



**Australian
Council of
Social Service**

26 August 2011

Senator Claire Moore
Chair
Senate Community Affairs Committee
Parliament House
Canberra ACT 2600

Dear Senator Moore,

**RE: SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT BILL
2011 – DSP impairment tables**

The following is a brief submission dealing with the proposed new impairment tables for the Disability Support Pension (DSP). The Bill, if passed, would enable the Minister to replace and subsequently the current tables by Ministerial Determination. We recommend that this part of the Bill be opposed, on two grounds.

First, the Impairment Tables play a central role in the determination of eligibility for the DSP so a major overhaul of the tables as proposed by the Government should be conducted through the primary legislation, even if subsequent minor amendments were undertaken through Determinations. Removing the tables from the primary legislation would also significantly reduce transparency.

Second, modelling commissioned by the Government indicates that the proposed changes could reduce the probability of successful DSP claims among those otherwise eligible for DSP (apart from those whose disability is 'manifest') by between 36 to 45%. Given the \$128 per week gap between the DSP and the main alternative payment (Newstart Allowance or NSA), this would substantially reduce income support for many people with disabilities who would (up until now) have qualified for the pension. It should also be noted that those existing DSP recipients whose eligibility is reviewed in future would be reviewed under the new tables.

A decision to endorse the proposed impairment tables should not, therefore, be taken lightly. We have not analysed the tables in detail at this stage and note that this requires substantial expertise across a number of areas of specialisation. Both the proposed tables and the previous ones combine elements of medical and functional assessment of impairment. On a superficial reading, the proposed tables would measure functional impairment more comprehensively and consistently than the existing ones. In that sense, they are more in tune with contemporary thinking about how impairment should be measured. However, their impact cannot be assessed in the abstract without taking account of their place within the broader system of social security for people with disabilities and their potential impact on the lives of applicants for the DSP.

The projected impact of the proposed impairment assessment system raises important questions about the respective roles of DSP and NSA in the income support system for people with disabilities, how we define 'disability', and how we assist people with disabilities to improve their job prospects. In our view these issues

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must be examined together. The proposed changes to impairment tables should be put on hold while a broader review of these issues is undertaken.

We wish to raise four concerns.

- (1) The immediate practical impact of the changes to impairment tables will be to make many people with disabilities \$128 a week poorer.

A primary purpose of the impairment tables is to assess qualification for the DSP. Unsuccessful claimants usually receive Newstart Allowance instead, which is \$128 per week lower in the case of a single adult.

To the extent that the assessment process and Newstart Allowance activity requirements connect people with disabilities with employment assistance and the labour market, some will obtain jobs and be financially better off, but analysis of previous reforms in this area suggests they would be a small minority.

Following the introduction of the Welfare to Work policy in 2006, less than 20% of those people with disabilities who were assessed as having a 'partial work capacity' (who were diverted to NSA) had left income support for paid work within 12 months of claiming income support. Most remained on NSA. The number of people with a partial work capacity on NSA and Youth Allowance is close to 100,000 and growing. This group would, in most cases, have previously qualified for DSP. This raises the question of whether NSA is an appropriate payment for people with substantial barriers to work who are likely to face additional costs associated with a disability.

If the proposed reform of impairment tables have the effect of switching a large number of people from a higher payment to a lower one without (in most cases) significantly improving their job prospects, then from the standpoint of the wellbeing of people with disabilities it will have failed. The policy goal should be to increase their employment prospects, not to reduce reliance on one particular payment.

- (2) There is a disconnect between DSP assessment and the actual job prospects of people with disabilities

The current social security system does not adequately take account of their barriers to employment in the 'real world'. A significant problem with measuring an individual's employment potential in the abstract (without considering the labour market response and other environmental factors) is that the assessment may bear little relationship to people's actual job prospects.

In this field there is no such thing as 'perfect' measurement. The results are driven by the definition of disability and assessment framework that is applied. The WHO International Classification of Functioning, Disability and Health which we understand provided the conceptual basis for the proposed changes, includes environmental factors such as aids, equipment and reasonable access. The proposed tables partly take these into account (for example by taking account of hearing aids in assessing hearing function) but the DSP assessment process as a whole does not take account of the labour market response to disability, for example whether work of the kind a person is capable of performing is available where they live and whether employers discriminate against people with a particular disability. While ACOSS strongly



Australian Council of Social Service

supports efforts to improve the job prospects of people with disabilities, it is important to acknowledge that the labour market is still hostile to disability. The overall employment rate of people with significant functional impairments in 2009 was 42% compared with 70% for the wider community.

Further, other environmental factors such as accessible transport are not considered in the assessment process.

This is a deliberate, and to an extent unavoidable, feature of assessment for a payment such as the DSP. If an individual's actual employment prospects were taken into account (as the legislation previously did for mature age workers with disabilities) then the distinction between the DSP and an unemployment payment would be blurred. Nevertheless, a failure to take account of the way the labour market responds to disability is problematic as this is part and parcel of the proper measurement of disability.

- (3) The present social security system for people with disabilities is inconsistent with modern concepts of disability and the measurement of impairment.

The main problem with the DSP assessment process is not that the results are inaccurate or invalid, but that the wrong question is being asked. The purpose of DSP assessments is to divide people with disabilities into a group deemed 'unable to work' who are paid a 'pension' and a second group deemed 'able to work' who are paid an 'allowance'. Allowances are paid at a lower rate because the recipients are considered less deserving of income support than pensioners, since it is assumed that they are better able to support themselves through employment. This reflects an outmoded view of disability that discounts the employment capacity of those on pensions while at the same time downplaying the substantial barriers to employment faced by those on allowance payments. Modernising the assessment of impairment will not solve this problem.

Historically, the division of people with disabilities into pension and allowance recipients worked to a large extent by assuming that people with 'severe' impairments (such as severe vision impairment or paraplegia) were 'unable to work'. However, with the possible exception of 'manifest' impairments, a modern system of functional assessment of impairment is more likely to reveal a continuum of work capacity rather than a simple divide between those 'able' and 'unable' to work. This implies that the dividing line between these two categories will inevitably be arbitrary to a significant degree, especially if environmental factors are not fully considered.

For this reason, it is not entirely surprising that the proposed new impairment tables (along with the new system of functional impairment assessment recently introduced in the UK) appear to yield very different results to the present system. The dividing line between 'able' and 'unable' to work is not fixed. It is likely to shift once a new assessment framework is introduced, especially if it emphasises people's remaining work capacity. This does not mean, as some media reports suggest, that the impairments of people already on the DSP are not 'real', that they do not experience genuine labour market disadvantage, and that assessment of impairment and disability cannot be objectively carried out.

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The underlying problem is that DSP assessment aims to divide people into two arbitrary categories. A better approach that is more consistent with modern thinking about disability and employment participation, would be to assess each individual's work capacity and employment prospects in order to determine the combination of activity requirements and services (if any) that is appropriate to assist them on a pathway to employment. Levels of payment should be based on living costs (including the costs of disability) rather than future employment potential.

- (4) The present pension/allowance divide is inequitable and discourages workforce participation.

The current social security system forces payment administrators and assessors to choose between paying a benefit that provides better income support and income security on the one hand, and supporting labour market engagement on the other. Those people with disabilities on NSA are required to participate in the labour market and referred to programs to assist them to find paid work, but the payment is inadequate – especially for people whose disabilities attract additional costs. Those on the DSP receive a higher payment but are discouraged from labour market participation, for fear of losing the pension and ending up on the lower payment.

An income support system that is consistent with modern thinking about disability would not impose this choice. It would encourage and support people with disabilities into employment while at the same time paying a benefit that meets essential living costs, including the costs of disability.

Before the Parliament adopts a new system of assessment of impairment that diverts large numbers of people from DSP to lower Allowance payments, we submit that it should carefully review the underlying purpose of the assessment and its 'real world' effects on people.

Based on the four concerns raised above, we recommend that the system of income support payments for people with disabilities be reviewed alongside the impairment tables. As a first step, the Australia's Future tax System recommendation to at least reduce the financial gap between pension and allowance payments by extending to single people on Allowances the increases secured by pensioners in 2009, should be implemented as a matter of priority.

It would be a great pity if an improved system to assess functional impairment results in an increase in poverty among people with disabilities. The Parliament should consider these issues very carefully. Should you have any queries about this submission, please contact either myself or our Senior Policy Officer Peter Davidson.

Yours sincerely

Dr Cassandra Goldie
CEO