



people with disability

## **Inquiry into the administration and purchasing of Disability Employment Services in Australia**

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### **People with Disability Australia (PWD) Submission to the Senate Education Employment and Workplace Relations Committee**

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## 1. Introduction

People with Disability Australia (PWD) welcomes this opportunity to provide the Senate Committee with its views about the proposed purchasing arrangements for Employment Support Services (ESS). ESS services form part of the Disability Employment Services (DES) system and should provide a powerful means of assisting people who require ongoing support to achieve social and economic inclusion.

PWD believes the need to provide a Submission about this matter to be compelling. We believe that the role of ESS services is to assist people with disability who require ongoing support to obtain and sustain employment and that this task should be contracted to providers with a sound track record of achieving results. We are concerned that the results of DES service delivery indicate that the system significantly underperforms in this role. We question, however, whether responsibility for these performance issues rests entirely with ESS services - to be resolved via the proposed tender process - or whether significant service features that are specified by the Department of Education Employment and Workplace Relations (DEEWR) might contribute to poor overall service performance. We also question whether the introduction of new "players" will deliver the benefits the Government expects, given the particular skills and experience required to assist people with disability sustain employment sufficient to reduce dependency on welfare.

The comments PWD makes in this submission are informed by its role as an organisation of people with disability and also by its contractual role as operator of the Complaints Resolution and Referral Service (CRRS). The CRRS receives complaints about the delivery of services from users of Commonwealth-funded disability services subject to the Commonwealth Disability Services Act 1986. These services comprise DES, Australian Disability Enterprises (ADE) and Disability Advocacy Services (DAS). Currently 95 per cent of complaints received by the CRRS involve DES services. Since implementation of the DES system in March 2010, the CRRS has received and resolved over 2000 complaints about these services. The CRRS approaches complaints about services through the context of the Disability Service Standards. As part of the resolution process, one or more Standards are applied to each concern raised by complainants.

This submission is therefore primarily concerned with the term of reference which deals with assessment of the DES performance framework as the best means of meeting the objectives of the Disability Services Act 1986, although other issues will be raised in doing so.

## **2. Organisational Background**

People with Disability Australia Incorporated (PWD) is a national peak disability rights and advocacy organisation, of and for people with disability. We exist within the international human rights framework and provide a number of activities, which include individual, group and systemic advocacy, complaints handling, information, education and training.

Individuals with disability and organisations of people with disability are our primary voting membership. We also have a large associate membership of people and organisations committed to the disability rights movement.

We were founded in 1980, in the lead up to the International Year of Disabled persons (1981), to provide people with disability with a voice of our own. We have a fundamental commitment to self-help and self-representation for people with disability by people with disability.

We have a cross-disability focus – membership is open to people with all types of disability. Our services are also available to people with all types of disability and their associates.

We are governed by a Board of directors, drawn from across Australia, all of whom are people with disability. We employ a professional staff to manage the organisation and operate our various projects. A majority of our staff members are also people with disability.

We are part of an international network of disabled people's organisations through Disabled Peoples International.

We are a non-political, non-profit, non-governmental organisation incorporated under the Associations Incorporation Act 1984 (NSW).

Our activities are supported by substantial grants of financial assistance from the Commonwealth and New South Wales Governments, as well as a growing number of corporate and individual donors. This financial assistance is acknowledged with great appreciation.

### **3. PWD's Knowledge and Experience**

PWD conducts a range of activities, including individual and systemic advocacy, and the operation of the Complaints Resolution and Referral Service (CRRS) and the National Disability Abuse and Neglect Hotline (the Hotline) on behalf of the Australian Government's Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA).

PWD has a NSW, national and international focus, and conducts significant work developing the capacity of disability organisations in the Asia-Pacific region. It has operated as an organisation since 1981, and its Board of Directors is made up of members who have disability.

PWD was instrumental in Australia's involvement in the development of the UN Convention on the Rights of Persons with Disabilities (CRPD), and committed its resources to bringing this to fruition at a time when there was little support from the Australian Government.

PWD takes pride in representing the many voices of people with disability to bring a unique, yet crucial, perspective to this Inquiry. PWD is an actively inclusive organisation with a strong affirmative action policy in relation to the employment of staff with disability. Of its over 40 staff over 50% are persons with disability.

PWD pursues a range of strategies to ensure the participation and inclusion of persons with disability from indigenous and diverse cultural backgrounds in its service delivery, including supporting representatives of indigenous and culturally diverse communities to participate in PWD's Board, implementing an affirmative action policy in relation to staff from indigenous and culturally diverse backgrounds, providing information about its service in culturally sensitive ways, and ensuring that services are delivered in a culturally sensitive manner by providing staff with ongoing training in culturally competent service delivery.

## 4. PWD's Submission

### 4.1 Employment of people with disability

The Australian Government and the community generally recognise the role of business and industry in generating the economic conditions which create employment. The challenge of ensuring that people with disability are afforded the same opportunities to work as other Australians therefore has to be viewed as a partnership between government and business. This recognition has not, in recent times, provided substantial results for people with disability. Labour force participation of people with disability in Australia is currently 54.3%, compared to 82.8% for people without disability. This disparity of opportunity is glaring and unacceptable, two decades after implementation of the Disability Services Act (1986).

Current 'employer' incentives provided by the Government fail to address the underlying issues that prevent the employment of People with Disability from an employer perspective.<sup>1</sup> Placing a focus on the 'supply side' assisting People with Disability into employment, rather than an integrated supply and demand solution, fails to provide optimal employment outcomes for people with disability.<sup>2</sup>

PWD believes more work should be done by government, in partnership with business, to ensure people with disability have opportunities for sustainable employment in Australia. While the DES is an important mechanism to place and train people with disability, the message must go out to industry and business that all work places should accommodate people with disability. There should also be recognition by Government as well as by business and industry that specialist programs are not the only means available to facilitate employment for people with disability.

### 4.2 Systemic Factors Impacting on DES-ESS Performance

Since its establishment in 2002 the profile of CRRS complainants has changed dramatically. Then, far fewer people with disability were engaged with open employment services and most of these disclosed intellectual disability and physical disability. In the current financial year, people disclosing intellectual and learning disability types constitute less than 10 per cent of complainants. This, we understand is consistent with the demographics of DES participants in general. Currently, about 40 per cent of CRRS complainants disclose a primary physical disability and about

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<sup>1</sup> The Australian Employers' Network on Disability, *Response to the Exposure Draft of the New Disability Employment Services and Employer Incentives Scheme 2010–2012 Purchasing Arrangements*, Letter to the Minister for Employment Participation (3 July 2009) page 2.

<sup>2</sup> The Australian Employers' Network on Disability, *Response to the Exposure Draft of the New Disability Employment Services and Employer Incentives Scheme 2010–2012 Purchasing Arrangements*, Letter to the Minister for Employment Participation (3 July 2009) page 4.

35 per cent of complainants disclose a primary psychiatric disability. The numbers of complainants disclosing psychiatric disability is, however, understated because five to 10 per cent of those disclosing a primary physical disability also disclose a secondary psychiatric disability.

In March 2010, the Australian Government introduced the Disability Employment Services (DES) program. The new program removed the long-standing limitation on the places available in open employment services for people with disability, particularly voluntary participants with significant support needs, many of whom are Disability Support Pension recipients.<sup>3</sup> Welcome as this “uncapping” was, the benefit to people with disability needs to be seen in the context of results achieved by the population it targeted.

When restrictions on numbers of places in the program were removed, PWD expected to see a reduction in the number of complaints to the CRRS about DES services, especially due to provisions which did away with service provider discretion to take up or reject referrals of voluntary job seekers. On the contrary, in the first 12 months of DES program operation, complaints to the CRRS increased by over 30 per cent. This was assisted, no doubt, by increasing numbers involved with the DES program. We were more surprised to find complaints about service access – covered under Standard 2 of the Disability Employment Service Standards (DSS) became the pre-eminent issue raised by complainants. Other emerging issues included claims of insufficient job seeking assistance and a lack of understanding of complainants’ disability, both covered under Standard 2 of the DSS. Unfortunately, the CRRS has no way to distinguish between complaints arising from ESS or DMS services. Frequently complainants are themselves unsure about the program to which they have been assigned. In fact the CRRS regularly receives complaints from Job Services Australia clients who believe they are involved with DES services.

The experience of CRRS complainants is, at least in part, a reflection of the program’s results. The DES program will cost \$1.7 billion over 2010–2012 and has, to date, resulted in only one in four program participants being placed in a job and in only 14 per cent of participants sustaining employment or training (required to achieve employment) for 13 weeks.<sup>4</sup>

Many in the community have expressed concern about DES and, particularly, about ESS program performance in recent months. The Australian Federation of Disability Organisations (AFDO) stated in August this year that program results since the introduction of ESS services were inferior to those achieved under the previous Disability Employment Network (DEN), particularly for high support needs populations such as those with intellectual disability and psychiatric disability, who fall within the primary target of ESS services:

*“The ESS program had both lower placement and 13-week outcome rates when compared to DEN (22.8% and 13.6% for ESS compared to 36.9% and*

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<sup>3</sup> Information on DES services is available at <http://www.deewr.gov.au/Employment/Programs/DES/SJS/Pages/home.aspx>

<sup>4</sup> Department of Education, Employment and Workplace Relations *Evaluation of Disability Employment Services Interim Report* June 2011 page 23

17.7% for DEN). The results for each primary disability grouping indicate that the ESS placement and 13 week outcomes are lower when compared to DEN placement and 13 week outcome rates.”(page 6)

The paper also noted that overall DES program results, to date, were poor:

*“The interim evaluation performance results of DES are poor...The DES Interim Evaluation found that the 13-week outcome rate of 14.0% had not improved in comparison to the previous DEN/VRS program result of 14.1%. Less than two out of ten people with disability commencing in DES achieved a job that lasted 13 weeks in duration.”(page 7)<sup>5</sup>*

Similarly, Dr Geoff Waghorn, Head of Social Inclusion and Translational Research, at the Queensland Centre for Mental Health Research, Queensland Health; and Adjunct Senior Lecturer, School of Population Health, University of Queensland, in a submission to the Parliamentary Inquiry into Mental Health and Workforce Participation in August 2011, stated:

*“Australia now has a multi-billion dollar disability employment industry consisting of Disability Employment Services (DES) contracted to DEEWR... The problem is that the effectiveness of these services has recently crashed. According to DEEWR's interim evaluation released in July 2011 (Table 3.3, p 31), only 10.6% of clients with a primary psychiatric disability, at funding level 2, achieved 13 weeks of employment or an education pathway outcome during March to December 2010. This result is less than the program achieved in 2007.” (page 2)*

Further, Dr Waghorn suggested:

*“The program could now be so inefficient for people with psychiatric disabilities that it may represent a zero net effect. The evidence for this is that Australian population surveys (Waghorn et al, 2009) show that at any time about 16-19% of people with schizophrenia and other severe mental illnesses, are employed and do not report receiving employment assistance.”(page 4)<sup>6</sup>*

PWD acknowledges that the DES program is less than two years old and that there is yet to be a complete cycle of assistance provided to a cohort of program participants. For this reason performance data provides only a partial indication of performance. In these circumstances, it is unclear to us how the proposed tender process will address performance issues, given the incomplete yet disappointing data currently available, unless the program specification is altered to better accommodate the needs of people with disability who require intensive support.

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<sup>5</sup> Australian Federation of Disability Organisations *The Future of Disability Employment Services (DES)* August 2011

<sup>6</sup> Waghorn, G *Presentation to the Australian Government's Parliamentary Inquiry into Mental Health and Workforce Participation* August 2011 p. 2



### 4.3 Conflicting Expectations Impacting on ESS Performance

The ESS program encompasses the long-standing open employment service target group of people with disability who are usually Disability Support Pension (DSP) recipients and who want to attempt employment. We understand this group now constitutes about half of ESS participants. This group is increasingly overlaid with a broader population with generally lower support needs which is required to seek employment in order to receive income support, usually the Newstart Allowance. These populations have different motivations and sometimes less intrinsic motivation to seek employment and require different employment service activities and interventions to be successful.

ESS providers are required to achieve with both groups using a service paradigm that is, in our view, designed to drive compliance with participation requirements rather than to support service user aspirations. In addition, DES providers have a vital role in enforcing compliance with participation requirements in conjunction with Centrelink. In the absence of an adequate supply of jobs for both ESS populations, PWD is concerned that the understanding of workforce participation will further shift from actual employment to a range of compliance driven activities which relate to employment or training.

The experience of the CRRS is that is that many of the complaints it receives involve DES providers that entered the DES market from the former Job Network and who appear more attuned to the needs of the lower support needs, non-voluntary population. Our experience is that these providers are less attuned to the aspirations of voluntary participants and the more intensive assistance they require to achieve and sustain employment. This is significant because changes to eligibility for the DSP currently under way will drive many more people with disability who require intensive support into the DES ESS system<sup>7</sup>. In our view, providers will be needed who can work in an intensive and person-centred way with rather than those who have experience driving compliance with participation requirements from employment service users in less intensive employment service streams. Dr Waghorn expressed similar concerns about this facet of program performance:

*“The sudden increase in the proportion of non-volunteers entering the program may have contributed to the sudden decline in performance from 2007 to 2009. Perhaps this is because practices for conscripts are less intensive with lower outcome expectations than for volunteers. The resulting combination of lower client motivation and lower service intensity may account for the poorer employment outcomes.”<sup>8</sup>*

Clearly, there is sufficient evidence to warrant action from government to lift the program’s performance. It is unclear whether the structural issues outlined here which impact on ESS performance will be addressed through the proposed tender or

<sup>7</sup> Catholic Social Services Australia; *What if Employers Say No* September 2011 page 3. CSSA estimates that changes to DSP eligibility will see an additional 14,000 people per year who would have previously been eligible for the DSP entering the labour market.

<sup>8</sup> Waghorn, G *Presentation to the Australian Government’s Parliamentary Inquiry into Mental Health and Workforce Participation* August 2011 page 5

how the process will ensure new providers are more effective in finding jobs for people with disability than is currently the case.

Other DES program design issues limit effectiveness of DES services. PWD questions the reliability of Employment Services Assessments (ESAst), formerly known as Job Capacity Assessments, in accurately predicting future work capacity of participants, especially those requiring intensive support. Aside from the inherent speculation involved in assessments of future work capacity, the process may negatively undermine the DES experience for participants. In a report produced for Disability Employment Australia, the peak body for DES providers, the authors found:

*“The JCA is a critical decision point in the DES process. The determination of job capacity drives the outcome payments of DES providers and may define the participants’ experience of DES. Anxiety by participants and DES providers with this process creates a ‘bull whip’ effect for the overall performance of the DES process. This effect may contribute to an attrition rate of up to 30% to 40% by volunteer participants and sets participants up to fail once placed in employment.”<sup>9</sup>*

Evidence of high DES employee caseloads also appears to constrain the capacity of DES services to develop sustainable (job matching, job “carving” etc.) opportunities for people with more intensive disability-related support needs, especially those with mild to moderate intellectual impairment, autism and Acquired Brain Injury. It is worth noting that high caseloads have accompanied a reduction in DES service and outcome fees in real terms through insufficient indexation to account for rising costs. As Dr Ken Baker stated at the 2011 NDS Employment Forum in September:

*“Access to Disability Employment Services has increased, but funding per service user is falling. The 2011-12 Budget includes growth funding, but freezes fees”<sup>10</sup>.*

Dr Geoff Waghorn goes further:

*The current funding structure rewards high caseloads (inputs) ahead of client outcomes (outputs). For instance, a caseload of 50 funding level 2 clients in DES Employment Support Services (ESS) over two years generates \$760,000 in service fees alone, which represents over 5 times the bi-annual salary (including on-costs) of one full-time equivalent employment consultant. This is what the service would earn if no clients got a job. These returns drive caseloads in the opposite direction to that required by evidence-based practices.<sup>11</sup>*

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<sup>9</sup> Disability Employment Australia *Efficiency Assessment of the new Disability Employment Services* June 2011 page 20

<sup>10</sup> Baker K; *Getting the System to Work* Keynote address to the National Disability Services Employment Forum 5 September 2011 accessed at <http://www.nds.org.au/presentation/article/36> September 2011

<sup>11</sup> Waghorn, G *Presentation to the Australian Government's Parliamentary Inquiry into Mental Health and Workforce Participation* August 2011 page 4

#### 4.4 The DES Tender and the Principles and Objectives of the Disability Services Act

A primary purpose of the Objectives and Principles of the Disability Services Act was to move towards a service system in which people with disability were at the centre and could access the elements of care and support they require to manage their own lives. The purpose was to promote dignity, independence and social and economic participation of people with disability through non-discriminatory access to services tailored to meet the needs and preferences of individuals. The DSS were intended to underwrite conformance with the Principles and Objectives of the Act.<sup>12</sup>

There is little relationship between the current DES performance framework and the DSS and there has been, to our knowledge, no statement to indicate that the proposed tender of ESS services will assess the ability of ESS providers to meet the Objectives and Principles of the Act.

DES service performance is assessed against three Key Performance Indicators (KPI). Two of the three KPIs are used to develop Star Ratings for each service outlet. These ratings now form the basis of the Government's purchasing strategy for ESS Services. The KPIs are:

- **KPI 1 Efficiency** – the proportion of referrals made to a provider that subsequently commence in the program; and the average time that the provider takes, compared to the time taken by other providers to assist participants into employment.
- **KPI 2 Effectiveness** – the proportions of participants for whom job placements and outcomes are achieved and the proportion of participants who are receiving ongoing support who remain in employment.
- **KPI 3 Quality** –Quality of services and stakeholder satisfaction. Compliance with the *Disability Services Standards* will be the primary measure of quality for providers. All providers must be or become certified as complying with the *Disability Services Standards* and maintain this certification throughout the life of the *Disability Employment Services Deed 2010 – 2012* (Deed).<sup>13</sup>

KPIs 1 and 2 are numerical indicators of outputs. They have no qualitative aspects aside from the time taken to reach various milestones. KPI 1 indicates the efficiency of placement in employment and/or training and KPI 2 indicates the rates at which

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<sup>12</sup> Disability Services Act 1986 *Principles and Objectives for the purposes of section 5* Accessed at <http://www.comlaw.gov.au/Details/F2009B00030> September 2011

<sup>13</sup> DEEWR *Disability Employment Services Performance Framework Factsheet* accessed at <http://www.deewr.gov.au/Employment/Programs/DES/PerfFramework/Pages/Overview.aspx> September 2011

employment outcomes are achieved as a measure of the sustainability of employment placements, or effectiveness.

PWD believes measurements of the efficiency and effectiveness with which DES services assist people with disability to gain employment to be key measures of success but that the quality of services which is intrinsically bound to the needs and aspirations of participants is fundamental to achievement of robust service outcomes. As currently configured, KPIs 1 and 2 provide an incomplete indication of DES provider performance because they fail to measure important qualitative service features such as customer satisfaction, hours worked and the level of wages earned by participants. The gap in the DEEWR assessment of DES program performance was addressed in the AFDO paper referred to earlier:

*“Neither the DES Interim Evaluation, nor the DES Report, provides information on the average weekly wages or weekly hours of work achieved. We are not able to determine the impact of DES outcomes in reducing reliance on income support payments.”<sup>14</sup>*

DEEWR claims service quality and customer satisfaction is addressed by KPI 3. This indicator, however, forms no part of the performance framework and has no role in the selection of services via the proposed tender. KPI 3 is met through compliance with the Disability Service Standards via third-party certification. Other regulatory and performance management elements which are necessary to drive DES service quality and enhanced customer focus are currently absent from the DES administrative arrangements.

Independent certification methodologies, such as those used to certify conformance with the DSS, are based on standard business improvement practices and closely resemble ISO standards certification processes. They are bound to the development of efficient processes within established business models. As such, they do not generally challenge business models but the processes used to implement them. The methodology seeks to make those models more efficient and, to a limited extent, more effective. They are incapable of generating the paradigm shift necessary to achieve the primary purpose of the Standards which were to realise the Principles and Objectives of the Act.

In our view, the independent certification process and resultant “arms-length” approach limits the capacity of Government to pursue achievement of the Objectives and Functions of the Act. This is because improvement against the DSS is brokered by the customer service relationships between quality assurance auditors and individual service providers. Government’s role is confined to the production of practice guides, such as the Disability Employment Services Quality Strategy Toolkit. Compliance with such guides is not mandatory and, although the content is regularly updated, the success of such guides is to our knowledge not evaluated.<sup>15</sup>

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<sup>14</sup> AFDO August 2009, page 7

<sup>15</sup> FAHCSIA *Quality Strategy Toolkit for Australian Disability Enterprises and Disability Employment Services 2010* accessed at [http://www.fahcsia.gov.au/sa/disability/pubs/employers/Documents/quality\\_strategy\\_toolkit/default.htm](http://www.fahcsia.gov.au/sa/disability/pubs/employers/Documents/quality_strategy_toolkit/default.htm) September 2011

## 4.5 Conclusion

PWD believes that the DES service system has an important role to play in achieving improved quality of life for people with disability in Australia. Such a service system is instrumental in complying with Australia's obligations under the United Nations Convention on the Rights of Persons with Disability and with the stated principles and objectives of the Disability Services Act. As such, we have no interest in protecting poorly performing DES providers from a business reallocation process such as that proposed by the Government.

Our principal concern with the proposed purchasing arrangement is the extent to which the service specification will simply replicate the apparent failings of the existing DES program design. We are concerned that industry, employer and consumer advocates have, in recent times, raised issues about DES performance as well as with the DES performance framework. Anecdotally, it seems a number of successful providers have achieved their success in spite of the program specification rather than because of it.

There appears to be a consensus that the DES performance framework does not assess significant indicators related to service quality and, even on its own more limited terms, has to date produced results that will see less than one in five DES participants placed in jobs that endure for 26 weeks. We note DEEWR intends to collect no information about how many jobs obtained by DES services will endure for longer than six months.

Tendering for services to deliver a program that has yet to be fully evaluated and over which there are significant effectiveness questions in the hope that the market will deliver new providers with the expertise and capacity to deliver better results seems to us speculative. In these circumstances, it is unclear how the proposed tender will improve results for people with disability unless significant redesign of the program accompanies the purchasing process.

## 5. References

The Australian Employers' Network on Disability:

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