



Australian
Human Rights
Commission

Establishing a Disability Employment Centre of Excellence

Submission to Australian Department of Social Services

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1 Introduction

The Australian Human Rights Commission (Commission) welcomes the opportunity to provide a submission to the Department of Social Services (DSS) regarding the establishment of a Disability Employment Centre of Excellence (Centre).

The Commission is Australia's National Human Rights Institution, with recognised independent status and roles in United Nations human rights fora. The Commission's mandate is to provide independent and impartial services to promote and protect human rights and fundamental freedoms.

The Commission plays a crucial role in setting standards, promoting awareness, and addressing discrimination. The Commission also undertakes policy and research work, including specific projects, and delivers training and education in human rights awareness, while also investigating and conciliating complaints of unlawful discrimination and breaches of human rights.

The Commission, under the leadership of the Disability Discrimination Commissioner, leads a disability employment Project, IncludeAbility, which aims to increase meaningful employment for people with disability in Australia.

The Commission undertakes many of the functions proposed for the Centre in this Options Paper and welcomes further discussion about the role and function of the Centre and the Commission, including how the two agencies might work together and avoid duplication.

2 The disability rights landscape in Australia

2.1 International human rights treaties

(a) The Universal Declaration of Human Rights

The Universal Declaration of Human Rights was adopted by the General Assembly of the United Nations on 10 December 1948. Motivated by the experiences of the preceding world wars, the Universal Declaration was the first time that countries agreed on a comprehensive statement of inalienable human rights.¹

The Universal Declaration of Human Rights begins by recognising that 'the inherent dignity of all members of the human family is the foundation of freedom, justice and peace in the world'.²

The Universal Declaration includes civil and political rights, for example the rights to life, liberty, free speech and privacy, and economic, social and cultural rights, for example the right to social security, health, education, and employment.

Article 23 of the Universal Declaration states that:

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

(b) Other international human rights instruments

A range of international instruments ratified by Australia recognise the right to meaningful and fairly remunerated employment, including:

- the *International Covenant on Economic, Social and Culture Rights* (ICESCR),
- *International Covenant on Civil and Political Rights* (ICCPR)
- *Convention on the Rights of the Child*
- *Convention on the Elimination of All Forms of Discrimination Against Women*
- *Convention on the Rights of Persons with Disabilities* (CRPD).

Certain conventions and recommendations of the International Labour Organization (ILO) are also relevant.⁴

(c) Convention on the Rights of Persons with Disabilities

The Convention on the Rights of Persons with Disabilities (CRPD) sets out the fundamental human rights of people with disability. Its purpose is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.⁵

The key Articles of the CRPD relating to employment of people with disability are:

- Article 5(3) requires that appropriate steps be taken to ensure reasonable accommodations are provided to people with disability.
- Article 9 requires the identification and elimination of barriers to accessibility, including the physical environment, information and communication technologies and systems and other facilities.
- Article 27 recognises the right of people with disability to work on an equal basis with others, and includes:
 - the right to the opportunity to gain a living by work freely chosen or accepted in a labour market.
 - the right to a work environment that is open, inclusive and accessible to people with disability.
 - the provision of reasonable accommodations in the workplace.⁶

2.2 Federal Human Rights Act

The Commission has long supported the introduction of a federal Human Rights Act as the best way to anchor the promotion and protection of human rights in Australia.⁷ In its Free & Equal project, the Commission proposes a model for an Australian Human Rights Act to ensure legal protections for the basic rights of all Australians and provide avenues for redress where people's rights are breached.

The Commission's model specifically includes the human right to work, and other work-related rights, including the right to the enjoyment of just and favourable conditions of work.⁸ The Commission proposes to have educative and awareness training functions under a federal Human Rights Act and within the context of a re-invigorated Human Rights Framework.

2.3 Functions of the Australian Human Rights Commission

The Australian Human Rights Commission (Commission) is established as an independent statutory body in the *Australian Human Rights Commission Act 1986* (Cth) (AHRC Act), and has a role and functions under each of the four federal discrimination laws.

Together, these five laws outline the functions, powers and structure of the Commission, many of which have direct application in employment⁹.

The AHRC Act gives effect to Australia's obligations under the following international human rights treaties:

- International Covenant on Civil and Political Rights (ICCPR)
- Convention Concerning Discrimination in Respect of Employment and Occupation (ILO 111)
- Convention on the Rights of Persons with Disabilities
- Convention on the Rights of the Child
- Declaration of the Rights of the Child
- Declaration on the Rights of Disabled Persons
- Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.¹⁰

(a) Complaints

The Commission has a role in handling complaints of alleged unlawful discrimination and human rights violations.¹¹ Complaints received under the *Disability Discrimination Act 1992 (Cth)* (Disability Discrimination Act) consistently constitute the highest number of complaints received by the Commission. In 2021-22, 52% of all complaints received by the Commission were lodged under the Disability Discrimination Act. Consistent with previous years, the main areas of public life raised by complaints were employment and the provision of goods, services and facilities. Goods and Services made up 69% of complaints, and Employment made up 22% of complaints under the Disability Discrimination Act.¹²

(b) Education

The Commission has a general role to promote an understanding and acceptance of, and compliance with, the AHRC Act and the Disability Discrimination Act.¹³ It also has functions to undertake research and educational programs, promoting understanding and acceptance of human rights principles, and other programs,¹⁴ for the purpose of promoting the objects of these laws. Some examples of how the Commission fulfills these functions is through publicly available Disability Awareness Training, and in leading projects such as the IncludeAbility Project.

(c) Inquiries

The Commission has the authority to conduct inquiries into issues related to human rights and discrimination.¹⁵¹⁶ As it relates to discrimination in employment, the Commission, under the joint leadership of the Age and Disability Discrimination Commissioners, led the *Willing to Work Inquiry* in 2016, a

national inquiry into employment discrimination against older Australians and Australians with disability.¹⁷ Not specific to disability, but of great importance to the employment context more broadly, the Sex Discrimination Commissioner led the Respect@Work Inquiry,¹⁸ which led to significant reform to the *Sex Discrimination Act 1984* (Cth) to prevent sexual harassment in the workplace.

(d) Functions under the Disability Discrimination Act

The Commission has several functions under the *Disability Discrimination Act 1992* (Cth), which are mostly undertaken under the leadership of the Disability Discrimination Commissioner.

Some functions of the Commission are specific to the Disability Discrimination Act. For instance, the Commission has a role to report to the Minister on matters relating to the development and operation of disability standards under the Disability Discrimination Act, including monitoring and reporting. While no standards currently exist in relation to employment, in *Free & Equal: Reform Agenda for Federal Discrimination Laws*, the Commission recommended that consideration should be given to the introduction of new Disability Standards including for employment.¹⁹

The Commission has a role to prepare, and to publish in such manner as the Commission considers appropriate, guidelines for the avoidance of discrimination on the ground of disability.²⁰ The Commission publishes various guidelines relating to employment, for example on the Targeted Recruitment of People with Disability, Disability Action Plans, and guides and factsheets on rights and responsibilities under the Disability Discrimination Act, found on the IncludeAbility Resource portal.²¹

The Disability Discrimination Act allows for the preparation of Disability Action Plans by organisations, employers, businesses and providers of goods and services.²² Disability Action Plans set strategies for identifying and addressing practices which could result in discrimination against people with disability, detailing how an organisation is making its workplace, products, and services accessible and inclusive to people with disability, and informing the public how it is approaching diversity and inclusion.²³ The Commission further has a role to receive and maintain a register of Disability Action Plans.²⁴ While the Disability Discrimination Act does not require that the Commission endorses Disability Action Plans, a Disability Action Plan that has been given to the Commission must be taken into account when determining 'unjustifiable hardship' in the context of a complaint.²⁵

The Commission provides guidance to organisations on the development and implementation of Disability Action Plans.

This occurs through:

- informal requests made for the advice of the Disability Discrimination Commissioner and team
- issuing of guidance, such as the Disability Action Plan Guideline
- support provided by the Commission to Employer Network Members context of the IncludeAbility Project
- in the specific context of the Australian Public Service (APS), as part of the Disability Discrimination Commissioner and Commission's roles in the *Australian Public Service Disability Employment Strategy 2020-2025*.

Many of the functions of the Commission in the Disability Discrimination Act may overlap with the proposed functions of the Centre, see section three below.

2.4 The Disability Royal Commission

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) was established in April 2019. The final report of the Royal Commission makes 222 recommendations to improve laws, policies, and practices for a more just and inclusive society, including the recommendation for a new Disability Rights Act.

Some of the major recommendations include ending segregation in society by phasing out group homes, segregated employment, and segregated education. The recommendations call for sweeping changes across all areas of society, from education and employment to the justice system and governance. Additional independent oversight mechanisms and pathways for complaints are also recommended to address violence and abuse across various settings.

(a) Disability Employment Services

The Disability Royal Commission highlighted that the Disability Employment Service (DES) model has faced challenges in achieving positive employment outcomes and addressing structural issues within the program.

Some of the observations and findings of the Disability Royal Commission that are relevant to the establishment of the Centre include:

- **Participant Experiences:** Structural issues within the DES program have led to negative experiences for participants. These include a lack of appropriate support, failure to provide person-centred services, inadequate response to complaints, and a lack of professionalism within the DES sector. At Public hearing 21, 'The experience of people with disability engaging with Disability Employment Services', looking at people's experiences with DES, 'Mzia' said, 'I raised my issues of things not only with the company but with outside places to report complaints. I've never heard anything from them. Nothing got resolved. I'm still getting pushed through a system where I'm not getting listened to.'²⁶
- **Structural Issues in Funding Arrangements:** The funding structure for DES providers includes Outcome Fees paid out by DSS to DES providers²⁷, which are tied to participants' employment milestones. The system encourages providers to prioritise individuals who are job-ready, potentially neglecting those with more complex issues. This can result in participants cycling through activities and providers without achieving long-term results.
- **Lack of Knowledge and Professionalism:** Many DES staff members lack essential knowledge and understanding to effectively support participants. They may not have specialised disability knowledge or qualifications, including cultural competence. Participants can be subjected to intersecting forms of discrimination and not feel adequately supported.
- **Inaccessible Information:** Information provided by DES providers, including rules, rights, and complaints mechanisms, can be inaccessible and challenging to understand for people with disabilities. This can leave participants unaware of their rights or how to address issues.
- **Response to Violence, Abuse, Neglect, and Exploitation:** The Disability Services Act establishes that participants can make complaints about incidents directly through their DES provider and the Complaints Resolution and Referral Service, managed by DSS. The Disability Royal Commission found that the process may not always be clear or effective, leading to unsatisfactory experiences for participants. A model where service providers self-regulate may not be sufficient to safeguard against violence, abuse, neglect, and exploitation. In a joint submission on the Disability Services and Inclusion Bill, disability peak bodies claimed 'it is insufficient (and undermines impartiality) to rely on personnel associate with or engaged by a service to identify and report a breach'.²⁸

- **Lack of Incentive for Quality Services:** The framework for assessing DES providers primarily focuses on efficiency and effectiveness, potentially overlooking quality. Participants do not have a clear understanding of the quality of service they can expect when choosing a provider. This lack of quality assessment undermines a participant's right to choose and control their services.²⁹

The Disability Royal Commission made several recommendations in relation to DES in Australia, including developing education and training resources for DES staff,³⁰ and priorities for inclusion in the new DES model; specifically adopting a customised employment model as a core component of service provision, ensuring flexible funding arrangements, and removing the eight-hour future work capacity requirement of participants to meet eligibility.

The Commission welcomes the Australian Government's development of a new DES model expected to improve the experiences of people with disability in the DES system by 2025, which should be a key focus of the Centre.

3 Recommended options for the Centre of Excellence

The Commission, and other agencies in Australia, already have legislated responsibility for many of the functions proposed for the Centre in the Options Paper. Given the well-established role of the Commission under the Disability Discrimination Act in relation to employment more broadly, a Centre that would focus on developing and delivering training for private-sector enterprises, and creating evidence-informed best-practice tools and resources, would be duplicative and unnecessary. Specifically, this relates to the topics listed on page 12 of the Options paper including: barriers faced in finding employment, disability discrimination in disability employment and customised employment.

Recommendation 1: The Australian Department of Social Services should undertake a functional and jurisdictional gap analysis as to avoid duplication in duties, functions, and powers with the Australian Human Rights Commission and other statutory agencies in Australia. The analysis should scope available resources so as to maximise efficiency and effectiveness in expenditure.

As outlined above, the Disability Royal Commission makes several findings and recommendations regarding DES, including what is needed to improve outcomes for participants. In light of these recommendations, noting the ongoing DES

Review and the challenges in reforming and improving DES, the Commission's view is that the Centre should have a specialist focus on DES to increase the capacity of employment service providers. This would fill an important gap in the disability policy and regulatory landscape.

The Centre could particularly play a key role in helping the Government to work with providers to lift the quality of employment services and deliver better outcomes that ensure the experiences and views of people with disability are central to how quality is measured.³¹

Specific recommendations from the Disability Royal Commission for enhancing the DES program's effectiveness and accessibility include more person-centred services, including using inclusive design, customised employment, flexible funding arrangements, extending eligibility, competent providers and staff, improving quality in DES.³²

The Disability Royal Commission provides the following at Recommendation 7.17:

The Australian Government Department of Social Services should develop a suite of accessible education and training resources for providers of Disability Employment Services to upskill their staff.

Resources should be co-designed by people with disability and involve consultation with advocates, employers, and Disability Employment Services providers.

Resources should address the gaps we have identified, including in:

- disability awareness
- cultural competence
- human rights
- customised employment
- employer engagement
- Disabilities Employment Services guidelines and procedures.³³

Recommendation 2: The Centre of Excellence should play a strong and specialised role in driving Disability Employment Service reform aligning with Recommendation 7.17 in Volume 4(b) of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. Functions should include: training, research, regulation, and capacity building,

Recommendation 3: The Australian Department of Social Services should integrate Human Rights principles and obligations into the design and operations of the Centre of Excellence.

3.1 Whom the Centre could assist

The Disability Royal Commission found that Labour force participation rates for people aged 15 to 64 are particularly low for people with psychosocial disability (34 per cent), intellectual disability (38 per cent), and head injury, stroke or acquired brain injury (32 per cent).³⁴ Labour force participation rates are also low for women with disability (51 per cent) and First Nations people with disability (45 per cent).³⁵

The Centre should assist DES providers, supported employment services, government agencies, disability advocates, and the disability sector more broadly including disability employment initiatives and projects, by building capacity, research, data consolidation and analysis, convening of a Community of Practice, and monitoring and regulation.

Recommendation 4: The Centre of Excellence should consider the intersectional experiences of people with disability, how this can impact employment outcomes and how service delivery can be improved to take into consideration the intersectional experiences of people with disability.

3.2 Models for consideration

As above, the Commission welcomes the models for consideration and proposes that the Centre play a strong role in DES reform. The Commission sees a role for the Centre in training, regulation, and capacity building of the Disability employment sector, supported by evidence and research functions.

A model that combines elements of a Research Centre and Evidence-Informed Training Hub would effectively balance research, dissemination, and capacity-building functions, and support the sector to access high quality, relevant and up-to-date information and provide best practice service delivery.

An evaluation of the Commission's IncludeAbility Project found that employers and intermediaries valued training and support provided by the Commission as a 'trusted expert'.³⁶ Participants reported that the training was highly useful in helping them to understand how they can address key structural barriers, such as inaccessible recruitment and onboarding practices and, in particular, to establish processes to ensure that all applicants and employees are supported to

have the workplace accommodations they need in order to be successful in the workplace.³⁷

3.3 Build evidence-based practice

The Commission emphasises the need for the Centre to prioritise research and evidence-based practices. The Centre should collaborate with universities, research bodies, and the disability sector, including people with lived experience, to publish high-quality research, commission new research, and translate findings into practical guides, building on existing guides and resources where possible. This approach will assist to strengthen disability employment strategies and ensure ongoing improvements in the sector.

The Commission welcomes the opportunity to contribute to this research and production of guides, noting that many resources on the IncludeAbility Resource Hub, and the Commission's website, could be added to, updated, or built on as part of this process.

3.4 Key quality control function

The Disability Royal Commission found that the current evaluation and safeguarding system for DES providers predominantly emphasises efficiency and effectiveness, potentially overlooking quality. This may compromise a participant's ability to make informed choices and exercise control over their services.³⁸

The Commission supports DES quality control and safeguarding functions of the Centre, aligning with the Workplace Gender Equality Agency model, as proposed in the Options Paper. This includes monitoring DES compliance obligations, reviewing interactions with other government programs, and undertaking program evaluations.

In 2018, the Australian Human Rights Commission published *A Future Without Violence: Quality, safeguarding and oversight to prevent and address violence against people with disability in institutional settings*. The report identified six essential elements of a quality and safeguarding model, one of which is to have independent oversight and monitoring.³⁹

The Commission supports the option for the Centre to be established as a statutory agency to conduct research, undertake regulatory functions of disability employment service delivery, report on outcomes and undertake evaluation. The Commission supports the position suggested in the Options Paper that as a statutory agency, the Centre could have a level of independence

from the responsible minister or the executive government and be able to enforce decisions as a regulator or decision-maker. If the Centre were to exercise this function, it is suggested that it is placed as part of a stand-alone agency, or within an existing agency separate to the Department of Social Services with a regulatory function aligning with recommendations made by the Disability Royal Commission in Volume 11.

3.5 Consolidate data

The Commission supports the idea of the Centre serving as a data consolidation point. The Centre could consolidate data from DES providers, recipients of DSS ILC Grants who are required to undertake mandatory DEX reporting requirements, and other agencies required to collect data. The Commission recognises the potential for data analysis to share learnings and evidence, establish and raise benchmarks, have a better understanding of the cohort and key issues, and avoid duplication.

Recommendation 5: The Centre of Excellence should have a convening role, bringing together data, policy, and practice to inform best practice service delivery.

3.6 Provide accessible information and resources

Ensuring that information is accessible, and in a variety of formats, for a range of access requirements (including language type) is essential to the effectiveness of the program.

Recommendation 6: The information published by the Centre of Excellence should be is accessible and provided in a variety of formats.

3.7 Enhance collaborative competition

The Commission acknowledges concerns about the competitive nature of the disability employment system. A collaborative approach should be promoted and facilitated by the Centre, fostering cooperation, information sharing, and the coordination of a Community of Practice. This will contribute to a more inclusive and effective disability employment landscape, and avoid duplication in practice and function.

The IncludeAbility Project Evaluation showed that the establishment of Communities of Practice, in the form of a safe space that partners could share ideas, challenges and experiences, was critical to the success of the Pilot. The space also meant they partners had the confidence to reach out to both the Commission and their intermediary to solve problems as they arose.⁴⁰

Recommendation 7: The Centre of Excellence should seek to foster and facilitate cooperation and knowledge sharing between disability employment service provider and the sector more broadly, for example, through the establishment of Communities of Practice.

3.8 Co-design and leadership

Article 4(3) of the Convention on the Rights of Persons with Disabilities states:

In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organisations.

Article 4(3) encodes the principle of ‘nothing about us without us’, emphasising that policies and decisions (and Project development) should not be made on behalf of persons with disabilities but should include their direct input and involvement.

It is essential that people with lived experience are not only consulted in the process of establishing the Centre, but, in line with the CRPD, they are involved in every aspect of the development, implementation and evaluation of the Centre.

Co-leadership and consultation with people with lived experience were also key threads of the recommendations made by the Disability Royal Commission.

The Commission recommends that the Centre be led specifically by people with lived experience of disability and employment.

Recommendation 8: The Centre of Excellence should be led by, co-facilitated, designed, and implemented by people with lived experience.

4 Learnings from the Commission’s IncludeAbility project

The Commission’s IncludeAbility project focused on supporting 17 of Australia’s largest public and private sector employers to enhance the employment prospects of individuals with diverse disabilities, addressing a critical human rights issue in Australia.

To achieve its aim of increasing meaningful employment opportunities for people with disability, IncludeAbility has four components:

1. Ambassador Advisory Group
2. Employer Network
3. Web portal and social media
4. Pilot employment programs

The findings from the evaluation of the IncludeAbility project offer valuable insights that can inform the Centre design and implementation.

The IncludeAbility project aligns with the broader objectives outlined in the Options Paper. Both initiatives share the common goal of improving employment outcomes for people with disability and increasing the capacity of employment service providers and employers.

(a) Employer engagement

The Evaluation of IncludeAbility provides evidence that supports the need for long term engagement with large employing organisations to bring about significant change.

Despite a range of activities and policies, IncludeAbility has surfaced some of the underlying barriers to employment of people with disability within large organisations. High level policies supporting inclusion are not sufficient alone to achieve increased employment of people with disability. The activities of the IncludeAbility project, and particularly the pilots, show that there is a need to work across multiple levels of the organisations to remove disincentives and barriers to employment and actively introduce necessary strategies and supports to both employing organisations and employees.⁴¹

(b) Disability Employment Services

IncludeAbility's evaluation also found that government-funded systems that support people with disability into employment were not utilised by most Employer Network members. Around half of members used a DES, with far fewer utilising the Employment Assistance Fund that provides expert advice and funding to support reasonable accommodations. Some interviewees felt that government employment services did not meet the needs of large employing organisations, partly due to the complexity of the system.⁴²

Several Employer Network members had had negative experiences with DES, particularly in relation to DES failing to provide the on the ground support that was promised. Other criticisms relate to DES providers failing to ensure a good

job match, and an over-emphasis on paying wage subsidies which don't necessarily help to onboard the person successfully.⁴³

4.2 IncludeAbility Pilot Employment Programs

The IncludeAbility Pilot Employment Programs created employment opportunities for people with disability. There were two pilots, each employing 15 individuals with disability at full award wages, for a 13-week period.

The success of the IncludeAbility Pilot Employment Programs emphasises the effectiveness of tailored approaches, and working with intermediaries (DES providers and other specialist disability employment providers).

The Options Paper can draw from this by considering tailored strategies that address different layers of employing organisations. This includes engaging CEOs, Senior Executives, State/Regional Management, and workplace-level supervisors, ensuring a holistic and impactful implementation model.

Access to talent pipelines was identified as a key barrier to employment for people with disability. IncludeAbility addressed this barrier by connecting large employing organisations to disability service providers (intermediaries). These organisations committed to deliver the supports the employing organisations identified were required to onboard significant numbers of people with disability, such as providing suitable candidates, being present onsite, having regular meetings to discuss progress, and taking a holistic view by supporting the employing organisation rather than just the person with disability.⁴⁴

Intermediaries were a critical piece of interconnecting supports, and an important innovation of the IncludeAbility project. Intermediaries needed to be values-driven with a commitment to people with disability being in community-based employment.⁴⁵

4.3 Recommendations informed by the IncludeAbility project

The findings from the evaluation of the IncludeAbility project can contribute to the design and implementation of the Centre. Key findings from the evaluation include the importance of:

1. **Tailored Approaches:** Adopting tailored approaches that engage all levels of organisations, as demonstrated in the IncludeAbility Pilot Employment implementation model.

2. **Learning Culture:** Fostering a culture of learning, as demonstrated through the involvement of Senior Executives in the Employer Network, training, and Pilot Employment Programs.
3. **Trusted Partnerships:** Leveraging intermediaries as trusted partners to address barriers, build disability knowledge, and develop strategies at the State/Regional Management and workplace levels.
4. **Conditions for Success:** Emphasising conditions for success for new employees with disability, including fair pay, workplace accommodations, and supportive managers.
5. **Talent Pipelines:** Recognising and addressing barriers related to talent pipelines, and leveraging intermediaries to connect large organisations with disability employment service providers.⁴⁶

5 Conclusion

The Commission thanks the DSS for the opportunity to contribute to the discussion on establishing a Disability Employment Centre of Excellence. The Commission emphasises the importance of a comprehensive, collaborative, and evidence-based approach to address the challenges faced by people with disability in gaining equitable employment opportunities.

The Commission supports the Centre of Excellence playing a pivotal role in Disability Employment Services reform by engaging in training, regulation, quality, and capacity building, aligning with the Disability Royal Commission's recommendations. Additionally, the Commission suggests that the Department of Social Services (DSS) conducts a gap analysis to prevent jurisdictional overlap with other statutory agencies, and the need to assess existing available resources and information to avoid duplication.

The leadership, facilitation, design, and implementation of the Centre should be led by individuals with lived experience, and the information should be accessible in various formats. The Commission also highlights the importance of considering intersectional experiences in addressing employment outcomes and enhancing service delivery for people with disability.

6 References

- ¹ Australian Human Rights Commission, 'What is the Universal Declaration of Human Rights?' (web Page) < <https://humanrights.gov.au/our-work/projects/what-universal-declaration-human-rights>>
- ² *Universal Declaration of Human Rights*, GA Res 217A (III), UN GAOR, UN Doc A/810 (10 December 1948) Preamble para 1.
- ³ *Universal Declaration of Human Rights*, GA Res 217A (III), UN GAOR, UN Doc A/810 (10 December 1948) Preamble art 23.
- ⁴ *ILO Centenary Declaration for the Future of Work*, adopted 21 June 2019, *ILO Declaration on Fundamental principles and Rights at Work*, adopted 1998 and amended 2022.
- ⁵ *United Nations Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 2515 UNTS 3 (entered into force 3 May 2008) ('CRPD') art 1.
- ⁶ *United Nations Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 2515 UNTS 3 (entered into force 3 May 2008)
- ⁷ Australian Human Rights Commission, *Free and Equal: A reform agenda for federal discrimination laws* (Position Paper, December 2021) < [Free and Equal: A reform agenda for federal discrimination laws \(2021\) | Australian Human Rights Commission](#)> ('Free and Equal Position Paper'), 8.
- ⁸ Australian Human Rights Commission, *Free and Equal: A reform agenda for federal discrimination laws* (Position Paper, December 2021) < [Free and Equal: A reform agenda for federal discrimination laws \(2021\) | Australian Human Rights Commission](#)> ('Free and Equal Position Paper'), 115.
- ⁹ *Australian Human Rights Commission Act 1986* (Cth) pt II div 2 sub-div 11
- ¹⁰ Australian Human Rights Commission (2023) *Legislation*. Retrieved from <https://humanrights.gov.au/our-work/legal/legislation> (Accessed 27 November 2023).
- ¹¹ *Australian Human Rights Commission Act 1986* (Cth) pt II div 2 sub-div 11 cl 1.aa and 1.ab.
- ¹² Australian Human Rights Commission, '2021-2022 Complaint Statistics,' (web page) < <https://humanrights.gov.au/our-work/commission-general/publications/annual-report-2021-2022>>
- ¹³ *Australian Human Rights Commission Act 1986* (Cth) Pt II div 3. Sub-div 11 cl 1.
- ¹⁴ *Ibid* cl 1.g and 1.h
- ¹⁵ *Ibid* cl 1.j
- ¹⁶ *Ibid* cl 1.f
- ¹⁷ Australian Human Rights Commission, *Willing to Work: National Inquiry into Employment Discrimination Against Older Australians and Australians with Disability* (National Inquiry Report 2016).
- ¹⁸ Australian Human Rights Commission, *Respect@Work: Sexual Harassment National Inquiry Report 2020* (National Inquiry Report, 2020).
- ¹⁹ Australian Human Rights Commission, *Free and Equal: A reform agenda for federal discrimination laws* (Position Paper, December 2021) < [Free and Equal: A reform agenda for federal](#)

[discrimination laws \(2021\) | Australian Human Rights Commission](#)> (*Free and Equal Position Paper*), 135.

²⁰ *Australian Human Rights Commission Act 1986* (Cth) Pt II div 3. (1.n).

²¹ <https://includeability.gov.au/>

²² *Disability Discrimination Act 1992* (Cth) pt 3 s 64 (1)

²³ Australian Human Rights Commission, *'Disability Action Plan Guide,'* (Guidelines, December 2021) 10.

²⁴ *Disability Discrimination Act 1992* (Cth) pt 3 s 64 (2)

²⁵ *Ibid* s 4 (11)

²⁶ *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Transcript, 'Mzia', Public hearing 21, 23 February 2022) 58.

²⁷ Australian Government *'Disability Employment Services Outcome Guidelines' (Guidelines 2022) s 1.9, 4.*

²⁸ Disability Representative Organisations, *'Disability Services and Inclusion Bill 2023: A joint submission from Disability Representative Organisations' Submission to Disability Services and Inclusion Bill August 2023.*

²⁹ *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) Volume 7 pt B, *Inclusive Education, Employment and Housing*, throughout the report.

³⁰ *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) Volume 7 pt B, *Inclusive Education, Employment and Housing* (Recommendation 7.17 Volume 4).

³¹ Australian Government *'Establishing a Disability Employment Centre of Excellence Options Paper,'* (Options Paper, October 2023), 5.

³² *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 7 pt B, *Inclusive Education, Employment and Housing*, 499 and throughout the report (recommendation 7.16).

³³ *Ibid*. Recommendation 7.17 Develop education and training resources for Disability Employment Services staff.

³⁴ Australian Institute of Health and Welfare, *'People with disability in Australia 2022' Catalogue Number Dis 72, 5 July 2022, Employment supplementary data tables, Table EMPL5.*

³⁵ Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Disability and the Labour Force, 2018*, Catalogue number 4430do010, 24 July 2019, Table 8.1; Australian Bureau of Statistics, *Survey of Disability, Ageing and Carers: Aboriginal and Torres Strait Islander People with Disability*, 11 June 2021, Catalogue 4430DO090, Table 5.1.

³⁶ Jenny Crosbie and Erin Wilson, *'Evaluation of the Australian Human Rights Commission 'IncludeAbility' project 2020-2023 Key Findings'* (Centre for Social Impact, Hawthorn, 2023) 39.

³⁷ *Ibid* 24.

³⁸ *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 7 pt B, *Inclusive Education, Employment and Housing*, throughout the report.

³⁹ Australian Human Rights Commission, *A Future Without Violence* (Report, June 2018) 38.

⁴⁰ Crosbie, J. & Wilson, E. (2023). *Evaluation of the Australian Human Rights Commission 'IncludeAbility' project 2020-2023. Key Findings.* Centre for Social Impact, Hawthorn, 36.

⁴¹ Jenny Crosbie and Erin Wilson, *'Evaluation of the Australian Human Rights Commission 'IncludeAbility' project 2020-2023 Key Findings'* (Centre for Social Impact, Hawthorn, 2023) 64.

⁴² Ibid 17-18.

⁴³ Ibid 22.

⁴⁴ Jenny Crosbie and Erin Wilson, *'Evaluation of the Australian Human Rights Commission 'IncludeAbility' project 2020-2023 Key Findings'* (Centre for Social Impact, Hawthorn, 2023) 32.

⁴⁵ Ibid 42.

⁴⁶ Ibid.