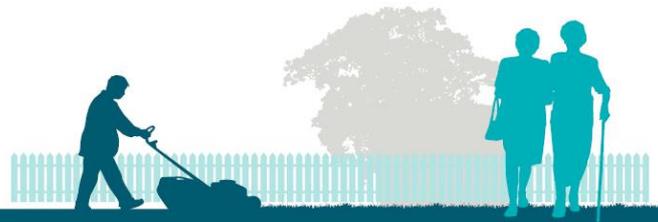




Australian Government
Department of Social Services

Submission by the Department of Social Services-

Australian Human Rights Commission's
*Willing to Work: National Inquiry into Employment
Discrimination against Older Australians and Australians
with Disability*





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Contents

1.	Introduction.....	4
2.	The Department’s Responsibilities	5
3.	Submission Scope	5
4.	Legislative Framework.....	6
5.	Payments Policy and Social Security.....	8
	Disability Support Pension	8
	Working Age Payments for Income Support Recipients with a Partial Capacity to Work.....	9
	Older Australians	10
	Legislative review	11
6.	The National Disability Insurance Scheme	11
7.	Employment assistance and related services	14
	Australian Disability Enterprises	14
	Personal Helpers and Mentors	16
	Disability Employment Services.....	17
	DES based Employer Assistance	20
	The future of disability employment services.....	23
8.	Departmental Policies.....	27
9.	Conclusion	29

1. Introduction

The Australian Government is committed to improving the lifetime wellbeing of Australians with disability and older Australians. For people of working age, employment is important for an individual's economic security, and social and community participation. Employment can provide financial independence, a better standard of living, and improved physical and mental health. The Department of Social Services (the Department) welcomes the opportunity to respond to the Australian Human Rights Commission's (AHRC) *Willing to Work: National Inquiry into Employment Discrimination against Older Australians and Australians with Disability* (the Inquiry).

One of the Department's key priorities is to improve employment participation by people with disability, including older Australians with disability or illness, by reducing barriers, creating employment opportunities and building community support. Many people with disability are able to work full-time without government support, while others will receive some form of income support, or assistance in the workplace, for the rest of their working lives. Although the Department does not have primary responsibility for reducing workplace discrimination, many of the programmes and employment services it administers promote equal employment opportunity and seek to break down employment barriers by providing financial support; building the skills and capacity of job seekers; and improving perceptions of people with disability as participants in the labour force.

In a 2011 study, Deloitte Access Economics found that closing the gap between labour market participation rates and unemployment rates for people with and without disability by one-third would result in a cumulative \$43 billion increase in Australia's Gross Domestic Product (GDP) over the next decade in real dollar terms. The modelling also suggests that GDP will be around 0.85 per cent higher over the longer term, equivalent to an increase in GDP in 2011 of \$12 billion. These estimates only account for the direct impact on GDP, and do not include indirect effects from improved government fiscal balances and increased employment opportunities for carers.

While the Department's programmes and services are achieving employment outcomes for some participants, many people with disability and older Australians are still experiencing barriers to workforce participation. Despite the significant investment in employment support programmes and changes to income support requirements, employment outcomes for people with disability have been modest. According to the Survey of Disability, Ageing and Carers (SDAC), in 2012 there were 2.2 million Australians with disability of working age. Of this group, only 52.9 per cent were in the workforce or actively seeking work. This rate compared to a workforce participation rate of 82.5 per cent for people without disability in 2012. This means

that over a million Australians of working age with disability were outside the workforce.

In 2010, the Organisation for Economic Cooperation and Development (OECD) reported that Australia was ranked 21 out of 29 countries in terms of employment participation for people with disability. While jobs growth in Australia has slowed due to a weaker economic outlook in recent times, employment participation for people with disability decreased at a greater rate than for their peers without disability.

2. The Department's Responsibilities

The Department is responsible for the development of several key initiatives introduced by the Government which are designed to improve support and services for people with disability. The introduction of the National Disability Insurance Scheme (NDIS) is an important reform designed to provide the necessary care and support needed to remove barriers to economic and social participation for people with disability. The NDIS will be rolled out nationally from 2016, and will work closely with employment services at the local level to plan and coordinate streamlined services for people requiring both employment services and disability services.

In conjunction with the NDIS, the Department manages both open and supported employment programmes specifically for people with disability, including Disability Employment Services (DES) and Australian Disability Enterprises (ADEs). Most recently, a Disability Employment Taskforce has been established in the Department to review the current disability employment support system and develop a new National Disability Employment Framework. Following initial consultations, the Taskforce has released a discussion paper that proposes reforms to address Australia's modest performance in achieving employment outcomes for people with disability including a new individualised, market based system of support for job seekers with disability which will invest in them to deliver skilled and job ready candidates to employers.

This submission focuses on programmes and payments administered by the Department, noting that the Department of Employment also administers employment support programmes for people with disability and older Australians, as well as workplace relations legislation. The Department acknowledges the importance of this Inquiry, and will monitor the findings and recommendations of the Inquiry to help guide future policy and programme design.

3. Submission Scope

This submission focuses primarily on explaining how the Department's programmes and services help to reduce barriers, and promote equal opportunities to improve the employment participation of people with disability. Where possible, the submission also highlights support specific to older Australians with disability. Opportunities to

improve these programmes and services to better support Australians with disability and older Australians will also be identified.

This submission provides information on:

- the legislative framework of the Department's programmes and services;
- payments policy and social security;
- NDIS;
- programmes that support disability employment, such as DES and ADEs; and
- the Department's internal recruitment and anti-discrimination policies.

This submission also includes several case studies to illustrate how the Department's programmes and services help to reduce discrimination.

The Department will not elaborate on the *Disability Discrimination Act 1992*. The Department acknowledges that this legislation is adhered to in administering its programmes and services, and notes that the Attorney-General's Department is primarily responsible for this legislation.

This submission also includes key figures on the Department's experience in recruiting people with disability and older Australians, including departmental policies for creating an accessible work environment. The Department notes the Australian Public Service Commission is responsible for developing, promoting, reviewing and evaluating Australian Public Service employment policies and practices, and is making a submission to the Inquiry, detailing strategies for improving public sector recruitment of people with disability and older Australians.

4. Legislative Framework

The Australian Government is committed to encouraging and supporting the equal and active participation of people with disability in economic and social life. In addition to the *Disability Discrimination Act 1992*, and Australia's ratification of the United Nations Convention on the Rights of Persons with Disabilities in 2008, there are a number of pieces of legislation and policies that underpin the delivery of the Department's programmes.

The National Disability Strategy 2010-2020 provides a 10-year national policy framework for all levels of government to improve the lives of people with disability. The Strategy seeks to drive a more inclusive approach to the design of policies, programmes and infrastructure so that people with disability can participate in all areas of Australian life. Improving access to buildings, transport, social events, education, health care services and employment provides the opportunity for people with disability to fulfil their potential as equal citizens.

The Strategy is an important mechanism to ensure that the principles underpinning the United Nations Convention on the Rights of Persons with Disabilities are incorporated into policies and programmes affecting people with disability, their families and carers. One of the central outcomes of the Strategy is to ensure that

people with disability, their families and carers have economic security, enabling them to plan for the future and exercise choice and control over their lives.

The Strategy commits to a range of areas for future action designed to achieve this outcome. These action areas focus on:

- reducing barriers and disincentives to the employment of people with disability. For example, prospective employers have been encouraged by each level of government to focus on ability, rather than disability, when recruiting staff, through educating employers about the contribution people with disability can make, with or without reasonable adjustments.
- In May 2012, the Australian Public Service Commission launched the As One — Australian Public Service (APS) Disability Employment Strategy to improve the recruitment and retention rates of people with disability in the Australian Public Service between 2012 and 2014; and in 2013, the APS piloted the RecruitAbility scheme to promote the participation of people with disability in the public service by progressing candidates with disability to further stages of assessment — usually an interview — where they meet the minimum requirements of the job.
- Encouraging innovative approaches to the employment of people with disability. For example, the Wage Connect initiative has proved successful, resulting in more than 13,700 people with disability being placed in jobs, as has the Social Enterprise Development and Investment Fund (SEDIF) — an initiative designed to help support social enterprises to develop, grow and sustain their work and impact by providing an avenue of tailored finance.

The *Social Security Act 1991* outlines the qualification criteria for a range of income support payments which are designed to meet the needs of different cohorts in the community, including people with disability. Income support payments, including payments for people with disability or partial capacity to work, are delivered by the Australian Department of Human Services (DHS), with eligibility determined in accordance with the *Social Security Act 1991*. There are internal and external appeal mechanisms in place to enable reviews of disputed decisions and to ensure that decisions are made in accordance with the law.

The *Disability Services Act 1986* sets out the arrangements under which the Commonwealth may deliver various services for people with disability including employment and rehabilitation services, such as those offered through DES. Organisations delivering services under the *Disability Services Act 1986*, must maintain certification against the *National Standards for Disability Services* (the Standards) to receive funding from the Australian Government. There are six Standards and 40 associated indicators of practice that describe what providers need to do in order to meet each standard. To achieve certification, service providers need to comply with, and demonstrate continuous improvement against, the standards. The standards focus on rights and outcomes for people with disability and

help to promote and drive a nationally consistent approach to improving the quality of services.

The *National Disability Insurance Scheme Act 2013* creates the framework for the delivery of the NDIS. It includes eligibility criteria, age requirements and what constitutes reasonable and necessary support. The Act provides assurance that people with disability will be able to receive supports based on their needs, and that they will have choice and control over that support.

Further analysis of legislation related to the delivery of the Department's programmes and services is outlined under relevant sections in this submission.

5. Payments Policy and Social Security

Australia's social security system provides a safety net for people who cannot fully support themselves. In Australia, people with a disability generally receive the Disability Support Pension (DSP), Newstart Allowance, or Youth Allowance (other), subject to meeting eligibility requirements.

Disability Support Pension

In recent years, measures have been introduced that encourage DSP recipients to participate in work, or work-related activities, where possible.

From 1 July 2012, certain DSP recipients under the age of 35 with an assessed work capacity of at least eight hours or more a week are subject to participation requirements as part of qualification for DSP. DSP recipients in this group were required to attend participation interviews with DHS and develop an individualised participation plan aimed at building their capacity.

From 1 July 2014, DSP recipients under age 35 with a work capacity of over eight hours a week are required to have at least one compulsory work-focused activity included in their participation plan which they must undertake to remain qualified for DSP. The compulsory activities vary depending on the individual's circumstances and can include connection with an employment service provider, an education or training activity, work experience, or a rehabilitation or treatment activity, or reconnection to work activity for people with a psychological/psychiatric condition.

DSP recipients, subject to participation requirements, must attend participation interviews, sign a participation plan, which includes a compulsory work-focused activity, and must undertake that activity. Recipients must attend quarterly interviews with DHS for the first 18 months and then six monthly interviews thereafter, until they no longer meet the criteria.

When a DSP recipient is found to be non-compliant, DHS reviews their case and takes into account any vulnerability indicators and investigates for special circumstances before compliance action is taken. If compliance action proceeds, the DSP recipient is notified of the timeframe they have to reconnect before action is

taken. If the DSP recipient does not comply with their compulsory participation requirements, they have their DSP suspended on the first and second occasion, within 12 months, until they do comply. DSP recipients who do not comply for a third time within 12 months have their DSP cancelled. They then have to reapply for DSP.

DSP recipients subject to participation requirements are exempt from these requirements if they:

- are age 35 and over; or
- are manifestly eligible for DSP; or
- have a work capacity of 0-7 hours a week; or
- have a dependent child under age six; or
- work in an ADE or Supported Wage system.

Temporary exemptions may apply; for example, for DSP recipients with a temporary reduced capacity to work or those experiencing special circumstances beyond their control.

Since 1 July 2012, DSP recipients may work up to 30 hours a week and still continue to receive a part-pension, subject to income and assets testing. Previously, DSP recipients granted on or after 11 May 2005 were only able to work up to 15 hours a week, before they lost their pension. This policy change recognises that people can find it difficult to find work that is limited to 15 hours a week, and many DSP recipients want to try and work more hours. This important change gives people with disability the security they need to test their ability to work more hours, without worrying about losing qualification for DSP.

Working Age Payments for Income Support Recipients with a Partial Capacity to Work

A person has a partial capacity to work if they have a physical, intellectual, or psychiatric impairment which prevents them from working at least 30 hours per week, independently of a programme of support, within the next two years. People who have a partial capacity to work due to a disability may receive Newstart Allowance or Youth Allowance (other). These payments provide means-tested support for working age Australians while they are looking for, or undertaking activities to prepare for, paid work.

Recipients who have a partial capacity to work are only required to look for work or undertake activities for 15 hours per week, or through quarterly interviews, depending on their assessed work capacity. Where a recipient with a partial capacity to work is employed for 15 hours per week, they meet their participation requirements and are not required to increase work hours to receive payments.

This contrasts with recipients of Newstart or Youth Allowance (other) who are not assessed as having only a partial capacity to work, who are generally required to look for work and increase their hours of work until they no longer receive payment.

Newstart Allowance and Youth Allowance (other), including for people with partial capacity to work, are subject to income and assets tests to ensure that payments are targeted to those most in need. Payment settings, including payment rates and means testing, are designed to provide the right balance of financial support and incentives for recipients to find and maintain employment according to their capacity. Under social security law, certain types of income and assets are exempt from means testing, including amounts paid under the NDIS, amounts paid in respect of medical treatment, for a person with disability.

Older Australians

Mature Age Newstart Allowance recipients (60 years and above) are paid at a higher rate than other recipients. The higher rate was originally introduced in recognition that older unemployed people face greater challenges in finding work than their younger counterparts and may experience longer periods on unemployment benefits.

The number of income support recipients over 50 years of age that take longer than two years to exit from income support payments increased from 36 per cent in 1999 to 52 per cent in 2013. It is still the case that around one in three in this age group is not employed. The growth in the number of mature age women flowing on to Newstart Allowance over the past 15 years has been driven by the phased increases to the age of qualification for the Age Pension, the closure of entry to non-activity tested partner payments and reforms to payments for single and partnered parents.

The Age Pension programme encourages age pensioners to participate in the workforce by allowing them to earn extra income from employment without affecting their pension. Under the Work Bonus, pensioners can earn up to \$250 a fortnight without it being assessed as income under the income test. For pensioners who are partnered, the Work Bonus is applied to the individual earnings of each member of a couple that meets the eligibility criteria. Pensioners are also able to build up any unused amount of the \$250 fortnightly exemption to a total of \$6,500.

This amount can be used to exempt future earnings from the pension income test, so a pensioner could earn up to \$6,500 a year extra without it affecting their pension. Any unused amount of the Work Bonus is held in a Work Bonus income bank. The income bank amount is not time-limited – if unused it carries forward, even across years.

The Work Bonus operates in addition to the income test free area (currently \$162 a fortnight for a single age pensioner), allowing a single age pensioner of Age Pension age, with no other income, to earn up to \$412 a fortnight from employment and still receive the maximum rate of Age Pension.

The Department of Employment also has initiatives directed at mature age job seekers. For example, it provides incentives through wage subsidies for businesses to hire mature age workers and there is greater flexibility in the mutual obligation, or

participation requirement arrangements, for people aged 50 and over in receipt of unemployment benefits.

Legislative review

Current or proposed legislation relating to social security law may be subject to review by Parliamentary committees. This process provides an opportunity for organisations and individuals to participate in policy making and to have their views placed on the public record and considered as part of the decision-making process.

In addition, community consultation, including with recipients and advocacy groups, may be undertaken to inform the development of new policy or legislation. For example, public consultation with stakeholder organisations and individuals was undertaken as part of the recent review of Australia's welfare system by an independent reference group. Consultation with income support recipients targeted specific cohorts, including people with disability.

6. The National Disability Insurance Scheme

The NDIS supports people with permanent and significant disability that affects their ability to take part in everyday activities. The NDIS works with people with disability to identify the supports they need to achieve goals in all aspects of their life. This may include independence, involvement in their community, education, employment, and health and wellbeing.

The NDIS commenced trials in 2013, and will be rolled-out nationally from 2016. Each trial site has different participants phasing into the scheme, which provides opportunities to learn some crucial lessons for roll out across the country. When fully implemented, the NDIS will provide supports including aids, equipment, personal attendant care and early intervention to around 460,000 Australians with significant non-age related disability.

The Prime Minister signed bilateral agreements with the Premiers of New South Wales and Victoria on 16 September 2015. Together, the signed agreements provide certainty for more than half of the 460,000 Australians with disability expected to be eligible for the NDIS. The Commonwealth and Queensland announced an early transition site on 25 September 2015. Transition to the full scheme has already commenced in the Australian Capital Territory. The Commonwealth is committed to finalising arrangements with other jurisdictions as soon as possible, where proposals are viable and affordable, and in line with agreed timeframes and funding shares. In Western Australia (WA), a comparative trial of the NDIA and My Way models will inform future directions for disability reform in WA.

The NDIS provides funding for long-term, individualised care and support that is reasonable and necessary to meet the needs of people with permanent disability, where a person's disability significantly affects their communication, mobility, self-care or self-management. The NDIS is moving disability support from grant and

block funding of service providers, towards a system that provides needs-based, individualised funding to support the choice of the consumer.

The NDIS is designed to provide necessary care and support, and to remove barriers to economic and social participation for people with disability. The Productivity Commission report on Disability Care and Support assessed that addressing the relatively lower levels of community participation and inclusion of people with disability will have important benefits.

Many NDIS participants will be engaged in employment or may be seeking employment. Employment services and programmes, including both disability-targeted and open employment services, will continue to be responsible for providing advice and support to assist them to find employment. Employers will continue to provide work-specific support to people with disability related to recruitment processes, work arrangements and the working environment in line with the *Disability Discrimination Act 1992*, including workplace modifications, work-specific aids and equipment, and transport within work activities.

The *National Disability Insurance Scheme Act 2013* includes a guiding principle that reasonable and necessary supports delivered under the NDIS should develop and support the capacity of people with disability to undertake activities that enable them to participate in the wider community and in employment. As established under the NDIS Act, an independent review of the operation of the Act commenced in July 2015 and is on schedule to be finalised by December 2015.

The NDIS will be responsible for supports related to daily living that a person would require irrespective of the activity they are undertaking (including personal care and support and any specialised transport to and from work) consistent with the NDIS individualised approach to funding. The NDIS will also be responsible for reasonable and necessary supports additional to those required by reasonable adjustment, that assist people with disability to take part in work where the person's impairment has an impact on their functional capacity and/or productivity and the person is unlikely to be able to find or retain work in the open market, including with the assistance of employment services.

In addition, the NDIS will be responsible for funding individualised assistance to support a person with disability to take part in work where the person's impairment has an impact on their functional capacity and/or productivity and where these supports are additional to the needs of all Australians and additional to what is required by reasonable adjustment, such as training on dress, workplace relationships, communication skills, punctuality and attendance, and travelling to and from work.

The NDIS and the employment system will work closely together at the local level to plan and coordinate streamlined services for individuals requiring both employment services and disability services, recognising that both inputs may be required at the

same time or through a smooth transition from one to the other, or across service systems.

The following scenarios depict how the NDS and other services can work together to support people with disability to reach their full potential.

Mario's story - How the NDIS can provide work-related information and referral

Mario wants information and advice about managing his arthritis. He is having increasing difficulty with fine motor tasks both at home and at work. Mario suspects he may be at risk of losing his job because he is sometimes unable to complete his usual tasks on time, and his boss appears to be getting frustrated with him.

The NDIS can refer Mario to a local arthritis support group and to the independent living centre. We also can contact JobAccess for details of a nearby Disability Employment Service that can provide Mario with 'job in jeopardy' assistance to help him keep his job.

With Mario's permission, the Disability Employment Service contacts Mario's employer to provide information on arthritis. The service also works with Mario's employer to redesign some of his tasks and arranges workplace modifications through JobAccess to enable him to perform other tasks.

Margaret's story – getting help to get into a career

Margaret, 58, of Newcastle, with long-standing spinal multiple sclerosis, has been assessed as medically unfit for employment. She has recently had an arm operation and gave up the business course she had been studying as a result. She felt that the repetitive nature of typing, in particular, would prevent her from obtaining even part-time work.

She therefore, needed to reassess her career direction and employment opportunities.

In developing her NDIS plan, Margaret nominated the following goals: gain part-time employment, increase social participation in a creative way, improve skills, and maintain independent living.

The supports provided by the NDIS to address independence included one hour per week of domestic assistance. After initial discussions of Margaret's interests, it was agreed that her NDIS plan would help her to pursue her creative side. After several options were ruled out she settled on floristry. She used to enjoy hours in the garden which she is now unable to do. She is familiar with botanical names of many plants, and most importantly, floristry dovetailed into her employment goals.

An appropriate course was found which was held one day a week. Despite this being a long day (9am-5:30pm), she decided it was both reasonable and economical to study this way.

Extra supports available at the education institution were explained to her. These included tutorial support and exam modifications. These will assist her at times of absences, fatigue or lapses in concentration

Her overall Local Area Coordinator (LAC) assistance developed into a three-tiered approach:

- enrolment in appropriate floristry training;
- volunteer or work experience to support this training; and
- aiming for part-time work or a part-time business in floristry.

Margaret would like to set up her own part-time work or business, assisting floristry outlets at peak times of the year. Margaret may also qualify for the New Enterprise Incentive Scheme (NEIS), where she would have mentoring and financial support for the initial year of her business.

7. Employment assistance and related services

The Department is responsible for several employment programmes designed to support people with disability reach their full employment potential.

Australian Disability Enterprises

The Australian Government spends more than \$210 million a year on ADEs. In 2014-15, 186 ADEs received funding to provide supported employment to over 20,500 people with disability in 295 outlets across Australia. Of these, 168 ADE outlets or 57 per cent are in regional and remote parts of Australia, employing around 6,000 people with disability. ADEs contribute significantly to the local economy and are an active part of the community.

The Australian Government policy regarding supported employment in ADEs is intended to support the economic and social participation of people with disability in their communities. ADEs help build an inclusive Australia by enabling people with disability to participate in paid employment.

ADEs generally employ people with moderate to severe disability who face barriers to working in the open labour market. Supported employees in ADEs are predominantly males, with 65 per cent male and 35 per cent female. This is not unexpected given that males are more likely than females to have genetic disorders. ADE workers are able to work for at least eight hours per week in a supported environment. There is no maximum age imposed on ADE workers, and administrative data for 2014-2015 shows that 455 people (2 per cent) are aged 66 years and older and working in ADEs.

People with disability working in ADEs, often called supported employees, receive employment support based on their individual assessed need. ADEs enable people with disability to engage in a wide variety of work tasks, for example, garden maintenance, cleaning services and food services. ADEs sell their products and services to a wide customer base, including business and government. As employers of people with disability, ADEs must be responsive to legislation applicable to other employers, such as the Fair Work Act or any state legislation associated with work health and safety.

The current funding is capped with many ADEs operating at their cap. The extent of any resulting unmet need is not known as waiting lists are not generally kept. The NDIS will effectively uncapped supported employment so any need for supported employment not currently met due to funding caps should be eliminated.

ADEs can access Work Based Personal Assistance funding for supported employees that need help due to their physical or neurological disability or medical condition and require regular assistance at work from specially trained personnel. This help can be, for example, for feeding by mouth or tube or for personal hygiene, such as care of a catheter.

Virtually all supported employees receive a main income support payment through Centrelink. Around half of all supported employees receive the maximum rate of payment, while the other half receive a reduced rate of payment because of other income that they are receiving, such as wages.

Having evolved from sheltered workshops established in the 1950s, ADEs have a legislative basis and broad role defined in the *Disability Services Act 1986*. In 1996, the Australian Government announced further reforms to improve service quality; to match service funding to the support needs of people with disability receiving assistance; and to link funding to employment outcomes.

Since that time, further reforms have been introduced to the ADE sector. The mainstays of the reforms are the introduction of legislated quality assurance standards that must be independently assessed as met as a pre-condition of continuing funding from the Australian Government; and a funding model that links payments to individual support needs.

For older supported employees, some additional aged related disability may manifest at an earlier age than for the general population. For example, people with Downs Syndrome are more likely to suffer dementia at an earlier age. This creates some challenges for the cohort.

Over the past few years, the Department has offered case management to older supported employees to help them navigate into mainstream retirement options where that is desirable for the individual.

The following case study outlines how an ADE can provide supported employment opportunities for eligible people with disability.

A case study—BlueLine Laundry, Tasmania

BlueLine Laundry has championed itself as an integrated and inclusive workplace. Established in 1893, the Laundry provided employment for disadvantaged women and girls. It has evolved to become a fully commercial and competitive laundry, investing in state of the art computer and laundry equipment to streamline production and to ensure the highest quality of service to their customers, whilst continuing to offer employment, training and personal development to employees with and without disability.

The Laundry employs 75 people, and 43 identify as having a disability. The average weekly hours worked and wages for supported employees at the laundry are above the national average for Australian Disability Enterprises.

Employees with and without disability work alongside each other in all areas of the laundry.

The Laundry has a rotational policy so all employees and co-workers have the ability to learn new tasks. This delivers increased competency leading to improved wages and improved career paths for employees.

One section of the Laundry (packaging sterile bandages) is completely controlled by supported employees.

All Laundry employees are encouraged to accompany the delivery/pickup drivers to get a better understanding of the whole business and to build rapport with businesses that contract BlueLine Laundry for their services. Through increasing self-confidence, more supported employees are also moving from supported accommodation to living independently in shared accommodation.

Personal Helpers and Mentors

The Department funds 42 Personal Helpers and Mentors Employment services (PHaMs) to assist people with mental illness on, or claiming, income support payments, to address non-vocational barriers to finding and maintaining employment. All clients have Individual Recovery Plans with employment as a primary goal. They must be willing to engage with an Employment Services provider. Through formal partnerships, PHaMs Employment services work closely with Government employment services (such as DES providers) to ensure the supports they provide to participants are complementary, not duplicative. Funding for PHaMs Employment services is in scope to transition to the NDIS.

In addition, the Department funds four organisations to deliver services for carers of people with a mental illness, focusing on workforce participation outcomes for the carers. These services provide intensive support to the carers to address non-vocational barriers to the carers finding, maintaining, preparing for, varying or managing employment.

Disability Employment Services

The Australian Government invests around \$1 billion each year in DES and associated services to provide open employment opportunities for people with disability. DES provides specialist employment assistance to help people with disability, injury or health conditions find and retain sustainable employment in the open labour market. DES providers do this by matching people with vacant jobs, negotiating with employers, preparing both the workplace and job seeker for employment, including through education and skills development, and offering ongoing support in the workplace to ensure success in the long term. DES also provides support to employers if needed and has a key role in assisting people in receipt of income support to meet their mutual obligation and participation requirements.

The Department has managed DES since October 2013 following the Government's decision to bring together complementary disability services and programmes into a single department. This Machinery of Government change aimed to strengthen connections and enable people with disability, as consumers of these services, to better shape government policy and effect greater control over the design of services.

The 135 current DES providers are a mix of large, medium and small, for-profit and not-for-profit organisations that are experienced in providing services and support for job seekers and employers. The Government contracts DES providers in over 2,300 sites across Australia to provide services as set out in the *Disability Employment Services Deed* and associated guidelines. DES providers are also required to comply with the *Disability Services Act (1986)*, which broadly legislates the framework for employment services to support job seekers and workers with disability.

There is a comprehensive set of Departmental mechanisms to govern and monitor the performance of DES providers. These include a well-established DES performance framework and a compliance and contract monitoring framework. Providers are also required to be certified under the *National Standards for Disability Services* in order to deliver services. The DES performance rating system provides additional incentive for providers to achieve outcomes for their participants. To achieve these employment outcomes a DES provider may need to overcome overt or underlying discrimination against people with disability, or a lack of understanding of the topic by themselves or by employers.

There are currently just over 173,000 participants in DES. Over 70 per cent are receiving Youth or Newstart Allowance and 17 per cent are receiving DSP. Another two per cent receive other support payments and 10 per cent do not receive income support. Australia's mainstream employment service, jobactive (previously Job Services Australia), also supports around 220,000 people with disability to find sustainable employment. Almost all jobactive participants receive Youth or Newstart

Allowance, with very few receiving DSP. jobactive is administered by the Department of Employment.

DES replaced previous programmes on 1 March 2010 and was developed through a comprehensive consultation process with people with disability and their representatives, employers and employment service providers. DES offers two uncapped programmes:

- Disability Management Services (DMS) - provides services to eligible job seekers with temporary or permanent disability, injury or health conditions who need the assistance of a disability employment service but who are not expected to need regular, long-term support in the workplace.
- Employment Support Services (ESS) - is available to eligible job seekers with permanent disability, injury or health conditions who need regular long-term ongoing support in the workplace.

The introduction of DES in 2010 represented an important refinement of employment assistance for people with disability in Australia. Most significantly, the removal of service caps that existed under the previous programmes enables disability employment services to expand according to demand. While DES was not designed with the specific objective of reducing workplace discrimination, DES offers opportunities to ensure that everyone who is able to participate in the open labour market has support to address their vocational and non-vocational barriers that may be preventing them from finding or keeping a job.

The uncapping of services with the introduction of DES saw an immediate and marked increase in people commencing service, from an average of 7000 to 8000 per month. As at 30 June 2015, there were over 173,000 participants in DES, compared to 108,000 participants when DES commenced in March 2010. DES also performs marginally better on average than the previous disability employment programmes. The number of 26 week outcomes achieved in DES in 2014-15 has increased by 80 per cent compared to the previous programmes in 2009-10. While these increases are promising, only 31 per cent of participants achieve an employment outcome in DES, and the proportion of people in employment three months after a period of assistance, has gradually declined since early 2013.

Registration in DES

Participants are predominately referred to DES by Centrelink after undertaking an Employment Services Assessment (ESAt) or Job Capacity Assessment (JCA) to determine the most appropriate service for a job seeker. An ESAt provides a comprehensive work capacity assessment for people with disability and/or other potentially serious barriers to work. ESAts recommend the most appropriate employment service assistance and support interventions based on an assessment of the job seeker's barriers to finding and maintaining employment; and work capacity in hour bandwidths. JCAs provide a similar level of assessment for employment programmes, but are primarily used to inform DSP claim decisions.

Direct registration processes are also available to provide the opportunity for maximising access to the service. Direct registration enables providers to commit to early intervention partnerships with services such as health facilities, training providers and schools and allows people with disability who choose to volunteer to participate in DES to access specialised employment services.

In most cases, a provider will need to refer a directly registered job seeker for an ESA, if they do not already have one. Once eligibility has been determined, the job seeker may be commenced in DES.

Certain categories of job seekers are eligible to directly register with a provider without undertaking an ESA. ESA exempt jobseekers are Eligible School Leavers (full time secondary school students with significant disability), Job in Jeopardy (JiJ) assistance participants (workers who are at risk of losing their jobs due to disability, injury or illness) and Special Class Clients (job seekers who acquired a disability, injury or illness as a result of a declared event such as the Bali bombings).

This provides streamlined access to employment services for people with disability who come from these groups. In place of an ESA, a DES provider assesses a job seeker's eligibility for DES against specific requirements in the DES Deed and relevant Guidelines.

Improved pathways

The Government recognises the importance of coordinated service delivery and smooth transition pathways for people with disability. The Government's 2015-16 Budget includes several measures designed to reduce barriers and offer an enhanced service for people with disability at critical points in their life. For example, young people with moderate to severe disability who are leaving school to find employment are now able to access up to six months of employment support through a DES provider while their participation is finalised in a state or territory funded post-school employment or transition to work programme.

Similarly, from 1 January 2016, for people working in ADEs, where participation in supported employment has built confidence or a skill set transferrable to open employment, they will be able to access the support of a DES provider for up to two years while still maintaining their ADE employment. Currently, people must leave their ADE employment to receive assistance from a DES provider, unless they are working beneath their assessed employment benchmark hours in an ADE.

From 1 January 2016, a new 23-hour employment benchmark will also be introduced for DES participants whose independently assessed capacity for work (within two years) is between 23 and 29 hours per week. This change will require a DES provider to support a person with this work capacity in a job that is at least 23 hours per week in order to be paid a full employment outcome. Currently, DES providers only need to find a job of 15 hours per week to receive an outcome fee for people with a 23-hour benchmark.

Training and Resources available for DES providers

Staff training is the responsibility of each DES provider; however, there are some areas of service delivery where the Government has focused to improve the performance of DES providers. These are:

- Mental Health Capability Training – this training was developed to help staff from employment services providers and DHS to better identify and assist people with mental illness to gain employment, and to better connect them with the appropriate services.
- Indigenous Cultural Awareness Training – this training was designed to build the capacity of employment service providers to deliver services to Aboriginal and Torres Strait Islander job seekers, and to develop stronger links with employers through an improved understanding of the cultural barriers faced in achieving participation outcomes.

DES based Employer Assistance

Assistance for people with disability in the workplace

Job in Jeopardy

Job in Jeopardy (JiJ) is an element of DES that provides support for people in the workforce (including older workers), who are at risk of losing their job due to the impact of their injury, disability or health condition. Such people can access assistance to help them retain their jobs. JiJ assistance is delivered by DES providers as part of the DES programme.

To access JiJ assistance, a worker's employer must be of the view that their employee is at risk of losing their job due to the impact of an injury, disability or health condition. DES providers work with both the employee and employer to deliver support based on a flexible and individual plan to help the employee maintain their employment.

JiJ assistance is aimed at keeping a person with disability, injury or illness in a job. For instance, in the case of a worker who develops a disability that affects their capacity to complete a critical task, an employer may want to help the worker but see no alternative other than to consider dismissing them. A DES provider working closely with both the employer and employee, could provide assistance, such as job redesign or helping the worker manage the impact of their injury, that prevents the worker from losing their job.

Employment Assistance Fund

The Employment Assistance Fund makes available for people with disability and mental health conditions, financial assistance to purchase a range of work related modifications and services for people who are about to start a job or who are currently working, as well as to those who require assistance to find and prepare for

work. The Fund may be used to purchase work related modifications and services including, but not limited to:

- the cost of modifications to the physical work environment;
- modifications to work vehicles;
- adaptive equipment for the workplace;
- information and communication devices;
- Auslan interpreting;
- specialist services for employees with specific learning disorders and mental health conditions;
- disability awareness training;
- Deafness awareness training; and
- mental health first aid training.

Work Based Personal Assistance

If an employee with disability is receiving support from a DES provider, and they require assistance at work to eat a meal, use the toilet or take medication, they may be eligible for support through Work Based Personal Assistance. Financial help is available to DES providers to reimburse costs for job seekers with disability who, due to their physical or neurological disability or medical condition, require regular assistance at work from either:

- specially trained personnel, either employed by the DES provider or from another agency, who provide personal assistance with feeding by mouth or tube or personal hygiene, such as care of catheter, or
- a Registered Nurse to administer medical interventions.

The financial help assists with covering the cost of providing or purchasing this specialised support for job seekers who need such assistance in the workplace and can be accessed as soon as the job seeker commences employment and for as long as the job seeker is employed and requires this personal assistance.

Employer Engagement

A key focus of DES providers is engaging with employers to enhance the availability of jobs for people with disability and to improve the employer's confidence in employing people with disability. The DES programme does not adopt an industry specific approach to employers, as the needs of an industry vary depending on geographic location, business size and the skills shortages experienced in the local area. DES providers work at a local level to build networks and relationships with local employers and to match DES participants with local employer needs. This local approach is important in an economy where approximately half of employment is with small business.

In addition to the support provided by DES, a number of other programmes and services are delivered by the Australian Government to support employers to employ more people with disability. For example, the National Disability Recruitment Coordinator works at a national level to increase the employment participation of

people with disability through direct support to large employers (employers with over 100 employees). It helps employers to develop Disability Job Vacancies for immediate filling and also delivers seminars to employers and employer groups with a focus on raising awareness of employing people with disability.

The JobAccess service also provides an information and advice service that offers practical workplace solutions for people with disability and their employers. JobAccess includes a comprehensive, easy to use website (www.jobaccess.gov.au) and a free telephone information and advice service where employers, people with disability and their carers can access confidential, expert advice on all disability employment related matters.

The JobAccess website has a range of information for employing people with disability. The site also has links to a range of promotional videos accessed through the site's YouTube™ channel to promote employer perspectives on employing people with disability outlining the benefits and the range of assistance available.

The 2015-16 Budget included a measure to design a new JobAccess Gateway for people with disability and employers. The JobAccess Gateway will be a new online service centre, to streamline services and a new digital and client relationship service centre.

Wage subsidies

Wage subsidies encourage employers to employ people with disability by subsidising the cost to the employer, for an initial adjustment period, to offset costs of wages and training. Subsidies are available as part of a total support solution and are only to be offered by DES providers where employers agree to provide a reasonable opportunity for job seekers to demonstrate their suitability. The following wage subsidies can be offered by DES providers:

- The Wage Subsidy Scheme (WSS) provides \$1,500 that is immediately available to employers who employ DES participants.
- The Tasmanian Jobs Programme provides a subsidy of \$6,500 to employers who provide full time work, or \$3,250 to employers who provide part-time work (25 hours per week) for six months or more to Tasmanians who have been unemployed and on income support for six months or more. This programme ceases on 31 December 2015.
- The Restart wage subsidy of up to \$10,000 is available for employers who employ DES participants aged 50 or more who have been unemployed and on income support for at least six months. Mature age job seekers employed part-time (15-29 hours per week) may attract a pro-rata subsidy.

The following scenario shows how the employment programmes mentioned above can reduce workplace barriers and promote equal opportunity for people with disability or older Australians.

Pat's Story – Disability Employment Services

Pat is mature aged and has previously worked in various reception and administrative roles before her eyesight diminished, leading to a decline in her independence and self-confidence. Before long, Pat was unable to drive to work and was soon unemployed. Pat felt she was old and worthless, and that with the loss of her vision the world was passing her by. She was also concerned she would be discriminated against in her search for work due to her age and disability.

Pat registered with a DES provider in her local area. The DES provider assisted Pat by providing career counselling and funding a course to update her administrative skills as well as helping her to explore other transport options. The DES provider identified a suitable job for Pat at a local primary school as an administrative assistant.

The DES provider put Pat in touch with JobAccess to assist with workplace adjustments.

A JobAccess adviser was able to organise a Workplace Modification Assessment at the primary school, and identified magnification and screen-reading aids that were able to assist Pat view her computer monitor more easily, and read to her text messages to communicate with the student's parents. All of these items were funded by the Australian Government through the Employment Assistance Fund. Pat has re-discovered her self-confidence and self-esteem and is a valued member of the schools staff.

The future of disability employment services

In early 2015, the Department established a Disability Employment Taskforce (the Taskforce) in the Department to review current employment services arrangements and develop a new Disability Employment Framework, to improve employment outcomes for people with disability.

The Taskforce was established in response to concerns that people with disability are not sufficiently well served by the current employment services system. With the current DES contracts ending in March 2018, and ADEs undergoing a number of reforms, it is timely to examine how employment services can be improved.

The establishment of the Taskforce was not a direct response to evidence of discrimination in employment services. Rather, low participation rates for people with disability and the performance of DES in achieving employment outcomes prompted a review.

A new Disability Employment Framework would take into consideration the NDIS and the recommendations of recent reports, such as *A New System for Better Employment and Social Outcomes*, chaired by Mr Patrick McClure AO and the *Competition Policy Review*, chaired by Professor Ian Harper.

In May 2015, the Taskforce developed an Issues Paper to guide a first round of consultation. The Issues Paper outlined the case for change, particularly focusing on the poor participation levels and employment outcomes for people with disability in Australia.

During May and June 2015 the Taskforce undertook 38 consultation forums Australia-wide, attended by around 740 people. Individual forums were targeted at people with disability, their families and carers, employers and disability service providers. The Taskforce also received 122 written submissions. A Consultation Report has been published on the Department's engage website (www.engage.dss.gov.au).

Feedback from stakeholders

The feedback about the strengths and weaknesses of the current system was quite consistent across all stakeholder groups and the proposed principles for a new Framework were well received. In summary there was:

- concern about the adequacy of the client assessment process;
- concern from providers about red tape and the performance framework which were said to drive poor practices;
- concerns from employers about a lack of awareness of available employer supports and inconsistency of the programme's design with employers' needs;
- strong support for an individually focused approach and the principle of career planning, particularly from people with disability; and
- a strong desire from all stakeholders to see more people with disability in employment.

Reports such as the recent *People with Disability Australia (PWDA) DES Consumer Engagement Project* and the Australian Federation of Disability Organisations (AFDO) report *Consumers front and centre: What consumers really think about DES*, have reported:

- a need for individualised approaches to increase choice and control for the jobseeker;
- a lack of focus on the needs of employers – matching people with jobs;
- inadequate ongoing support once employees are placed in a job;
- misconceptions about employing people with disability; and
- a need for a holistic approach to service provision which works across people's lives.

While there were no claims of direct discrimination in employment services during the consultation, there were claims of poor practices by providers. Anecdotal examples of poor practices included providers 'parking' and not delivering employment services to job seekers who were judged as too hard to place into employment, and providers churning multiple job seekers through a single employment placement so they could be paid more than one employment outcome for a single job vacancy.

Concerns about DES providers are counterbalanced by regular client satisfaction surveys (post-programme monitoring surveys), which reveal that DES has high client satisfaction. The most recent survey data, for the 12 months leading up to June 2015, found that:

- around 72 per cent of participants in the Employment Assistance and Post-Placement Support phases of DES were satisfied or very satisfied with the overall quality of service; and
- around 82 per cent of participants in the Ongoing Support phase of DES were satisfied or very satisfied with the overall quality of service.

The first round of consultation has provided the Taskforce with a strong base on which to progress development of reform. The Discussion Paper released on 9 November 2015 is being used to inform the next phase of consultation. This paper proposes reforms to address Australia's modest performance in achieving employment outcomes for people with disability, including a focus on increasing participation and creating new job opportunities by reaching out to employers to change attitudes and equip them with the skills to employ people with disability. It will propose a new individualised, market based system of support for job seekers with disability, which will invest in them, to deliver skilled and job ready candidates to employers.

Consultations conducted by the Taskforce have also identified the need for employers to be the second target group of the new National Disability Employment Framework along with the priority target group of people with disability.

Reforms need to address key issues relating to employers that were raised during public consultation conducted by the Disability Taskforce. These include:

- better understanding the needs of employers;
- better responsiveness and assistance with the recruitment of people with disability;
- the need to change attitudes of some employers and the community about the employment capabilities of people with disability;
- improving support for employers and recruitment agencies to assist with employing staff with disability;
- improving incentives for employers to employ people with disability; and
- developing partnerships with employers and championing best practice.

The Taskforce is exploring different approaches to improve employer engagement with disability employment support and people with disability, including:

- a virtual marketplace that would provide an opportunity for employers and people with disability to interact directly;
- a national awareness campaign to dispel myths and educate the community and employers about employing people with disability and the support services available; and

- a national employer accreditation scheme that assesses and accredits employers and organisations as disability confident. It would be accompanied by a supporting series of information and resources for employers to promote disability confident practices.

The Taskforce has also identified potential improvement to ADEs. ADEs have already begun to transition to the NDIS in some regions with around 20 per cent of ADEs currently in the NDIS with the rest transitioning over the next three years. This move will split the ongoing support and supported employment functions across two social service systems: the NDIS and disability employment services. The majority of ongoing support would be provided by service providers under the new Disability Employment Framework, however, participants who choose to work in ADEs would need to access ongoing support through the NDIS. While this is a welcome policy development, to maximise the benefits, strategies should be considered, including:

- strong referral pathways between the two systems;
- portability of and accountability for support in both systems; and
- a single planning gateway for those people with disability in both systems.

Evaluation of the employment outcomes of participants in the NDIS, as well as employment services under the new Framework, would provide valuable information on how the two systems work together and on policy issues arising between the two systems.

Informing the new framework

Based on feedback from consultations and the themes mentioned above, the Department has identified seven core principles to underpin the new framework for disability employment:

- Individual funding based on needs and aspirations
- Market-based service provision
- Long-term career planning and capacity building
- Understanding of employer needs
- Increased open employment options
- Whole-of-government coordination and use of technology
- The person is supported through the life course.

Further, to help inform the new framework for disability employment, particularly in relation to the implementation of individual funding, the Government has introduced a one-year trial of a participant-driven employment assistance model for up to 200 young job seekers with mental illness in DES. The trial is designed to reduce the risk of young people disengaging from education or employment and becoming reliant on long-term income support. Trial participants have access to a \$5,000 'Career Account', which is a transparent, participant-directed pool of funding. This allows them the opportunity to invest in their choice of goods and services to help overcome barriers they face, and further their employment goals.

A national trial of the Individual Placement and Support (IPS) model of vocational assistance will also be undertaken to assess and evaluate its effectiveness in

assisting young people up to the age of 25 with mental illness, who are at risk of disengaging from education or employment, and are at risk of long-term welfare dependency. Commencing in early 2016, the trial will be progressively implemented in up to 15 youth mental health services nationally, and will run for up to four years to June 2019. Once fully implemented, the trial will support at least 2,000 young people

Potential legislative changes related to DES

The DES programme operates under the legislative authority of the *Disability Services Act 1986* (the Act). Eligibility for DES is based on the Act which stipulates the 'target group' as being 'persons who have attained 14 years of age but have not attained 65 years of age.' Under current arrangements, job seekers who commence in DES prior to 65, and who subsequently turn 65, are allowed to remain in DES until the end of their period of service.

The Age Pension qualification age will begin to increase from 65 to 67 commencing 1 July 2017. As such, a change to eligibility arrangements for DES will be necessary to ensure services can be delivered to job seekers, with participation requirements, who are over 65 and have not yet qualified for the Age Pension. The Department will investigate options to change the Act to allow older Australians with disability to access assistance and support from DES until they chose to retire from the workforce. As part of this process, and as part of the design of a new Disability Employment Framework, the Department may also review broader aspects of the Act.

8. Departmental Policies

The Department is committed to providing an accessible work environment to enable people with disability or older Australians to participate in all aspects of employment. The percentage of the Department's staff with disability, as recorded in the human resource management system is 5.8 per cent. This is above the APS average of 3.1 per cent as reported in the State of the Service Report 2013-14 (obtained from all APS agency human resource management systems). The percentage of staff that identified as having a disability in the Department's State of the Service Employee Census 2015 was 10.30 per cent, achieving the Department's aspirational target of 10 per cent by the end of 2016.

Departmental staff aged 50 and over account for 31.48 per cent of the Department's current workforce, comparable to 30.24 per cent at June 2014. The percentage of staff aged 55 and over (16.30 per cent) is comparable to the APS average (16.67 per cent). The Department's workforce has a higher proportion of female employees (68 per cent female / 32 per cent male) when compared to the broader APS (females 58 per cent / males 42 per cent).

The Department's *Disability Workforce Action Plan* sets out an ongoing commitment and approach to the attraction, recruitment, retention and development of people with disability. As lead agency on disability policy, increasing employment outcomes for people with disability is a priority for the Department.

The Department's Enterprise Agreement (EA) encourages equal participation in employment for its staff. There are a range of human resource policies aligned to the

EA that provide older staff with a range of flexible working arrangements – these include:

- Extra Family Care Costs Policy
- Home Based Work Policy
- Hours of Work and Working Arrangements Policy
- Leave Policy
- Part-time Employment Policy
- Time off in Lieu Policy.

The Department has appropriate policy and processes in place to support all its people - including people with disability, older Australians, Aboriginal and Torres Strait Islander people, people from culturally and linguistically diverse backgrounds - and those employees have access to career development opportunities and necessary information technology to undertake their roles. The Department is continuing to build a workplace culture that assists people to feel supported in the workplace in a safe and barrier-free environment.

The Department participates in the Australian Public Service Commission's *RecruitAbility* scheme, which is a key initiative under the *As One: Australian Public Service (APS) Disability Employment Strategy*. The Department has implemented the *RecruitAbility* scheme into all internal and external recruitment processes since early 2015.

The Department utilised the *RecruitAbility* scheme with the Graduate Programme for its 2015 and 2016 intakes. In 2015, out of a total of 2068 applications 72 graduates (3.48 per cent) opted in under *RecruitAbility* and 6 (5.77 per cent) successfully made the order of merit list. In 2016, with a similar number of applications, 76 graduates (3.8 per cent) opted in under *RecruitAbility* and 20 graduates (10.9 per cent) successfully made the order of merit list.

9. Conclusion

The Department administers a range of programmes and services designed to improve the economic participation of Australians with disability. Financial support is also provided for Australians with disability and older Australians who are unable to fully support themselves.

While removing workplace discrimination is not the primary objective of the Department's programmes and payments, the services delivered help to reduce barriers faced by people with disability in actively participating in the workforce and the community.

Despite the significant investment in support programmes for people with disability, employment outcomes for people with disability are modest. The Department is responsible for administering several key Government initiatives designed to improve the employment participation rate of people with disability.

The introduction of the NDIS is an important reform designed to provide the necessary care and support needed to remove barriers to economic and social participation for people with disability. The NDIS will be rolled out nationally from 2016, and will work closely with the employment system at the local level to plan and coordinate streamlined services for people requiring both employment services and disability services.

The Government's Disability Employment Taskforce will review current employment services arrangements, and develop a new Disability Employment Framework, to improve employment outcomes for people with disability. The findings and recommendations of the review as well as the Inquiry will help inform the design of employment services for people with disability from 2018.