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To the DES Reform team,

The three reports mentioned in the DES reforms consultation on recommendations from recent reviews have all been collated from different contexts and teams that have drawn similar high-level principal conclusions that do not progress the reform beyond what has already occurred.

The recommendations from the DRC are vague and principle-based recommendations, while the NDIS recommendation is very limited and do little to address the systemic issue of the Disability Employment Service.

Stakeholders were constantly told that DES was out of scope for the Workforce Australia review and were deterred from making DES specific recommendations or submissions – however the committee went ahead with recommendations, in consultation with service providers. The recommendations of the Workforce inquiry should not be used to guide decision making on DES reforms.

Overall, the recent reviews do very little to feed into the future of DES as they're not detailed or designed to have a focus on the service as a whole, but more to do with the principals of a disability employment service.

The government must make a decision of where to situate the control of employment services more broadly, whether to continue to operate it under the façade of an employment service that doubles as a social services provider or allow it to be a welfare agency specifically for those who have trouble accessing the open labour market.

The government tabled a spend of \$19.4m in the October 22/23 budget to extend the DES program until June 2025 to include a detailed design phase, something the Antipoverty Centre and other organisations have been excluded from.

We expect to be included in all stakeholder meetings that inform the future of DES and also be included in the co-design process as we were with parentsNEXT and currently for Workforce Australia.

Regards,

Jay Coonan.

Antipoverty Centre submission to the DES Reforms – Recent reviews and recommendations relating to disability employment

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## **Acknowledgement of Country**

The Antipoverty Centre acknowledges the original peoples of this unceded continent, who have been custodians of Country for thousands of generations. First Peoples have connections to place, land, water and community that have been unbroken for 120,000 years.<sup>1</sup> We recognise Indigenous sovereignty and the cultural significance inherent in these connections, historical and contemporary.

We pay respect to Elders past and present and stand with all First Peoples in the quest for self-determination, justice and truth-telling in the face of ongoing colonial violence, including that inflicted through racism in the social security system.

## **About the Antipoverty Centre**

The Antipoverty Centre was established to counter problems with academics, think tanks and others in the political class making harmful decisions on behalf of people they purport to represent.

We are activists, advocates and researchers with lived experience of poverty and disadvantage. 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 in this country.

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.

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<sup>1</sup> Bowler, J., Price, D., Sherwood, J. and Carey, S., 'The Moyjil Site, South-West Victoria, Australia: Fire and Environment in a 120,000-Year Coastal Midden — Nature or People?', *Proceedings of the Royal Society of Victoria*, 130/2 (2019), 71–93, <https://www.publish.csiro.au/rs/rs18007>.



## **1. Questions for Consultation Team**

1. You've treated providers who are causing the problems as credible witnesses and questions seem to be specifically designed towards them. At what stage does co-design where disabled people will have control begin? How will that be conducted?

2. If the new service begins operation in FY 2025/26, when will you work with people in the current system to help design a future system?

3. The initial consultation is outdated and the government would be in a far better position to do as it has done with parentsNEXT and make the service voluntary, whilst getting to work on designing, building and implementing a new service that works – will you do this?

4. Introducing the NDIS will create a two-tiered service for disabled people where they are serviced based on their access to NDIS funding and not on their eligibility for the service and further entrench segregation in the system. This will also continue the government spending issues whereby individual packages will go up without evidence of outcomes.

People without access to NDIS, and as is already an issue, will be stuck in mainstream services which provide no outcomes and do not offer a good service that serves to compound discrimination and harm.

5. Will the department share a report on the NDIS/ DES pilot and how that is progressing and provide information on the design principles?



## **2. New DES Function**

- Creating a voluntary service will end current administrative burdens for both participants and providers. The new service will be to support people to access employment when they're 'ready, willing and able' to.
- Outcomes for participants should be based on steps towards and goals achieved on path to desired employment
- High-level functions for providers should be employment opportunities created through engaging with employers to create accessible workplaces
- Micro-level functions for providers should be participant satisfaction with supports offered through the service
- Merging of DMS/ ESS should be overseen by centre of excellence for a role that is trained and certified. Another role of 'Employment Facilitator" should be community facing and focused on creating employment opportunities with funding to help businesses accommodate all disabilities
- There should always be supports made available to disabled people in employment, even those currently employed – this should be treated as a basic function of DSS – a new service would work with all employers to make all places of employment accessible
- Extending the service to all disabled people is necessary, currently it is exclusionary as there are more disabled people in mainstream employment services than there are in DES. Any expansion of eligibility must be an expansion for all, not a few.

### **Response**

The operation of a Disability Employment Service must first and foremost be working with employers to ensure that businesses are equipped to host disabled employees and ensure that they're compliant with CRPD. While this may not be necessary for all disabled employees, the principal objective of DES should be to change employer perceptions and standards on employment.

One arm of DES will be to work to create employment opportunities in the community, whilst the other will work with individuals to meet their individual expectations for employment and make sure they're ready to participate in any job opportunity offered.

DES should have this dual function that would make mutual obligations redundant. Creating a service people want to use that support them into employment when they're ready is the aim, as everybody wants to work but not given the opportunity to work.



The current arrangement of using the Targeted Compliance Framework against disabled people is abhorrent, the administrative burden and abuse of people on social security is repugnant and it should immediately cease. It should not be expanded to people on NDIS plans who opt to seek employment – as the current guides and standards are ignored entirely by untrained job providers who are no different to their mainstream services.

### **What benefits would this bring to participants and administration?**

By removing 'mutual obligations' for DES participants it would immediately ease the administrative burden for employment services. This ease of administrative burden should be shifted to; working in the community to create and find job opportunities, assess what is needed for a person to fill the roll and then create programs at the employment service to fill those rolls.

The removal of 'mutual obligations' will allow for participants to consider their employment prospects and what they want to do, and how they might achieve that. The response to this would be for employment providers to go out into the community and achieve that goal for the individual through a supported process.

### **Are there any unintended consequences, for whom and why is that important?**

Government must understand that not everyone has the opportunity to work –punishment is not going to get them into work. It must remember that everyone wants to work, and some people are already working, just not in the way you want them to. Whatever a persons capacity is they must be supported.

The obvious consequence of a voluntary obligations is people under current arrangements disengaging, this is an obvious result considering the harm and abuse committed by government and job agencies.

The process to resolve this is to prove to people that the new services are there to help. This would be by committing to outreach and working with people to understand what they need and want, understanding what their journey to employment looks like and figuring out what the future of employment looks like for that individual.

Consequences for changing eligibility will result in some people being further excluded by an exclusionary service. If a service is designed to support disabled people, it must be accessible to all disabled people.

### **Would the option to move to specific requirements – similar to current arrangements – be appropriate where a participant wasn't engaging effectively?**

No, it doesn't work now and won't work in the future. All that results is unnecessary administrative burden and draconian laws lurching onto people who are living in poverty. The current system was designed to punish, it is not salvageable and must immediately end.



### **3. Antipoverty Centre position**

We have responded at length in the past to the current questions raised by the Department of Social Services. We have provided some high-level recommendations for servicing and eligibility from that submission, including responses to recent reports below. .

#### **'Ask What We Want' Submission**

We have provided select recommendations to the report here but ask that consultation staff [read the submission in full](#). It was released in February 2022 but many parts are still relevant as to why, systemically, DES needs a fundamental structural overhaul.

#### **Recommendation 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.

#### **Recommendation 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.

#### **Recommendation 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.



## **Recommendation 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.

## **Recommendation 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.

## **Appendix A – 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.

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.





## Response to recent recommendations

### Comments on Workforce Australia inquiry report recommendations and report

The DES program was deemed out of scope, to some stakeholders, but nevertheless recommendations and comments about the program were made in the Workforce Australia inquiry report. It is not entirely clear what vision the committee has for DES as a part of rebuilt Commonwealth Employment Services System, but if it is anything to go by it is one that is reintegrated back into public hands.

#### 9.32

Creating a program for Services Australia to reimburse medical practitioners to reimburse them to collect medical evidence for disabled people. Is a good idea and should be done, as poverty is a massive barrier for people accessing and collecting medical evidence to qualify for the DSP, NDIS or disability supports in general.

#### 12.48/ 12.51

The National Disability Recruitment Coordination Officer program that is operated by DSS should be the role of DES, that's what they should be doing. Working with employers to create jobs and finding the right candidate to enter the role with pre and post-supports, in work training (facilitated by current NDIS funding codes) and a taper down period when supports are no longer needed.

### RECOMMENDATION 66

This is specifically more to do with the licensing process that DES operates under, and less about the operation and quality of services – of which there is little difference between current mainstream services and DES, besides minor tweaks in 'mutual obligations' and preventing people from doing 'Work for the Dole'.

Merging DES into a singular employment services system where certain providers tender to operate the specialist service in a necessary labour market (with the proposed expansion of labour markets by the report) is not necessarily a bad idea – however it poses risks that some disabled people will be excluded, as is currently the case.

There are more disabled people in generalised employment services than there are in DES. By extending funding arrangements from NDIS it has the ability to further segregate the disability service between those who do and do not have access to NDIS funding.

### Comments on Royal Commission into Violence, Abuse, Neglect and Exploitation Recommendations

Recommendations are high level design principles for a new DES that fail to capture the systemic failure that was highlighted through the case of Mzia and AimBig.



These recommendations also fall short of understanding the current requirements in place for DES providers that are not implemented or used at all. While the principles are from a place of good intention they fail to understand the system design failure of the current program.

### **RECOMMENDATION 7.16**

‘Priorities for inclusion in the new Disability Employment Services model.’

The co-design of the new system should be user-led, and be a public service that is voluntary for disabled people. We agree that the providers should be looking to find people work and actively assist in job carving and making sure that the place of employment is entirely accessible for the needs of individuals, but also to be an “accessible workplace” – with a focus on finding sustainable and long-term employment.

The Employment Assistance Fund currently exists for the DES program, however there is little evidence to show how regularly this is used and how effective it is as an incentive for workplaces to hire disabled people.

### **RECOMMENDATION 7.17**

‘Develop education and training resources for Disability Employment Services staff.’

This recommendation fails to acknowledge the current National Standards for Disability Services which by all accounts from people in DES, is not applied at all. There is no accountability for outsourced provider services and the system is an abject failure in providing employment and certainly does not protect disabled people – rather exposes people to harm.

Any training to staff would create a barrier for these services to finding employees, as most of these positions require no experience or training. We advocate for staff to be trained and have experience in delivering employment outcomes for people, however this would be a step too far for outsourced providers.

It also ignores that employment services are required, by a code of conduct, to ensure that their staff have, “skills and experience they need to provide quality and culturally sensitive services to job seekers, employers and local communities.”

### **Comments Independent Review into the National Disability Insurance Scheme**

There is only one recommendation in the NDIS review about DES, again not encapsulating the systemic failure of the service.



## RECOMMENDATION 1.7

“The Department of Social Services and the National Disability Insurance Agency should improve linkages between the NDIS, Disability Employment Services and related initiatives targeting improved employment outcomes for all people with disability, including NDIS participants.”

Disabled people must have access to work, but employment should not be the sole outcome for disabled people as work capacities fluctuate and employers are discriminatory without greater government intervention. It also sets a dangerous precedent about the role of employment in the social contract, while there are benefits it is not always appropriate for everyone and will lead to harm and exploitation – as highlighted in Mzia’s story from the DRC.

### **New Disability Employment Service Consultation Report**

The consultation report is largely out of date considering what we now know about Workforce Australia and the roll out of the program. The recommendation that PBAS could offer flexibility to DES is certainly not the case, as the PBAS system (while flexible for people who are able to complete different activities for points) is not overall beneficial and has not resulted in a reduction of the administration time spent by providers as servicing of people has not changed.

It would be far more beneficial to develop individualised employment pathway plans specific to individual circumstances that assists them to reach goals to enter open employment, with the acknowledgement that not everyone will be able to enter full-time employment.