

Submission

Workplace Relation Section

To: Human Rights and Equal Opportunity Commission

Inquiry into Equal Employment Opportunity and Participation for People with Disability.

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Queries regarding this submission should be directed to:

*Elizabeth Hayes
[03]9607 9389
ehayes@liv.asn.au*

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The Human Rights and Equal Opportunity Commission (HREOC) is conducting an inquiry into equal employment opportunity and participation for people with disabilities. The purpose of the inquiry is to:

- Identify existing systemic barriers to equal employment opportunity for people with disabilities;
- Examine data on employment outcomes for people with disabilities including workforce participation, unemployment and income levels; and
- Examine policies, practices, services and special measures implemented to advance equal employment opportunities for people with disabilities.

The Law Institute of Victoria (LIV) through its Discrimination Committee and Disability Law Committee is pleased to be able to provide comment on the four issues papers released by HREOC as part of this Inquiry.

There is still a significant amount of discrimination occurring in communities across Australia. Disability discrimination in employment is just one aspect of this problem, and unfortunately the current legislative model for anti-discrimination legislation, a complaints-based system, does little to provide solutions. Complaints-based systems depend upon the victim of discrimination to take action against the perpetrator of the offending behaviour. At best, one can expect a slow community attitudinal change towards discriminatory behaviour but only to a certain degree. It will not produce widespread changes addressing systemic discrimination.

Eradicating discrimination will not occur through the introduction of further legislation prohibiting discriminatory actions. Addressing discrimination in employment in our society will require creative business initiatives, easier access to relevant information, significantly more funding into support services and education programs for our communities – and that is just the beginning.

Summary of LIV recommendations

Issues Paper 1: Employment and Disability: the Statistics

The statistics drawn from the Australian Bureau of Statistics (ABS) and presented in the first issues paper include information about:

- the numbers of people with disabilities in Australia;
- participation in the workforce of people with disabilities;
- unemployment rates for people with disabilities;
- earnings of people with disabilities;
- types of work undertaken by people with disabilities;
- a comparison of Australia with the rest of the world; and
- employment of people with disabilities in the public sector.

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It may be useful to collect data about the number of people with disabilities who are actively seeking or wishing to find work. This would fill in some of the gaps in relation to the employment figures and would give an indication as to how many people are actually finding the barriers to finding work too great to overcome. Perhaps information could be obtained through a Centrelink survey to give some indication as to the numbers of job seekers with disabilities.

It would also be useful to break down the statistics in terms of the types of disabilities. LIV notes that the ABS uses a definition of "disability" which includes anyone who has experienced a "limitation, restriction or impairment, which has lasted, or is likely to last, for at least six months and restricts everyday activities". It would be helpful to know whether the statistics regarding workforce participation, earnings etc differ when the types of disabilities differ e.g. physical, intellectual or psychological.

Further, the ABS definition of disability is very broad. This would include people who have relatively short term injuries. The LIV queries whether a narrower definition needs to be applied in order to provide helpful information to an inquiry such as this.

Issues Paper 2: Issues Facing People with Disabilities

This issues paper reviews the problems that impact on people with disabilities seeking employment. One problem is the lack of a central advisory service that provides information and support to people with disabilities. This type of "one stop shop" would be an invaluable service as it would give people a place to start the process of looking for work, and continue to assist them with their employment needs. The support and advice required does not stop once a position is obtained. Information about government initiatives and funding, further training and legal rights and responsibilities is vital to ensure the success of finding and retaining employment.

Financial issues such as the costs associated with transport are a serious barrier to employment. The use of taxis by people with disabilities in the Multi Purpose Taxi Program was recently limited by the Victorian Government to a \$550.00 per annum cap. This effectively prevents the taxis from being used to get to and from a job. In the case of many people with disabilities, the use of public transport is not an alternative. Without a family member or other support person to drive them to work, this is a significant barrier.

Other problems can involve the requirement to have a flexible working environment. Some employees with disabilities may require significant time off work to have treatment, and this may occur several times a year. Unless management is flexible and understanding of the needs of the particular employee, this may prevent someone in this situation from seeking employment in the first place. If the person is fortunate enough to find employment, it may prevent them from continuing on in that position.

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Issues Paper 3 – Issues for Employers

Employers are concerned about many things when it comes to considering a person with a disability for a position in their company. Much will depend on the nature of the disability, however key issues are whether it would cost a great deal to adapt workplace facilities for the new employee, whether there are OHS ramifications, insurance issues, productivity concerns and potential legal claims (e.g. unfair dismissal or discrimination claims) if employment is terminated.

It would be of assistance to employers if there were recognised affordable 'experts' who could assist in setting up facilities in workplaces that would enable people with disabilities to be employed. LIV members have reported that one of the chief problems in even considering someone with a disability for employment is the expense of getting advice on how or whether the workplace needs to be adapted. A related issue is the actual expense of adapting a workplace so that it meets the needs of a prospective employee. One suggestion is that the Government could offer tax deductions to assist in offsetting the costs.

A "one stop shop" for employers would also be of great benefit. Information about incentives, access to specialist HR professionals, and the abovementioned experts would be well utilised in such an arrangement. The "one stop shop" would be most successful if it combined the resources and needs of both employers and potential employees.

Issues Paper 4 – Commonwealth Government Assistance

General community awareness needs to be raised about the government incentive programs that are available. The "one stop shop" discussed above is one way to do this. Also the information needs to be presented in a simple format so that employers are able to determine easily what is available.