of practice and implement continuous improvement programs that incorporate best practices and respond to emerging knowledge about successful strategies and approaches to support.

Service providers should have staff retention targets and be required to offer ongoing professional development and training to support these targets. The providers should be adequately resourced by the Australian Government to pay higher wages, and the managing department should advocate for an increase in the applicable award at the federal Fair Work Commission.

Providers must be monitored to ensure staff with appropriate training and experience are in caseworker roles. We understand caseworkers are overloaded, with job agency staff reporting that people hired to appoint people to receptionist and administrative roles are being given caseloads of up to 200 participants.

To the greatest extent possible, providers should be located in close proximity to core community services such as council offices, libraries, advocacy services, food banks, family violence support services and homelessness services. Offices must be easy to access by public transport.

People with disability should have the choice to use a mainstream provider if they feel this best suits their needs, but this should not mean they have more requirements than if they were using a disability specialist provider.

Specialist disability providers

People with disability are not a homogenous group. Our impairments and conditions cause a wide variety of barriers to social participation and open employment, and our experiences of these barriers are vastly different based on our personal circumstances. There is no reason a generalised disability provider would be more effective than a mainstream provider in meeting a participant's needs without specific knowledge of their disability.

The Australian Government should create a framework to enable providers to serve specific disability cohorts. Specialist disability providers should be remunerated at a higher level than mainstream providers to reflect more stringent requirements and the intensity of support required for people on their caseload. Lower caseworker-to-participant ratios should also be adopted and the need for more specialised staff should be acknowledged and acted upon. Specialist providers should be able to provide services to multiple cohorts as long as they meet the qualification and staff training requirements for each cohort.

Access to specialist providers should be based on medical evidence, not work capacity. With appropriate support, a person's work capacity may increase, but they should not lose access to a specialist provider as a result. Likewise, a person should not be excluded from support because their work capacity is deemed too high or too low.

Providers who wish to offer services to a particular cohort must meet targeted qualifications and staff training requirements set by the centre for expertise in concert with relevant disability representative organisations. For example, a provider supporting people with acquired brain injury (ABI) should be required to provide specialist training to all staff, including administrative and support staff, about specific needs and accommodations for people with ABI, and the provider should have an appropriate number of qualified occupational therapists to support their caseload.

Specialist providers should also be required to work with researchers in a relevant field to develop a better understanding of what works and what does not.

Not all specialist providers would require the same caseworker-to-participant ratios, or the same number of specialist staff, which is why requirements and remuneration should be set per cohort. For example, a provider supporting people with moderate intellectual disability will have different requirements to a provider supporting people with cerebral palsy who do not have a cognitive impairment. The managing department and centre for expertise would develop customised caseload limits, with quotas for staff with relevant qualifications and ongoing competency training programs to participants receive best practice support.

It is essential that specialist providers do not evolve into recruitment agencies for particular industries. Participants should set the direction of their study and work goals, without being stereotyped and pushed down certain paths. This applies to all cohorts, but a particular example is the trend to pigeonhole autistic people as particularly suited to software development based on their disability alone.

Participant choice

More time and information must be made available to assist participants with provider selection.

In a market-based model, there should be no geographical or other constraints on a person's choice of provider – this reduces the incentive for providers to improve continually.

If a person prefers to remotely access a specialist provider that they feel is most appropriate for them they should not be prevented from doing so. At the same time, geographic coverage must be maintained overall to the greatest extent possible, so that if a person wishes to access in-person support they are able to do so.

This can be achieved through mainstream providers as accessibility standards are met and participants are given increased access to specialist providers through remote servicing options and the ability to concurrently access a mainstream and specialist provider.

Participants must be able to easily change providers for any reason they choose by following a simple process such as a phone call to the managing government agency or by completing an online form. This can include transferring to a new provider based on their reputation or results.

To enable this, the department should establish a caseload tracking system. This would enable participants to select from providers that have capacity to take on additional people, or opt to go on a waiting list for a provider that is at capacity. The use of waiting lists would also assist providers in workforce planning, so that providers in high demand can increase their caseload capacity over time.

Accessing multiple providers

A participant may wish to access a specialist provider who has a deep understanding of their disability as well as a provider that can give in-person support, or has particular labour market knowledge. The managing department should develop systems that enable caseworkers to coordinate support for people who wish to access employment services in this way.

It is unreasonable to assume that each provider will be able to excel in all areas, so allowing particular focus for providers, and the option to take participants with particular supports and goals, would be beneficial for all parties.

Compliance measures

The Targeted Compliance Framework (TCF) undermines trust between caseworkers and participants, and creates fear among participants, who therefore aim to minimise their interaction with systems that are purportedly intended to support them. The TCF should be abolished for all recipients of working-age payments.

In the event that the Australian Government chooses to continue ineffective and often harmful activity testing policies, we urge that people with disability are prevented from having their payments suspended for not meeting mutual obligations. Payment suspensions can have a devastating effect, increasing people's risk of homelessness and reducing a person's ability to get adequate food, medication and access to healthcare.

The government must stop punishing people with disability for being unemployed or underemployed, particularly given the many labour market and health factors beyond our control that limit our opportunities. Instead, the managing department should develop alternative activation methods that motivate people to participate in the workforce. We believe that the truly supportive, desegregated model we have presented will itself be an incentive.

People with disability are particularly fearful of the implications of the move to digital processes and services for people with disability. It is irresponsible to put people at risk of having their payment cut off without human involvement, particularly given the history of badly designed online services and apps for people on Centrelink payments. This digitisation push will disproportionately hurt the most vulnerable, such as people with low levels of literacy, English as a second language, older people and those with limited access to technology.

As stated above, the role of providers should be to support a person to develop skills through training and assist them with finding sustainable employment, rather than coercing them into unsuitable jobs in a discriminatory labour market.

If the government is serious about reforming and adapting employment services for people with disability, it must make moves to ensure that the future system is one based on support and designed to guarantee that people are treated fairly.

Ecosystem of supports

Employment services do not exist in isolation, they must be integrated and coordinated as part of a holistic web of supports. Whether a participant is interacting with employment services by choice, or they are forced to by the Australian Government, their employment prospects are affected directly and indirectly by the effectiveness of other systems.

Structural barriers to participation must be more effectively addressed, and other government services must be better integrated with employment services to reduce complexity for people with disability trying to navigate these systems.

Interactions with related government supports

People entering employment services for the first time can find it overwhelming and confusing. There is little information about what supports are available and how to access them appropriately, including access to face-to-face supports and information.

With employment services, there needs to be more effort put into ensuring that a person knows who to contact and how, when they agent is being unhelpful or not with offering the support they are supposed to offer, or facing bullying from their agency.

Employment services are a part of the social security safety net, and it is about time that the information and supports for the program are treated transparently. Information about the different types of supports available, and whether the agency they are with is appropriate for their needs or wants, should be easily accessible by people with disability.

Feedback indicates both people with disability and employers can struggle to navigate the disability employment and income support system. Key issues include: a lack of clear, accessible information for people with disability, their support networks and employers; a lack of clarity around how systems work together including Centrelink, the National Disability Insurance Scheme, Disability Employment Services and jobactive; a range of concerns with the current design of the Disability Employment Services program – with both employers and job seekers indicating it often does not meet their needs.⁵⁸ – Department of Social Services

NDIS

Using National Disability Insurance Scheme funding to help people with a disability into self-employment is a worthwhile opportunity. However, funding access should not be conditional on people interacting with a DES provider. Instead, a provider should assist a person to establish their own business on their own terms. There is also the opportunity to find ways to open NDIS funding to assist people into open employment, again with no conditionality, but these options have not been adequately explored.

There should also be options to increase NDIS funding for participants who would like the support of a particular service provider. This would allow for greater choice in people accessing the supports that they need to help them meet their goals.

⁵⁸ DSS, *Employ My Ability*.

Centre for expertise

A centre for expertise would act as a hub that connects employers with providers. However, there should be no direct incentives for this at the provider level, as it would orient providers toward employer needs rather than being person-centred.

The centre would:

- coordinate communities of practice for each disability cohort served by specialist providers
- set general standards required of all employment services providers and specific additional requirements for specialist disability providers based on the needs of the cohort they serve
- collect data and information about employment services outcomes to facilitate continuous improvement within providers
- deliver capacity development programs to employment services providers and employers
- oversee an accreditation system for providers and employers
- provide a helpline to answer questions
- connect employers and employment services providers with relevant information and programs to improve disability inclusion and access programs and other support services.

Working across government

While it may be out of the scope for this review, a review should be conducted by Department of Social Services to see how DES can better interact with other departments and agencies.

Given the structural nature of disability discrimination and how it is necessary to combat it on multiple fronts, the department should consider what changes need to be made elsewhere to improve current and future programs.

For there to be improvement to rates of employment for people with disability the Australian Government needs to amend the *Disability Discrimination Act* to prevent discrimination, and allow for people to get necessary adjustments in their workplaces and find ways to introduce quotas in the public sector.

These are just a few examples of changes that could be recommended and referred to across all departments to improve the overall improvements to employment for people with disability.

Support for employers

Employment services should effectively act as a middle ground for employers to improve inclusion, increase workplace accessibility, and support employees with adaption and workplace customisation.

These employment services should operate as a local hub to access what government supports can be made available when creating a workspace that is safe and inclusive for people with disability.

They should be the focal point of access for businesses to gain assistance from multiple government departments when they are seeking to improve their workplace conditions for employees.

Incentives

The Australian Government and employers should see achieving increased inclusion and social participation for people with disability, delivering on commitments under the Convention on the Rights of Persons with Disabilities and *Australia's Disability Strategy*, as an incentive in and of itself. All financial incentives should support this goal.

In practice, this means that provider payments should primarily incentivise the quality of support and whether it increases a person's inclusion and participation, rather than superficial and short-term outcomes, such as low-quality or unsustainable employment. They should be reframed as service payments, rather than outcome payments.

Participant's experiences of the support they receive should be central and play a direct role in determining the level of financial compensation for providers. The government should ensure that providers are adequately resourced to provide greater time investment and specialist support to people with higher needs and barriers to work, and payment structures should reflect this.

Incentives must be designed to give participants agency to build their confidence and trust in their caseworker. Providers should be rewarded for giving meaningful and suitable support to participants, including but not only when an employment, training or education outcome was not achieved.

This removes pressure from caseworkers to place people with disability in unsuitable or unsustainable jobs and encourages caseworkers to support participants to achieve long-term, sustainable goals.

Incentive and payment structures should include a base payment supplemented by fees based on the following:

1. Was the participant's experience with the provider positive overall?
2. Did the participant feel a sense of trust and confidence in their caseworker?

3. Did the participant feel that the provider tailored and implemented the job plan in a way that reflected their aims and aspirations?
4. If applicable, was the employment, training or education outcome suitable and sustainable?
5. If applicable, was the provider directly involved in securing and/or sustaining employment for the participant?

Participants should be asked these questions at the point in time when an employment, training or education outcome is achieved, but also at regular intervals for the duration of their time in employment services.

We would appreciate the opportunity to submit our detailed proposals about how this could be approached in a way that gives providers confidence to cover their operating costs and protects participants from having their feedback becoming known to the provider or caseworker.

Such a mechanism will play an important role in ensuring providers are rewarded for delivering outcomes that respond to participant circumstances and needs, rather than being the blunt measures currently in place.

Oversight

The involvement of people with disability who have used employment services should not be peripheral in oversight bodies and processes, it should be central.

There needs to be greater oversight of all employment services, particularly for people with disability. Existing oversight mechanisms fail because they have not been designed, controlled or administered by people who understand the system as a result of having used it.

The frequency of review for the program overall, and providers specifically, must be increased to ensure continual or continuous improvement and early identification of problems. There must be more pathways for complaints and these should be more clearly communicated, and potential remedies must be clear or clearer.

Advisory panel

Inclusion and self-determination for people with disability should not be a box-ticking exercise, but be core principles used in developing, implementing and overseeing employment services programs.

The absence of people who have used DES in its oversight is a major failing of the program. Continuing this approach will ensure failure, as a system that is not led by the people who are supposed to benefit from it will never produce satisfactory outcomes.

The managing department should replace the star-rating system with a more responsive model that centres and draws on the expertise of people with disability who access employment services.

An advisory panel should be formed to monitor program quality and provider performance on an ongoing basis. The panel should be responsible for seeking, receiving, and reviewing feedback from participants, providers and employers, and determining the most appropriate ways to act on that feedback.

The advisory panel should have 80% of its members be people with disability who are currently in employment services and the remaining 20% should be public servants, providers and employers.

If people with disability are subjected to activity-testing requirements, these participants must be represented proportionately on the advisory panel. Applications to join the advisory panel must be open and advertised to all people with disability in employment services, and providers must not be involved in the process for shortlisting or appointing people to the panel.

The panel must be resourced adequately so that people with disability are able to participate fully. This panel would provide ongoing performance monitoring and identify the need for program improvements.

Licensing panel

If a licensing panel is to be established, it should comprise past and present participants, public servants and local employers who have experience working with the employment services system. Participants would be selected for the licensing panel based on their involvement or expression of interest in the advisory panel.

Neither employment services providers nor their representative organisations should play any role in granting licences or review of the licensing process. Provider input should be sought actively, and information gathered through interviews, surveys and focus groups where it is deemed appropriate by the licensing panel.

Employment services ombudsman

People with disability have experienced by both mainstream and employment services providers mistreating participants by making unfair decisions or mistakes that penalise people, including people who have complied with all rules and requirements.

Existing complaints mechanisms are inadequate, such as when Department of Social Services refers participants back to the provider to raise their concerns by default, including when the provider or caseworker's behaviour is the subject of concern.

In cases where the department does take action, the system is not transparent and no outcome is communicated to the complainant. This acts as a disincentive for people to lodge and follow up complaints.

The Commonwealth Ombudsman has too broad a remit and does not provide adequate oversight. Participants must have easy access to a dedicated, free and independent public ombudsman for employment services to ensure there is an appropriate and timely complaints resolution process.

The ombudsman should oversee the practices of private providers as well as the department's handling of issues in employment services. Information about the number of complaints received by the ombudsman, the number upheld, and the types of resolutions or penalties applied should be published regularly.

What should success look like?

An employment services model must be viewed as a means to an end, not an end in and of itself. And that end must measurably improve social and economic participation for people with disability.

Outcome measures for all parts of the system must be centred on the participant's experience and long-term outcomes for individual participants and across the population of people with disability.

Any system that fails to deliver an increase in the proportion of people with disability in open employment, higher lifelong earnings or a reduction in the number of people with disability living in poverty is not fit for purpose.

Below are high-level arguments and success measures that should inform the design of employment services for people with disability. These measures are designed to ensure that a market-based approach to employment services is oriented to people with disability, rather than government.

- Voluntary access to employment services is crucial to improve outcomes and provider quality in a market-based system.
- All decisions about the merit and direction of program proposals should be measured against whether or not they advance these objectives. These should also form the basis of program monitoring and evaluation.

As part of the employment services program design process, the Australian Government should set measurable targets and clear pathways to meeting these targets in consultation with disability representative organisations, particularly for the following:

- an improvement in earnings for employment services program participants year-on-year, both during and beyond their time in employment services – the baseline should be taken from the cohort of participants for the first year of the new model's operation and participant earnings should be measured alongside earnings for the whole population of people with disability
- an increase in the participation and employment rate for people with disability
- self-described health and wellbeing outcomes and experiences for people with disability accessing employment services programs
- participants' satisfaction level with their experiences in education and employment settings.

For people with disability

The below outcomes should be strived for and measured using a combination of long-term data collection and individual participant surveys:

1. remove the disparity in the duration and quality of work experiences between people with disability and their peers at high school age and post-schooling
2. restore people's sense of confidence in and satisfaction with their caseworker's attitudes, competence and conduct
3. ensure a better understanding of people's personal strengths and how these relate to particular jobs, industries and career options
4. set goals that are attainable and desirable to the participant
5. encourage awareness or knowledge of people's ability to access options such as job customisation, job-carving and job adaption, and programs to support self-directed employment such as cooperatives and microbusinesses
6. increase people's confidence in their own skills, capacity and employment prospects

7. ensure people can attain sustainable, safe and fairly paid open employment.

For providers

The below success measures should be monitored on a site-by-site basis:

1. low number of complaints
2. participant demand for provider site and programs
3. scores generated by quantitative participant surveys, both on the caseload and people exiting employment services
4. quality and sustainability of participant employment outcomes and training, and educational activities
5. staffing profile, including the staff-to-participant ratio and staff qualification levels
6. staff retention and career progression.

For the employment services system

The following aspects should also be measured:

1. overall demand for employment services and the number of people accessing programs
2. the rate of uptake and success of complementary programs – for example, does the cohort of people who participate in Individual Placement Support (IPS) or similar targeted programs achieve better employment, health or other outcomes compared to people who do not access IPS
3. number and frequency of employers engaging with the employment services system, both with providers and the centre for expertise

4. a measurable improvement in employer attitudes towards employing people with disability and understanding of how to design inclusive jobs and workplaces that accommodate people with disability
5. development of the body of knowledge about best practices in employment services for people with disability
6. a continuous iteration in programs and practices coordinated by the centre for expertise that is taken up by providers.

Appendix A

Concerns with recommendations from the BCG report into ESA

This section covers concerns that we have with potential ramifications from the Boston Consulting Group (BCG) reports into the Disability Employment Services program.

By analysing the BCG consultation reports and Department of Social Services' request for proposal (RFP) for the New Employment Services Model, we hold concerns about NESM being a generalised employment service that blocks people with disability from accessing services they want or need.

We have concerns how the Job Seeker Assessment Framework (JSAF) will be utilised as a gatekeeping tool to prevent people with a disability accessing an Employment Services Assessment tool, and therefore the employment services.

If the JSAF as a gatekeeping tool fails to prevent people with a disability from entering the New Disability Employment Support Model (NDESM), we do have concerns of what legislative tools a federal government may use to prevent people with a disability from accessing disability employment services– and the repercussions this may have.

There are already more people with a disability in jobactive than there are in DES, however due to the Australian Government's and Department of Social Services' historical actions to reduce costs through austerity measures, it is people in poverty who are the ones who suffer.

If the changes to the JSAF, outlined by the BCG report, works as intended we expect to see the number of people in NESM increase to higher levels than jobactive, and mostly be contained to so-called enhanced services.

Generalised employment services are no place for people with disability, now or into the future, and should ensure that all people with disability are entitled to enter into the NDESM, if they so choose.

People with disability subjected to diplomatically described enhanced services would face stricter mutual obligations, including the Work For the Dole program.

This would essentially create a much larger pool of expendable labour that consist of people with barriers to employment, and little exit into open employment – basically a generalised segregated employment service with intersectional discrimination – including people with disability who are also First Nations', ex-prisoners, or culturally and linguistically diverse.

By increasing the number of people in programs like enhanced services, it will create a larger pool of labour deemed as unskilled by economists and politicians.

The compounding factor of disability and poverty means that people will have little capital to escape these cycles, and the program providers who deliver the services for the department's vision will profit from poverty and the labour of people with a disability without any material benefits to the people being subjected to the industries' machinations.

Given the changes made to the Disability Support Pension and ongoing attempts to cut National Disability Insurance Scheme funding for people with a disability,⁵⁹ consecutive governments' agenda to end discrimination is leading to erasing disability through generalised services, while discrimination still is an integral part of our society.

Redesigning disability employment services must be about improving support and outcomes for all people with disability. It cannot mean inflating the perceived success of disability employment services by reducing the number of people in them.

⁵⁹ Henrique-Gomes, L., 'Legal challenges against NDIA decisions more than triple in five months', *Guardian Australia*, 11 December 2021, <https://www.theguardian.com/australia-news/2021/dec/11/legal-challenges-against-ndia-decisions-more-than-triple-in-five-months>, accessed 12 December 2021.

Digital first

Given that changes to the JSAF are intended to prevent the flow of people from NESM into NDESM, we do not know yet how many people with barriers to employment because of disability will be deemed as needing to remain in digital-only services where they will not have support and ultimately lose payments – this is something that is very common in the current jobactive system.

DESE has reiterated that so-called safeguards will be in place to support people with disability, such as a digital services team, with those unsuitable for digital services being streamed into enhanced services.

Given the concerns that exist for people with a disability in NESM, DSS should not be considering a digital services platform for the NDESM system.

Combining a digital-first model with the Transparency Compliance Framework is deeply concerning, given that people with disability will not only have to navigate a discriminatory workforce, but also advocate for themselves if they receive a demerit, or face a payment suspension.

It creates a concerning power dynamic, where people will have to contact a call centre to advocate for themselves to a stranger who is unaware of the person's circumstances or conditions.

Consider the impacts of Robodebt but then think about the hundreds of thousands of people who will have their payments suspended by an algorithm at any given time of the day while people are living their lives before they are correctly streamed or assisted by program – the unfairness of these suspensions would be draconian.

Given this potential reality, the department should consult the work of the Australian Human Rights Commission.

In a 2021 report, AHRC addressed the very real concerns of a shift to digital systems for people with disability, and the questions artificial intelligence and algorithms would ask or address when considering how people with disability interact with these services.

Section 12 of AHRC's report discusses the concept of functional accessibility and describes it as something that 'accommodates the needs associated with a person's disability' and argues technology is 'not solely for people with a particular disability.'⁶⁰

It examines how functional accessibility interacts with 'goods, services and facilities that rely on digital communication technology' and the need for a 'digital communication technology standard' (DCTS) under the *Disability Discrimination Act*.

Any employment services model for people with disability needs to carefully consider how a people with disability will be able to easily engage with a digital service, factoring in a person's conditions and their circumstances.

Given the shift to digital compliance models and services under the NESM and potentially under the NDESM, the department should consult the work done by the AHRC.

One recommendation is to amend the DDA, although we note this is outside the scope of this consultation. However, there is nothing stopping the agency from using the AHRC report to guide it in the development of NESM and NDESM, to guarantee a functionally accessible service that accommodates people with disability.

Points-based activation

Subjecting people with disability to the [Points Based Activation System](#) (PBAS) should not be considered when measuring a person's so-called activation in NDESM or NESM, as there are grave concerns how this will be functionally accessible for people with disability – due to the complex individual circumstances that people face.

Any kind of employment that a person with a disability is trying to achieve, should be developed with them, and a plan developed accordingly, with a clear pathway to achieving these goals – not a standardised form of compliance.

⁶⁰ AHRC, *Human Rights and Technology Final Report 2021*, Sydney, https://tech.humanrights.gov.au/downloads?_ga=2.29483771.53890146.1639700289-1987169200.1639700289, accessed 13 December 2021.

The removal of mutual obligation requirements and conditionality will free up the time a person has to consider the options available to them and act on them accordingly. This time may allow them to instead get into employment and/or take up volunteer options to help develop their skills or benefit from education and training.

This would be a truly person-centred approach that would allow for the individual to take time to consider, with required support, what it is they need to do to achieve the outcome that they want. The time also allocated for professional staff to assist them would give the person with disability the confidence to establish a trusting relationship and know that they are not there to merely be pushed off into any job that comes up.

The current PBAS within NESM does not make mutual obligations more flexible for people in that system, it is merely just a way to move the administrative burden from the provider to the individual – while maintaining the punitive nature of mutual obligations under TCF.

There is no compassionate employment service, for people with or without a disability, as long as the TCF system remains in place.

Appendix B

References

Anglicare Australia, *Asking Those Who Know: A Survey of Australians on Centrelink Payments*, December 2020, Anglicare Australia, Canberra, <https://www.anglicare.asn.au/publications/asking-those-who-know>, accessed 12 August 2021.

Anglicare Australia, *Jobs Availability Snapshot*, 2021, Anglicare Australia, Canberra, <https://www.anglicare.asn.au/publications/jobs-availability-snapshot-2021>, accessed 13 December 2021.

Australian Federation of Disability Organisations (AFDO), *376,287 people have been moved from the DSP onto the Jobseeker Allowance* [tweet], 27 January 2022, Twitter, <https://twitter.com/AfdoOffice/status/1486531865322274823>, accessed 30 January 2022.

Australian Human Rights Commission (AHRC), *Human Rights and Technology Final Report 2021*, Sydney, https://tech.humanrights.gov.au/downloads?_ga=2.29483771.53890146.1639700289-1987169200.1639700289, accessed 13 December 2021.

AHRC, *Willing to Work: National Inquiry into Employment Discrimination Against Older Australians and Australians with Disability*, 2 May 2016, AHRC, Sydney, <https://humanrights.gov.au/our-work/disability-rights/publications/willing-work-national-inquiry-employment-discrimination>, accessed 12 August 2021.

Australian Institute of Health and Welfare (AIHW), 'Disability Support Pension and Carer Payment', *Australia's Welfare*, 28 September 2021, Australian Government, Canberra, <https://www.aihw.gov.au/reports/australias-welfare/disability-support-pension-and-carer-payment>, accessed 14 December 2021.

Australian Law Reform Commission (ALRC), 'Equality, Capacity and Disability in Commonwealth Laws IP 44', *Specific Legislative Areas*, 12 November 2013, Australian Government, Canberra, https://www.alrc.gov.au/publication/equality-capacity-and-disability-in-commonwealth-laws-ip-44/equality-capacity-and-disability-in-commonwealth-laws/specific-legislative-areas/#_ftnref192, accessed 12 August 2021.

Boston Consulting Group, *Mid-term Review of the Disability Employment Services (DES) Program Draft Report*, 26 June 2020, Department of Social Services, Canberra, <https://www.dss.gov.au/disability-and-carers-programs-services-disability-employment-services/mid-term-review-of-the-disability-employment-services-des-program>,

accessed 12 August 2021.

Children and Young People with Disability Australia, *Submission to the Inquiry into Sustainable Employment for Disadvantaged Jobseekers* [submission], August 2019, <https://www.cyda.org.au/resources/details/72/inquiry-into-sustainable-employment-for-disadvantaged-jobseekers>, accessed 27 January 2022.

Collie, A., Sheehan L., and Lane T., 'Changes in Access to Australian Disability Support Benefits During a Period of Social Welfare Reform', *Journal of Social Policy*, 2021, 51(1), 132-154, <http://dx.doi.org/10.1017/S0047279420000732>, accessed 27 January 2022.

Coonan, J., O'Connell, K., Hayden, D. and de Vera, G., *In Our Own Words: People with Disability Australia's submission to the Senate Community Affairs References Committee Inquiry into the purpose, intent and adequacy of the Disability Support Pension* [submission], 13 August 2021, People with Disability Australia, Sydney.

Council of Small Business Australia (COSBOA), *Making it Easier for Small Business to employ people with disability*, 13 September 2018, Truth Serum, Melbourne, <https://www.dss.gov.au/disability-and-carers-research-and-data/making-it-easier-for-small-business-to-employ-people-with-disability-research-report>, accessed 12 August 2021.

Department of Education Skills and Employment (DESE), 'Caseload 2010-2011' [dataset], *Job Services Australia Data*, 13 July 2016, data.gov.au, Canberra, <https://data.gov.au/data/dataset/job-services-australia-data>, accessed 8 August 2021.

DESE, 'jobactive and Transition to Work (TtW) Data – December 2021' [dataset], *jobactive and Transition to Work (TtW) Provider Caseload by Selected Cohorts*, January 2022, Labour Market Information Portal, Canberra, <https://lmip.gov.au/default.aspx?LMIP/Downloads/EmploymentRegion>, accessed 17 January 2022.

Devine, A., 2020, 'I'm proud of how far I've come. I'm just ready to work.' *Exploring the relationships between the life circumstances of people with psychosocial disability and their engagement with the Australian Disability Employment Services program* [thesis], University of Melbourne, accessed 30 January 2022.

Devlin, H., 'Thousands of autistic girls and women "going undiagnosed" due to gender bias', *The Guardian*, 15 September 2018, <https://www.theguardian.com/society/2018/sep/14/thousands-of-autistic-girls-and-women-going-undiagnosed-due-to-gender-bias>, accessed 30 January 2022.

Department of Social Services, 'DES Data 30 November 2021' [dataset], *DES Monthly Data*, December 2021, Labour Market Information Portal, Canberra, <https://lmip.gov.au/default.aspx?LMIP/Downloads/DisabilityEmploymentServicesData/MonthlyData>, accessed 17 January 2022.

DSS, 'DES Data 31 December 2021' [dataset], *DES Monthly Data*, January 2021, Labour Market Information Portal, Canberra, <https://lmip.gov.au/default.aspx?LMIP/Downloads/DisabilityEmploymentServicesData/MonthlyData>, accessed 17 January 2022.

DSS, 'DSS Demographics – June 2021' [dataset], *DSS Payment Demographic Data*, 9 August 2021, data.gov.au, Canberra, <https://data.gov.au/dataset/ds-dga-cff2ae8a-55e4-47db-a66d-e177fe0ac6a0/details>, accessed 10 August 2021.

DSS, 'DSS Demographics – September 2021' [dataset], *DSS Payment Demographic Data*, data.gov.au, Canberra, <https://data.gov.au/dataset/ds-dga-cff2ae8a-55e4-47db-a66d-e177fe0ac6a0/details>, accessed 29 December 2021.

DSS, *Employ My Ability Disability Employment Strategy – Australia’s Disability Strategy 2021–2031*, Australian Government, Canberra, 2 December 2021, <https://www.dss.gov.au/employ-my-ability>, accessed 4 February 2022.

DSS, *Labour Market and Related Payments Monthly Profile publications*, Department of Social Services, Canberra, <https://www.dss.gov.au/about-the-department/labour-market-and-related-payments-monthly-profile-publications>, accessed 29 January 2022.

DSS, 'Targeted Action Plan: Employment', *Australia’s Disability Strategy*, Disability Gateway, 3 December 2021, <https://www.disabilitygateway.gov.au/document/3151>, accessed 13 December.

Gerards, R. and Welters, R., 'Does Eliminating Benefit Eligibility Requirements Improve Unemployed Job Search and Labour Market Outcomes?', *Applied Economics Letters*, 2021, 1–4, <https://doi.org/10.1080/13504851.2021.1927960>, accessed 28 May 2021.

Henrique-Gomes, L., "'It's really scary": welfare recipients forced to attend in-person appointments despite Omicron surge', *The Guardian*, 17 January 2022, <https://www.theguardian.com/australia-news/2022/jan/16/its-really-scary-welfare-recipients-forced-to-attend-in-person-appointments-despite-omicron-surge>, accessed 17 January 2022.

Henrique-Gomes, L., 'Legal challenges against NDIA decisions more than triple in five months', *Guardian Australia*, 11 December 2021, <https://www.theguardian.com/australia-news/2021/dec/11/legal-challenges-against-ndia-decisions-more-than-triple-in-five-months>, accessed 12 December 2021.

Karp, P., "'An utter failure': Coalition blasted over scheme for older job seekers with just half of pledged amount spent', *The Guardian*, 14 October 2020, <https://www.theguardian.com/business/2020/oct/14/an-utter-failure-coalition-blasted-over-program-for-older-unemployed-as-underspending-revealed>, accessed 29 December 2021.

Klein, E., Cook, K., Maury, M. and Bowey, K., *Social security and time use during COVID-19*, 25 March 2021, Swinburne University of Technology & Centre for Excellence in Child and Family Welfare, Melbourne, <https://www.cfecfw.asn.au/treating-families-fairly>, accessed 10 August 2021.

National Skills Commission, 'IVI_DATA_SkillLevel – January 2006 onwards' [dataset], *Vacancy Report*, January 2021, Labour Market Information Portal, Canberra, <https://lmip.gov.au/default.aspx?LMIP/GainInsights/VacancyReport>, accessed 17 January 2022.

Nojin v Commonwealth and Another [2012] FCAFC 192.

Organisation for Economic Co-operation and Development (OECD), *Society at a glance 2014: OECD Social Indicators*, 2014, OECD Publishing, Paris, https://doi.org/10.1787/soc_glance-2014-en, accessed 10 August 2021.

People with Disability Australia (PWDA), *Disability Community Calls for Reform After Discrimination Claims Become 'Impossible To Prove'* [media release], 2 July 2021, People with Disability Australia, Sydney, <https://pwd.org.au/media-release-disability-community-calls-for-reform-after-discrimination-claims-become-impossible-to-prove>, accessed 12 August 2021.

Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (DRC), *Issues Paper: Overview of Responses to the Employment Issues Paper*, 12 May 2021, <https://disability.royalcommission.gov.au/publications/employment>, accessed 28 January 2022.

Senate Education and Employment References Committee, *Jobactive: failing those it is intended to serve*, February 2019, Commonwealth of Australia, Canberra, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/JobActive2018, accessed 30 January 2022.

United Nations, *Convention on the Rights of Persons with Disabilities*, 2007, 2515 UNTS 3, opened for signature 30 March 2007, entered into force 3 May 2008, <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>, accessed 28 January 2022.

Vu, B., Khanam, R., Rahman, M. and Nghiem, S., 'The Costs of Disability in Australia: A Hybrid Panel-Data Examination', *Health Economics Review*, 10/1 (2020), 6, <https://doi.org/10.1186/s13561-020-00264-1>, accessed 10 August 2021.



**PEOPLE WITH DISABILITY
AUSTRALIA**

People with Disability Australia (PWDA) is a national disability rights and advocacy organisation made up of, and led by, people with disability.

PWDA submission contact:

Giancarlo de Vera

Senior Manager of Policy

**A voice
of our
own**