

# **Australian Human Rights Commission**

## **Willing to Work: National Inquiry into Employment Discrimination Against Older Australians and Australians with Disability**

Children with Disability Australia  
Submission - December 2015

## CONTENTS

INTRODUCTION	3
CHILDREN WITH DISABILITY AUSTRALIA	3
LEGAL AND POLICY FRAMEWORKS	4
THE EXPERIENCE OF YOUNG PEOPLE WITH DISABILITY	5
Education	7
Post School Transition	8
Barriers to Employment for Young People with Disability	9
Attitudes	9
Difficulties Accessing Workplace Accommodations, Adjustments and Flexibility	10
Multiple Disadvantage	10
Specific Context for Young People	11
CURRENT EMPLOYMENT SUPPORTS	12
Support for Job Seekers	12
Support for Young Job Seekers	12
Support for People with Disability in Open Employment	13
Supported Employment Options for People with Disability	13
Income Support and Welfare Payments	13
CURRENT REFORM	15
Disability Employment Framework	15
Strengths of the Proposed Framework	15
Limitations of the Proposed Framework	15
Potential Risks of the Proposed Framework	16
Planning	16
Virtual Marketplace	17
Additional Comments	17
National Disability Insurance Scheme	18
CONCLUSION	19
SUMMARY OF RECOMMENDATIONS	20
CONTACT	21
REFERENCES	22
APPENDIX A – CDA SUBMISSION TO THE SENATE INQUIRY INTO CURRENT LEVELS OF ACCESS AND ATTAINMENT FOR STUDENTS WITH DISABILITY IN THE SCHOOL SYSTEM, AND THE IMPACT ON STUDENTS AND FAMILIES ASSOCIATED WITH INADEQUATE LEVELS OF SUPPORT	
APPENDIX B – POST SCHOOL TRANSITION: THE EXPERIENCES OF STUDENTS WITH DISABILITY	

## INTRODUCTION

The social, community, economic and personal benefits of employment are well known and are strongly demonstrated in research and through direct experience. Available evidence associates employment with financial security, independence, physical and mental health and a basis for identity for individuals and social cohesion and economic productivity for societies as a whole.<sup>1</sup>

As a community we focus strongly on employment or future employment throughout life. A career or occupation is often a key part of an individual's identity. Children are frequently asked from an early age about their career interests and a common aspiration for a child's future is that they will get 'a good job.'

Australia has demonstrated a strong commitment to upholding the human rights of people with disability to access and participate in employment on an equal basis to people without disability through ratification of international human rights conventions and a strong focus on economic participation in domestic legislation and policy.

However, despite the existence of this human rights framework, strong political commitment and high cultural importance and value, the employment experiences and outcomes of young people with disability continue to be extremely poor. This is reflected in the direct experiences of young people with disability and available statistics. Consequently, many young people with disability experience poverty, disconnection, exclusion and discrimination through the barriers that exist in relation to obtaining and accessing employment.

Typically we are now seeing this disadvantage begin early in a young person's life with a key pathway to employment, education (including post school transition) being extremely problematic. Further, it is common that children and young people with disability are exposed to non-existent or low expectations about their employment future. This is often based on prevailing attitudes that equate disability with inability. For children in these circumstances, their childhood experiences are devoid of the benefit of the positive expectation that they will participate and contribute to the community through employment. This lack of expectation leads to a denial of opportunities and often to greatly diminished life experiences. Many young people with disability therefore are currently facing extraordinary disadvantage, which begins in early childhood in relation to accessing employment.

Children with Disability Australia (CDA) welcomes the opportunity to contribute to *Willing to work: National inquiry into employment discrimination against older Australians and Australians with disability* by the Australian Human Rights Commission. This submission will focus primarily on issues of relevance to young people with disability. It is structured according to a number of relevant themes, rather than answering specific questions posed in the issues paper developed by the Commission.

## CHILDREN WITH DISABILITY AUSTRALIA

CDA is the national representative organisation for children and young people with disability, aged 0 to 25 years. The organisation is primarily funded through the Department of Social Services and is a not for profit organisation. CDA has a national membership of over 5300.

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<sup>1</sup> Foundation for Young Australians 2015, *The new work order: Ensuring young Australians have skills and experience for the jobs of the future, not the past*, Melbourne, p. 5, Organisation for Economic Cooperation and Development 2015, *OECD skills outlook 2015: Youth, skills and employability*, OECD Publishing, p. 15.

CDA provides a link between the direct experiences of children and young people with disability to federal government and other key stakeholders. This link is essential for the creation of a true appreciation of the experiences and challenges of children and young people with disability.

CDA's vision is that children and young people with disability living in Australia are afforded every opportunity to thrive, achieve their potential and that their rights and interests as individuals, members of a family and their community are met.

CDA's purpose is to advocate systemically at the national level for the rights and interests of all children and young people with disability living in Australia and it undertakes the following to achieve its purpose:

- **Listen and respond** to the voices and experiences of children and young people with disability;
- **Advocate** for children and young people with disability for equal opportunities, participation and inclusion in the Australian community;
- **Educate** national public policy-makers and the broader community about the experiences of children and young people with disability;
- **Inform** children and young people with disability, their families and care givers about their citizenship rights and entitlements; and
- **Celebrate** the successes and achievements of children and young people with disability.

## LEGAL AND POLICY FRAMEWORKS

The Australian Government has demonstrated a strong commitment to upholding the rights of people with disability to access and participate in employment on an equal basis to people without disability, free from discrimination. This is reflected in Australia's ratification of key international human rights conventions. In particular, the United Nations *Convention on the rights of persons with disabilities* obliges state parties to:

*Recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities.*<sup>2</sup>

The Convention also requires state parties to undertake measures to “promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market.”<sup>3</sup>

In the United Nations Human Rights Council's 2015 Universal Periodic Review of Australia's human rights record, one directive specifically focused on employment of people with disability, stating Australia should:

*Continue to promote and support programmes such as the Jobs Access Gateway to equip persons with disabilities with the appropriate skills to secure gainful employment.*<sup>4</sup>

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<sup>2</sup> United Nations General Assembly 2006, *Convention on the rights of persons with disabilities*, article 27.1.

<sup>3</sup> Ibid, article 8.2.a.iii.

<sup>4</sup> United Nations General Assembly 2015, *Draft report of the Working Group on the Universal Periodic Review: Australia*, Geneva, p. 13.

There is also a strong domestic legal framework regarding employment discrimination of people with disability, including the *Disability Discrimination Act 1992 (Cth)*. One key issue regarding existing legal frameworks for employment discrimination of people with disability is the barriers to access. Pursuing complaints through formal channels, such as the courts or Commonwealth, state or territory human rights authorities, presents significant challenges for many people, given the time and cost often associated. Further, a complaints based system is reliant on complainants being sufficiently empowered and supported to utilise the process.

Enabling employment opportunities for people with disability is also currently a high priority policy agenda in Australia. Some of the key relevant policy frameworks are discussed below.

The *National Disability Strategy* sets a 10-year reform plan from 2010-2020 for all Australian governments to address the barriers faced by Australians with disability. One of the key areas of policy action is 'economic security,' which includes a direction to "increase access to employment opportunities as a key to improving economic security and personal wellbeing for people with disability, their families and carers."<sup>5</sup>

Supporting "economic and social participation" of people with disability is also a key focus of the National Disability Insurance Scheme (NDIS).<sup>6</sup> The role of the NDIS is to fund supports required by people with disability to live their daily lives and participate in the economic, social and cultural life of the community. It involves setting out a new regime for the funding and accountability of disability services where the individual is at the centre.

Presently, there is significant reform occurring at the federal level to support employment outcomes. This includes reform regarding services and supports for job seekers, tax incentives for employers and employees, income support and initiatives to support youth employment. The Australian Government Department of Social Services is currently conducting a review of the present disability employment system in order to implement a new Disability Employment Framework post 2018. This significant work demonstrates a key political commitment to improving employment outcomes for all Australians, including people with disability. This reform process is discussed in further detail later in this submission.

Presently there is a significant disparity between the policy and legal frameworks and the direct experiences of employment of young people with disability. This is demonstrated in available statistics and the direct experiences of young people with disability.

## **THE EXPERIENCE OF YOUNG PEOPLE WITH DISABILITY**

This section includes discussion of education, post school transition as well as employment. It is seen as critical to consider education and post school transition, as they are key influencers of employment outcomes.

The direct experiences of young people with disability in educational access and attainment, post school transition and employment are extremely poor. This is reflected in the following available statistics:

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<sup>5</sup> Council of Australian Governments 2011, *National Disability Strategy 2010-2020*, Commonwealth of Australia, Canberra, p. 42.

<sup>6</sup> *National Disability Insurance Scheme Act (Cth)*, s.3.1.c.

- 30% of people with disability do not go beyond Year 10, compared to 20% of people without disability;<sup>7</sup>
- 36% of people aged 15 to 64 years with disability had completed year 12 compared to 60% of people without disability;<sup>8</sup>
- 15% of people aged 15 to 64 with disability had completed a bachelor degree or higher compared to 26% of people without disability;<sup>9</sup>
- **38% of young people aged 15 to 24 years with disability either work, study, or do a combination of both on a full time basis compared to 56% of young people without disability;**<sup>10</sup>
- 42% of young people with disability neither work nor study (there is no comparative data available for young people without disability);<sup>11</sup>
- 20% of young people with disability either work or study on a part time basis (there is no comparative data available for young people without disability);<sup>12</sup>
- The labour force participation rate for people with disability is 52.8% compared to 82.5% for people without disability;<sup>13</sup>
- **The labour force participation rate for young people with disability aged 15 to 24 years is 56.6% compared to 70.8% for young people without disability;**<sup>14</sup>
- 47.7% of people with disability are employed, comprising 8.8% of the total Australian workforce;<sup>15</sup>
- 9.4% of people with disability are unemployed, compared to 4.9% of people without disability;<sup>16</sup>
- **24.2% of young people with disability aged 15 to 24 years are unemployed, compared to 11.4% of young people without disability;**<sup>17</sup>
- 32.4% of people with disability who work part-time want to work more hours, compared to 27.1% of people without disability;<sup>18</sup>
- People with disability are more likely to be looking for a job 13 weeks or longer after they first started (65.5%) compared with those without disability (56.1%);<sup>19</sup>
- 6.6% of Disability Support Pension recipients are young people aged 16 to 25 years;<sup>20</sup>

<sup>7</sup> Australian Bureau of Statistics 2013, 'Table 7 PERSONS AGED 15 YEARS AND OVER, LIVING IN HOUSEHOLDS, Disability status, by selected social characteristics–2012,' *Disability, ageing and carers, Australia: Summary of findings, 2012*, Commonwealth of Australia, Canberra.

<sup>8</sup> Ibid.

<sup>9</sup> Australian Bureau of Statistics 2012, 'Disability - Education and employment,' *Disability, ageing and carers, Australia: Summary of findings*, Commonwealth of Australia, Canberra, viewed 13 March 2015, <http://goo.gl/yj30Dj>.

<sup>10</sup> Australian Bureau of Statistics 2012, *Australian social trends*, Commonwealth of Australia, Canberra, viewed 17 March 2015, <http://goo.gl/u0oAlp>.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Australian Bureau of Statistics 2015, *Disability and labour force participation, 2012*, Commonwealth of Australia, Canberra, viewed 23 November 2015, <http://goo.gl/PlwV7V>.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Australian Bureau of Statistics 2015, 'Table 4: ALL PERSONS AGED 15 TO 64 YEARS LIVING IN HOUSEHOLDS, Labour force status by whether have a disability by age,' *Disability and labour force participation, 2012*, Commonwealth of Australia, Canberra.

<sup>18</sup> Australian Bureau of Statistics 2015, *Disability and labour force participation, 2012*.

<sup>19</sup> Ibid.

<sup>20</sup> Department of Social Services 2013, *Characteristics of Disability Support Pension recipients: June 2013*, Commonwealth of Australia, Canberra, p. 10.

- 25.5% of people receiving the Disability Support Pension due to intellectual/learning disability recorded as primary medical condition are young people aged 16 to 24 years;<sup>21</sup> and
- 45% of people with disability in Australia live in or near poverty.<sup>22</sup>

There is presently paucity in available data regarding experiences of employment discrimination of people with disability. Available data, such as that collected by the Australian Human Rights Commission, tends to focus on formal discrimination complaints. However this does not capture the total experience of discrimination. There may be scope for inclusion of this data in existing data collection methods such as the Australian Bureau of Statistics Survey on Disability, Ageing and Carers.

**Recommendation 1:** The Australian Bureau of Statistics Survey on Disability, Ageing and Carers collect data about experiences of employment discrimination that disaggregates according to age, gender and other related demographics.

## Education

A quality education should provide the necessary knowledge, skills and resources to support future meaningful community participation including further education and employment pathways. However, students with disability commonly report poor educational experiences and outcomes. A typical education experience for students with disability involves limited choice of school, discrimination, bullying, limited or no funding for support and resources, inadequately trained staff and a culture of low expectations. Further, there is a lack of accountability for educational outcomes for students with disability. These issues mean that students with disability are frequently leaving school without the necessary knowledge and skills to participate in further education and employment.

Available evidence clearly establishes the link between educational attainment and employment outcomes. This is demonstrated in Organisation for Economic Cooperation and Development (OECD) member nations where “people with at least an upper secondary education are more likely to have a job than those without this level of education.”<sup>23</sup> Further, the unemployment rate is significantly higher among 25 to 34 year olds who do not have a tertiary education than for those who do.<sup>24</sup>

In addition, the OECD has found that “where education and the labour market co-exist as two separate worlds, it is very difficult for young people to manage the transition from one to the other” and argues for the integration of education and employment policy to support young people.<sup>25</sup> This illustrates the importance of ensuring that strategies to improve the educational and employment experiences of children and young people with disability are integrated and cohesive.

CDA recently provided a comprehensive submission to the Senate Inquiry into *Current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of support*. This submission provides a highly thorough account of the direct experiences of students with disability, as well as comprehensive

<sup>21</sup> Department of Social Services 2013, *Characteristics of Disability Support Pension recipients: June 2013*, p. 27.

<sup>22</sup> PricewaterhouseCoopers 2012, *Disability expectations: Investing in a better life, a stronger Australia*, Australia.

<sup>23</sup> Organisation for Economic Cooperation and Development 2014, *Education at a glance 2014: OECD indicators*, OECD Publishing, p. 38.

<sup>24</sup> Ibid, p. 14.

<sup>25</sup> Organisation for Economic Cooperation and Development 2015, *OECD skills outlook 2015: Youth, skills and employability*, p. 3.

recommendations for future reform. This submission is provided for the Commission's consideration (see Appendix A).

**Recommendation 2:** Final report of the Australian Human Rights Commission *Willing to work* Inquiry includes a strong focus on the issue of education for students with disability as a fundamental factor in poor employment experiences and discrimination.

**Recommendation 3:** Final report of the Australian Human Rights Commission *Willing to work* Inquiry adopts the recommendation included in CDA's submission to the Senate Inquiry into *Current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of support* (Appendix A).

## Post School Transition

Young people with disability report highly variable post school transition experiences, with many informing of poor experiences. Post school transition refers the period in which young people informally or formally consider and prepare for post school life. It is an important time to support and guide young people to think about their post school plans and interests and assist the development of skills and knowledge to pursue these plans. The OECD has identified post school transition (along with a quality education) as a key area of reform for member states to assist school leavers to enter and stay in the labour market.<sup>26</sup>

CDA has recently released a report entitled *Post school transition: The experiences of students with disability*, attached for the Commission's consideration (see Appendix B). The report provides a comprehensive discussion of the current state of play in post school transition for students with disability in Australia. An extensive consultation process was undertaken with young people with disability, families, education providers, government-funded programs, disability advocacy organisations, employment services and business associations to explore post school transition of students with disability. This included the context and factors that influence transition and the specific barriers that students with disability are experiencing.

**Recommendation 4:** Final report of the Australian Human Rights Commission *Willing to work* Inquiry includes key consideration of post school transition of students with disability.

**Recommendation 5:** Final report of the Australian Human Rights Commission *Willing to work* Inquiry adopts the recommendations made in CDA's report *Post school transition: The experiences of students with disability* (Appendix B).

## Employment

The available statistics provided above clearly demonstrate a disparity in employment access and outcomes between young people with disability in comparison to their peers without disability. Young people with disability experience lower rates of labour force participation and higher rates of unemployment than young people without disability. Further, the labour force participation of young people with disability is higher than that of the total population of people with disability (56.6% and 52.8% respectively). However, the unemployment rate for young people with disability is significantly higher (24.2%) than the broader population of people with disability (9.4%).

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<sup>26</sup> Organisation for Economic Cooperation and Development 2015, *OECD skills outlook 2015: Youth, skills and employability*, p. 16.

The following statement by young people with disability and families aptly reflect the common poor experiences regarding accessing and obtaining employment:

*I feel stranded. I don't think I have a future – Young person.*

*I tried the employment services but they could not help me as they said I was too disabled – Young person.*

*I would like to do harder jobs. I like people to explain and be patient and sometimes I need to be shown things more than once – Young person.*

*You think the education system is bad, wait until the employment system! – Parent.*

## **Barriers to Employment for Young People with Disability**

### *Attitudes*

A key issue that has been identified in numerous reports, research and inquiries regarding barriers to employment for people with disability relates to attitudes about disability. For example, the report *Shut out: The experience of people with disabilities and their families in Australia* stated that by “far the biggest barrier (to employment) identified was employer attitudes.”<sup>27</sup>

Discriminatory attitudes from employers are reflective of broader attitudes within the Australian community that associate disability with inability. It may be assumed that people with disability will be less capable employees or that it will be burdensome or costly to provide any required assistance, modifications or adjustments in the workplace. Employers may therefore cite that they ‘do not have the capacity, expertise or skills’ to employ people with disability. These views have been found to be common in surveys of employer attitudes by various industry groups.<sup>28</sup>

Young people with disability may also experience negative attitudes due to their status as young people, for example that they lack commitment, are unskilled or unprofessional.<sup>29</sup> A further consideration relates to casualised workplaces that often hire young people such as hospitality or retail. These sectors often hire young people because of their associated low wage costs. This is an area where attitude shifts will be difficult as a key focus is frequently on having low operational costs.

Addressing employer attitudes about disability is therefore an important element of reducing employment discrimination. However, this will ultimately require change that is community wide. Leadership is required on a number of levels, including from government, the non-government sector, business organisations and specific employers. At the government level, a whole of government approach to adopting the principles contained in the *National Disability Strategy* is one option. Leadership from the Australian Government in hiring people with disability in the public

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<sup>27</sup> National People with Disabilities and Carer Council 2009, *Shut out: The experience of people with disabilities and their families in Australia*, Commonwealth of Australia, Canberra, p. 38.

<sup>28</sup> Australian Human Resources Institute 2011, *Recruiting people with disability: An employer perspective*, Melbourne, Australian Government Department of Education, Employment and Workplace Relations 2011, *Employer perspectives on recruiting people with disability and the role of Disability Employment Services*, Commonwealth of Australia, Canberra.

<sup>29</sup> Brotherhood of St Laurence 2014, *Investing in our future: Opportunities for the Australian Government to boost youth employment*, Fitzroy, p. 11.

service would also send a strong message and ensure the Government's own hiring practice is reflective of the principles contained in the Strategy.

It is often proposed (for example in the discussion paper for the new Disability Employment Framework)<sup>30</sup> that public 'awareness raising' campaigns be undertaken to address employer understanding and attitudes of disability. It is vital that any potential 'campaign' carefully considers messaging and process to ensure desired outcomes are achieved. Valid concerns exist that awareness campaigns can at times exaggerate difference rather than promote positive diversity.

There is also a need to ensure greater awareness of rights, legal obligations of employers, discrimination and what and available employment support options exist within a range of stakeholders. These include employers, employment services, business associations and disability services.

**Recommendation 6:** Leadership from Australian Government shown by hiring people with disability and developing policies to support positive workplace cultures.

**Recommendations 7:** Further consideration regarding the use and desired outcomes of public awareness campaigns and whether they represent an effective way of producing attitudinal change.

**Recommendation 8:** Well-coordinated and accessible information regarding rights, responsibilities and services and supports is available for employers and employees.

### *Difficulties Accessing Workplace Accommodations, Adjustments and Flexibility*

A further barrier to employment for young people with disability is also encountered when there are difficulties in establishing flexible workplace arrangements and negotiating reasonable adjustments. What is required to support employment will of course depend on the specific needs and circumstances of each young person. It may involve adjusting the physical workplace environment, using aids and equipment, ensuring communication is accessible, providing additional training or support, allowing flexible hours or many other considerations. CDA has generally received positive feedback regarding the Employment Assistance Fund in funding some of these supports.

### *Multiple Disadvantage*

Challenges in employment for young people with disability who experience multiple disadvantage is compounded due to the experience of further social and attitudinal barriers. This may be true for women, Lesbian, Gay, Bisexual, Transgender, Queer, Intersex and Asexual (LGBTQIA) people, Aboriginal or Torres Strait Islander people, people who are culturally and linguistically diverse or who live in regional and remote areas. However, there are many information gaps regarding the employment experiences of people with intersecting disadvantage. Linkages with existing policy frameworks and initiatives for diverse cohorts should also be considered in order to minimise the siloing of service delivery. Further, it is critical to ensure that people from diverse groups and sectors are able to have ongoing input into employment reform.

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<sup>30</sup> Department of Social Services 2015, *National Disability Employment Framework: Discussion paper*, Commonwealth of Australia, Canberra, p. 30.

## *Specific Context for Young People*

Presently, young people in Australia face considerable challenges in finding, securing and maintaining employment. In September 2015, unemployment among young people aged 15 to 25 years was over double the total unemployment rate (12.9% and 6.2% respectively).<sup>31</sup> Almost 30% of young people in Australia are either unemployed or underemployed.<sup>32</sup> It takes young people on average 4.7 years from leaving full time education to entering full time employment (an increase from one year in 1987).<sup>33</sup>

Poor employment outcomes are also being experienced by young people with tertiary qualifications. 65% of university graduates and 58% of young people with a Certificate III are in full time work four months after graduating.<sup>34</sup> In addition, more than 25% of young people do not use their qualification in their job.<sup>35</sup>

Further, a recent report by the Foundation for Young Australians found that young people are being adversely impacted by changes to the economy and labour markets.<sup>36</sup> Critically, it found that young people are not being provided with skill sets that align with the labour markets of the future and recommends significant reform to the education, post school transition and employment systems to address this critical issue.

There has also been a trend in recent years towards casual, part time, temporary or short-term contracts for young people who are employed.<sup>37</sup> This creates a number of issues, including job insecurity, lack of access to work entitlements and fewer opportunities to develop skills in a stable work environment. A recent report by the OECD has highlighted that because “many young people enter the labour market on temporary contracts, it is important to ensure these temporary jobs are ‘stepping stones’ into more stable employment, rather than a series of precarious situations that raise the risks of young people being unemployed.”<sup>38</sup> It recommends that member states examine taxes and social contributions to support employers to hire young people with minimal work experience.<sup>39</sup>

Present economic and social conditions contribute to a highly uncertain and precarious situation for many young people in relation to employment and future prospects. Young people with disability therefore must contend with dual disadvantage and social barriers due to disability and age. However, it is CDA’s experience that often youth sector advocacy includes minimal representation or consideration of young people with disability. It is important that young people with disability are

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<sup>31</sup> Australian Bureau of Statistics 2015, *Labour force Australia September 2015: Table 13. Labour force status for 15-24 year olds by Sex - Trend, Seasonally adjusted and Original*, Commonwealth of Australia, Canberra.

<sup>32</sup> Foundation for Young Australians 2014, *Renewing Australia’s promise: Will young Australians be better off than their parents?*, Melbourne, p. 3.

<sup>33</sup> Foundation for Young Australians 2015, *Report card 2015: How are young people faring in the transition from school to work?*, Melbourne, p. 2.

<sup>34</sup> *Ibid*, p. 2.

<sup>35</sup> Foundation for Young Australians 2014, *Renewing Australia’s promise: Will young Australians be better off than their parents?*, p. 3.

<sup>36</sup> Foundation for Young Australians 2015, *The New Work Order: Ensuring young Australians have skills and experience for the jobs of the future, not the past*.

<sup>37</sup> Foundation for Young Australians 2014, *Renewing Australia’s promise: Will young Australians be better off than their parents?*, p. 12, Foundation for Young Australians 2015, *Report card 2015: How are young people faring in the transition from school to work?*, p. 7.

<sup>38</sup> Organisation for Economic Cooperation and Development 2015, *OECD skills outlook 2015: Youth, skills and employability*, p. 16.

<sup>39</sup> *Ibid*, p. 16.

not excluded from the broader conversation about supporting young people to gain appropriate skills and employment.

**Recommendation 9:** Inclusion of the direct experiences and specific considerations of young people with disability in broader youth sector advocacy, policy and research regarding education, skills and employment.

## CURRENT EMPLOYMENT SUPPORTS

There are presently a range of services and programs that aim to support people with disability and young people in locating and maintaining employment, some of which are briefly discussed below.

### Support for Job Seekers

Employment services funded by the Australian Government to support job seekers include:

- jobactive - Non-profit and for-profit organisations funded by the Commonwealth to provide recruitment and training support for people looking for work (formerly Job Services Australia).<sup>40</sup>

### Support for Young Job Seekers

Employment services funded by the Australian Government specifically for young job seekers include:

- Youth Employment Strategy - Announced in the 2015 Federal Budget, the Youth Employment Strategy includes \$331 million in Federal funding to three areas: Youth Transition to Work; Early School Leavers; and intensive support trials for vulnerable job seekers. The Strategy is targeted at young people aged 15 to 21 years who are at risk of experiencing long term unemployment;<sup>41</sup>
- Youth Wage Subsidy - A wage subsidy available to employers who hire a job seeker under 30 years of age who has commenced with a jobactive provider and has been serviced in employment services continuously for at least the previous six months or more;<sup>42</sup>
- Job Commitment Bonus - A payment aimed at encouraging long term unemployed young people locate and maintain employment, paid to young people who previously received young job seeker allowance for at least 12 months and have ceased receiving payments due to maintaining employment for 12 months;<sup>43</sup> and
- Generation Success - An industry led youth employment initiative that provides practical tips and advice to support employers, young people as well as parents and educators.<sup>44</sup>

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<sup>40</sup> Australian Government Department of Employment 2015, *jobactive*, Commonwealth of Australia, Canberra, viewed 4 December 2015, <https://goo.gl/G2JQ22>.

<sup>41</sup> Australian Government 2015, *Youth Employment Strategy*, Commonwealth of Australia, Canberra, viewed 26 November 2015, <http://goo.gl/Uv5ggQ>.

<sup>42</sup> Australian Government Department of Employment 2015, *Youth Wage Subsidy*, Commonwealth of Australia, Canberra, viewed 4 December 2015, <https://goo.gl/RthXYA>.

<sup>43</sup> Australian Government Department of Human Services 2015, *Job Commitment Bonus*, Commonwealth of Australia, Canberra, viewed 4 December 2015, <http://goo.gl/7TYQOv>.

<sup>44</sup> Australian Government Department of Employment 2015, *Generation Success - youth employment initiative*, Commonwealth of Australia, Canberra, viewed 4 December 2015, <https://goo.gl/uTLu5K>.

## Support for People with Disability in Open Employment

Services funded by the Australian Government to support people with disability access employment in the open labour market include:

- Disability Employment Services - Non-profit and for-profit organisations funded by the Commonwealth to provide training and recruitment to people with disability who require both short and long term assistance in gaining employment;<sup>45</sup>
- Employment Assistance Fund - Provides financial assistance to purchase a range of work-related modifications and services for people with disability who are commencing work or are currently working;<sup>46</sup>
- JobAccess - Information and advice service funded by the Australian Government to provide assistance and workplace solutions for people with disability and employers;<sup>47</sup> and
- National Disability Recruitment Coordinator Program – Works with larger employers to increase their knowledge of Disability Employment Services and other government services available to support employees with disability. The Program also assists in implementing workplace supports for employees with disability and provides training for staff.<sup>48</sup>

## Supported Employment Options for People with Disability

Services that provide supported employment options for people with disability:

- Australian Disability Enterprises (ADEs) - Commonwealth-funded non-profits with charitable status that provide supported employment opportunities to people with disability. Many ADEs operate commercial or industrial businesses where people with disability work in areas such as packaging, assembly line production or cleaning services with the supervision of a support worker. Employees in ADEs can be paid award wages, however productivity-based wages can also be used. ADE's are currently in the process of being transitioned to the NDIS.<sup>49</sup>

## Income Support and Welfare Payments

Income support and welfare payments available to young job seekers with disability:

- Disability Support Pension (DSP) - Income support payment for people aged from 16 years to the pension age who are “permanently blind or have been assessed as having a physical, intellectual or psychiatric impairment” and are “unable to work, or to be retrained for work, for 15 hours or more per week at or above the relevant minimum wage within the next two years because of your impairment;”<sup>50</sup>

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<sup>45</sup> Australian Government Department of Employment 2015, *Disability Employment Services*, Commonwealth of Australia, Canberra, viewed 4 December 2015, <https://goo.gl/7VBt7U>.

<sup>46</sup> JobAccess 2015, *Employment Assistance Fund*, Australian Government, Commonwealth of Australia, Canberra, viewed 4 December 2015, <http://goo.gl/vu4XQk>.

<sup>47</sup> Australian Government 2015, *JobAccess*, Commonwealth of Australia, Canberra, viewed 4 December 2015, <http://goo.gl/On6a6b>.

<sup>48</sup> Australian Government Department of Employment 2015, *National Disability Coordination Officer*, Commonwealth of Australia, Canberra, viewed 4 December 2015, <https://goo.gl/V34iSE>.

<sup>49</sup> Department of Social Services 2015, *Australian Disability Enterprises*, Commonwealth of Australia, Canberra, viewed 4 December 2015, <https://goo.gl/RquMtv>.

<sup>50</sup> Australian Government Department of Human Services 2015, *Disability Support Pension*, Commonwealth of Australia, Canberra, viewed 26 November 2015, <http://goo.gl/3QKGNr>.

- Youth Allowance - Income support payments for full-time students or apprentices aged 15 to 24 and people aged under 21 who are seeking employment;<sup>51</sup>
- Newstart Allowance - Income support payments for job seekers 22 years or older but below pension age;<sup>52</sup> and
- Mobility Allowance - A payment for people with disability, illness or injury aged 16 years and older who cannot use public transport and therefore require assistance to travel to and from home for paid work, voluntary work, study or training or to look for work.<sup>53</sup>

A key program that has been the focus of significant recent focus and review is Disability Employment Services (DES). CDA's understanding is that there is high variability in the provision of DES services and that certain cohorts, such as people with intellectual disability, experience poorer outcomes in that system.

A number of tensions have emerged during consultations conducted regarding post school transition and students with disability regarding the role of DES, and their interaction with businesses and the National Disability Recruitment Coordinator (NDRC) Program.

Firstly, there was strong consensus that the DES system currently has too high a focus on compliance, consuming the work of DES's instead of supporting people with disability to gain and keep work long term. This is accompanied by a focus on the star-rating system under which DES operates which often results in an unwillingness to work with people with higher support needs who may require more immediate training and support.

Secondly, there are strict guidelines that inhibit DES from supporting students with disability and providing opportunities to gain that first job and work experience that can be so important. DES are only able to access students who are in their final year of school, receive additional educational funding and who attend a special school setting either within a unit in a mainstream school or at a special school or receive the DSP. Students who may require support to find work but who are not eligible for DES student support are therefore excluded.

Thirdly, there appears to be tension between the roles of DES and the NDRC, and how they interact with businesses and employers. This relationship was changed in recent years, with the redirection of the NDRC's role from direct recruitment to a more awareness-raising focus.

Similarly, the concurrent issues surrounding DES and ADEs – where an individual cannot be accessing both - was highlighted. This situation can result in a lack of coordination between what should be two interacting services. However, it can create challenges for people wanting to transition between the two. Unless an organisation operates both a DES and an ADE, it can be difficult for people with disability to have the opportunity to transition from supported to open employment. Proposals in the 2015 Federal Budget address these concurrent barriers.

ADEs and DES also sit within the Social Services portfolio and not the Department of Employment. This is believed by some to contribute to the siloing of disability employment, as it is seen to place ADEs and DESs as a form of welfare, rather than genuine employment opportunities for people with disability.

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<sup>51</sup> Australian Government Department of Human Services 2015, *Youth Allowance*, Commonwealth of Australia, Canberra, viewed 4 December 2015, <http://goo.gl/sgllyV>.

<sup>52</sup> Australian Government Department of Human Services 2015, *Newstart Allowance*, Commonwealth of Australia, Canberra, viewed 4 December 2015, <http://goo.gl/5e9iXU>.

<sup>53</sup> Australian Government Department of Human Services 2015, *Mobility Allowance*, Commonwealth of Australia, Canberra, viewed 4 December 2015, <http://goo.gl/8ulC1K>.

It is hoped that these issues will be effectively addressed and overcome through the current reform process regarding the new Disability Employment Framework.

## **CURRENT REFORM**

### **Disability Employment Framework**

A taskforce established by the Australian Government Department of Social Services is currently reviewing the entire disability employment system to develop a new national Disability Employment Framework for a staged implementation from 2018.<sup>54</sup> This includes DES, ADEs and other government-funded programs that provide employment assistance for job seekers with disability.

The associated discussion paper released outlines a case for changing disability employment services and describes how four key areas of disability employment policy may operate in the future.<sup>55</sup> These four areas are:

- Individualised funding and market-based service provision;
- Better support for employers and jobs creation;
- Improved ongoing support and supported employment; and
- Better use of new technology in the creation of a virtual marketplace.

CDA welcomes this reform, as the direct experiences of young people with disability clearly demonstrate that a new approach employment policy and services is very timely. Below is a summary of CDA's key feedback about the proposed Framework.

#### *Strengths of the Proposed Framework*

- The individualised, person centred approach with portable funding provides a strong opportunity to enable services and supports to be better tailored to each young person's needs and circumstances;
- Greater opportunity to focus on career development with a long-term approach for each person. This should also be balanced with an understanding that for many a key focus will be on access to income and not necessarily 'career development;'
- Examination of the crucial importance of post school transition within the Framework and the urgent need progress reform in this area;
- Recognition of support for Employment Assistance Fund and that elements of the program should remain and be built upon in the new Framework to increase flexibility; and
- The focus on job matching.

#### *Limitations of the Proposed Framework*

- The discussion paper includes the aim to "identify and create jobs for people with disability," however there is limited discussion of how this will occur;<sup>56</sup>
- There is a lack of linkages with education system;
- With regard to the obligations of participants in the Disability Employment Framework, the discussion paper states that a "failure to meet these agreed responsibilities could impact on a participant's career action plan and/or their social security payments."<sup>57</sup> CDA has concerns

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<sup>54</sup> Department of Social Services 2015, *National Disability Employment Framework: Discussion paper*, p. vi.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid, p. xiv.

<sup>57</sup> Ibid, p. 23.

that this is an unnecessarily punitive approach. Benefits of employment are a sufficient motivator for young people and there should not be risks to social security given the many social barriers facing young people with disability that impact upon their ability to undertake activities identified in the career action plan. Rather, the focus should be on supporting people if challenges arise; and

- There is a need to consider how expertise about the needs of people with significant cognitive disability can be translated into assessment, planning and service delivery. Beyond portable funding and pro rata wages, there is limited discussion of how this cohort will be supported.

### *Potential Risks of the Proposed Framework*

- Opening market to a large number of providers may create some risks of sub-standard provision, as has been the case in the Vocational Education and Training (VET) industry. This highlights the need for strong quality framework. This may include standards, an independent complaints or oversight body, audits and client reviews;
- It is critically important to clearly develop and define the interfaces between the NDIS and the Disability Employment Framework, including defining funding arrangements and demarcating clear lines of responsibility; and
- The present reform provides an opportunity to reframe the role of ADEs. Supported employment does not need to mean segregated employment. ADEs could provide pre-employment and transition training opportunities for people with disability as a step towards participation in the open labour market.

### *Planning*

CDA has some concerns regarding the provisions in the discussion paper about developing a “career action plan” to fund employment supports.

- Young people often do not have planned out life and employment ‘goals and aspirations.’ In fact, it is typical to have altered career aspirations as one moves throughout life. Any career development or planning will need to recognise the specific considerations for young people who will be transitioning into the workforce, developing interests and balancing needs and personal circumstances;
- For many young people it is critical that assistance with employment aligns with their experience of post school transition; and
- Accessing services and supports for people with disability often involves providing extensive personal information. Traditionally, these planning processes have been highly bureaucratic, rigid and onerous. The intent of the NDIS is to alter these processes to create a more person-centred approach to planning and delivering individualised disability services and supports. However, the NDIS is still evolving with many processes being continually refined. Planners under the Disability Employment Framework will need to be aware of the need to ensure flexibility in planning, balance considerations regarding privacy and ensure onerous processes are minimised where possible.

Further considerations for the planning process include:

- It is important to ensure the planning process includes sufficient time and collaboration with clients so that planners can gain a comprehensive understanding of client needs;
- There is a need to counter low expectations, which are experienced by many people with disability regarding employment. Frequently, disability is understood as inability or

incapacity to learn or work. This in turn often leads to closed and narrow employment pathways being presented. Planners will therefore need to be equipped to operate using a strengths-based approach and challenge low expectations;

- Additional considerations for people with cognitive disability and high support needs are that clients from this cohort may also require support in terms of work skills development and customisation (particularly for people who need support to transfer skills between contexts, for whom practical or hands on support to learn on the job will be beneficial). There is also a need to ensure appropriate expertise to meet specific needs of this cohort is reflected in assessment, planning and service delivery;
- There should be opportunities to access support and advocacy during the planning process;
- Planners will often also need to facilitate linkages with other service areas. Examples include services in homelessness, housing, Aboriginal and Torres Strait Islander or culturally and linguistically diverse people; and
- There is a need to carefully consider what education, training and qualifications planners have, as well as oversight during the planning process.

### *Virtual Marketplace*

The discussion paper proposes the creation of a new 'virtual marketplace' to "support interactions between participants, employers and service providers."<sup>58</sup> This would take the form of a website with possible functions including managing participant information; information provision; facilitating interaction between employers and people with disability; allowing participants to view and manage services used; and a payment gateway.<sup>59</sup> CDA's comments on the proposal are below:

- There is a need for clarification regarding the intent, role and aims of a separate virtual marketplace for people with disability. There is presently an online portal, Australian Job Search, available to job seekers (including those accessing jobactive services) that allows users to search for and apply for jobs and manage their 'Work for the Dole' activities. This portal combines search functions available in private job search websites and provides linkages with jobactive supports. There is a need for caution in creating an additional segregated environment for job seekers with disability. Further, it is important to evaluate existing 'virtual marketplaces' to ensure that any online systems developed through the Disability Employment Framework improve on current systems.

### *Additional Comments*

- CDA believes that it is critical that a nationally consistent model is implemented to ensure students with disability can access a quality post school transition process. This should be included in the Disability Employment Framework;
- There will be a need for mechanisms support people to engage with system;
- It is important to develop of an evidence base regarding successful programs or interventions;
- There are varying definitions of 'work' in the community and it is important to consider this in developing the Framework;
- Development of clear benchmarks and goals of reform (including in the area of post school transition) is critical. Further, consideration regarding accountability and monitoring is also required;

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<sup>58</sup> Department of Social Services 2015, *National Disability Employment Framework: Discussion paper*, p. 38.

<sup>59</sup> *Ibid*, p. 38.

- The issue of personal disclosure of disability in workplace is also important and should remain the choice of the person;
- Expansion of other concessions and entitlements such as health care cards, concession cards or the mobility allowance may provide further support for people to access and maintain employment;
- Interfaces with current income support programs should also be examined. It may be useful to develop guarantees for people to be able to receive income support again without the typical waiting period, particularly the Disability Support Pension, if the recipient finds temporary employment or loses their job, to ensure that fear of losing income support does not act as a deterrent to looking for employment; and
- One options for supporting people with disability in the workplace often proposed is peer mentoring. This may be a useful option for some young people, however it is important that there is clear articulation about what ‘peer mentoring’ means and what the desired outcomes are. For example, often mentoring occurs naturally in a workplace through existing human resources structures, without it being named as such. Allocating a specific ‘mentor’ for an employee with disability may result in further unnecessary labelling. It is also imperative that any mentoring is actually helpful to a person in learning and doing their job. These issues will need further articulation and consideration prior to being included in policy frameworks and service delivery.

**Recommendation 10:** Australian Human Rights Commission to provide input into the development of the Disability Employment Framework.

**Recommendation 11:** Australian governments to legislate to ensure students with disability can access a quality post school transition process. Core requirements of post school transition must include:

- a. Transition planning to begin early, by Year 9;
- b. Planning to be person-centred;
- c. High expectations to be embedded throughout the process;
- d. Work experience opportunities and the facilitation of part time work — connections with local businesses and employers will be essential for this;
- e. Foundational skills to be addressed;
- f. Career development planning to take place; and
- g. Follow up with young people post school.

**Recommendations 12:** Ensure people who access the Disability Support Pension who stop accessing payments because they have secured employment are able to access payments again with no waiting period if income ceases.

## **National Disability Insurance Scheme**

The NDIS is a significant social reform that introduces a new system of funding disability support focused on the needs and choices of people with disability. Underpinning the NDIS are principles that aim to increase the social and economic participation of people with disability in the Australian community.

The NDIS is a shift from block funding, where service providers are funded to provide disability supports, to portable and individualised funding. The overarching aim of the NDIS is to allow people with disability choice and control over the supports received and will involve ‘rolling in’ the many different disability funding programs that currently exist into a single scheme.

Transition to further education, training and employment is identified as a responsibility of the NDIS within the operational guidelines, which refer to:

*Building the participant's capacity for independent living and self-care, development of social and communication skills, development of specialist behaviour management plans and enabling the participant to travel independently to their place of education.<sup>60</sup>*

However, the NDIS will not be responsible for:

*The funding or provision of employment services and programs, including both disability-targeted and open employment services, to provide advice and support to:*

*(i) people with disability to prepare for, find and maintain jobs; or  
(ii) employers to encourage and assist them to hire and be inclusive of people with disability in the workplace (i.e. support, training and resources, funding assistance to help employers make reasonable adjustments, and incentives for hiring people with disability, e.g. wage subsidies).<sup>61</sup>*

To date the work around the NDIS interface with a range of other areas, such as health and education is not significantly advanced and involves a complex range of considerations across multiple jurisdictions. Consequently there is much to be established regarding the role of the NDIS in relation to education, post school transition and employment.

Addressing interface issues will involve defining clear roles and lines of responsibility, funding arrangements, present gaps in service provision and ensuring effective collaboration occurs. It will, for example, be critical to determine whether the NDIS or the employment system will fund particular supports accessed by participants in the workplace. There is a critical need for a clear articulation of the role of the NDIS and relevant interface areas.

**Recommendation 13:** Define the interface between the NDIS and employment, recognising that not all people with disability will be participating in the NDIS.

## CONCLUSION

There is a critical and urgent need for reform across a range of areas to support the participation of young people with disability in employment. Employment is highly valued within the Australian community, with widely recognised benefits to individuals, the economy and society. However, due to a multitude of complex barriers that commence in early childhood and continue throughout life, young people with disability are being denied the opportunities to access the benefits of employment. While there has been a strong commitment to supporting economic and social participation of people with disability, the direct experience of young people with disability clearly shows that reform is urgently needed.

It is paramount that significant reform occurs within to ensure the education system and post school transition process can equip young people with disability with the knowledge, skills and support to make a contribution to the community through employment. Overarching this is a need to

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<sup>60</sup> National Disability Insurance Agency 2014, *Operational Guideline – Planning and Assessment – Supports in the Plan – Interface with School Education*, Geelong, p. 3.

<sup>61</sup> National Disability Insurance Agency 2014, *Operational Guideline – Planning and Assessment – Supports in the Plan – Supports for Employment, Vocational Training and Higher Education*, Geelong, p. 5.

fundamentally challenge the systemic culture of low expectations confronting children and young people with disability throughout childhood and young adulthood.

Discrimination is a key factor in shaping the poor employment experiences of young people with disability, and there is a need to consider how this can be addressed. This must involve addressing community and employer attitudes about disability and ensuring an effective support system is in place.

Thank you for the opportunity to contribute to this Inquiry and please do not hesitate to contact CDA if you wish to discuss further any of the matters raised in this submission.

## **SUMMARY OF RECOMMENDATIONS**

**Recommendation 1:** The Australian Bureau of Statistics Survey on Disability, Ageing and Carers collect data about experiences of employment discrimination that disaggregates according to age, gender and other related demographics.

**Recommendation 2:** Final report of the Australian Human Rights Commission *Willing to work* Inquiry includes a strong focus on the issue of education for students with disability as a fundamental factor in poor employment experiences and discrimination.

**Recommendation 3:** Final report of the Australian Human Rights Commission *Willing to work* Inquiry adopts the recommendation included in CDA's submission to the Senate Inquiry into *Current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of support* (Appendix A).

**Recommendation 4:** Final report of the Australian Human Rights Commission *Willing to work* Inquiry includes key consideration of post school transition of students with disability.

**Recommendation 5:** Final report of the Australian Human Rights Commission *Willing to work* Inquiry adopts the recommendations made in CDA's report *Post school transition: The experiences of students with disability* (Appendix B).

**Recommendation 6:** Leadership from Australian Government shown by hiring people with disability and developing policies to support positive workplace cultures.

**Recommendations 7:** Further consideration regarding the use and desired outcomes of public awareness campaigns and whether they represent an effective way of producing attitudinal change.

**Recommendation 8:** Well-coordinated and accessible information regarding rights, responsibilities and services and supports is available for employers and employees.

**Recommendation 9:** Inclusion of the direct experiences and specific considerations of young people with disability in broader youth sector advocacy, policy and research regarding education, skills and employment.

**Recommendation 10:** Australian Human Rights Commission to provide input into the development of the Disability Employment Framework.

**Recommendation 11:** Australian governments to legislate to ensure students with disability can access a quality post school transition process. Core requirements of post school transition must include:

- a. Transition planning to begin early, by Year 9;
- b. Planning to be person-centred;
- c. High expectations to be embedded throughout the process;
- d. Work experience opportunities and the facilitation of part time work — connections with local businesses and employers will be essential for this;
- e. Foundational skills to be addressed;
- f. Career development planning to take place; and
- g. Follow up with young people post school.

**Recommendations 12:** Ensure people who access the Disability Support Pension who stop accessing payments because they have secured employment are able to access payments again with no waiting period if income ceases.

**Recommendation 13:** Define the interface between the NDIS and employment, recognising that not all people with disability will be participating in the NDIS.

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