



**Yes We Can . .**

**Real Jobs, Real Incomes**

**Submission to the**

**Senate Education, Employment and Workplace Relations  
Committee Inquiry**

**into**

**The administration and purchasing of Disability Employment  
Services in Australia**

26 September 2011

The National Council on Intellectual Disability (NCID) was established over 50 years ago by parents and friends, in an endeavour to improve the quality of life of people with intellectual disability and to fill the need for national unity and information.

The Council is the recognised national peak body with the single focus on intellectual disability, i.e., our actions and priorities centre on issues that affect the lives of people with intellectual disability and their families. Our mission is to work to make the Australian community one in which people with intellectual disability are involved and accepted as equal participating members.

NCID has over 5,000 members representing all 8 States and Territories. In addition to having people with disability on its Board, NCID receives policy advice from Our Voice. Our Voice is a committee the membership of which is exclusively people with intellectual disability representing all States and Territories.

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## **Statement of Principles**

- \* All people have inherent dignity and worth and equal and inalienable rights.
- \* All people are valued members of the Australian Community.
- \* People with intellectual disability as equal participating members of the Australian Community have the same rights:
  - \* to respect for their individual autonomy and independence
  - \* to make their own choices
  - \* to participate in decisions which affect their lives
  - \* to pursue any grievance which affects their lives
  - \* to diversity of choice for housing, education, work, recreation and leisure
  - \* to equity and justice
  - \* to be empowered to take their full place in the Australian Community
  - \* to dignity and privacy in all aspects of their lives

## **National Council on Intellectual Disability will:**

- ✓ work to make the Australian Community one in which people with intellectual disability have full and equal enjoyment of all human rights and fundamental freedoms and are involved and accepted as equal participating members.
- ✓ promote and protect the human rights of all persons with intellectual disability, including those who require more intensive support.

## **Consultation Statement**

- ➔ National Council on Intellectual Disability consults people with intellectual disability and family members through our State and Territory Agency Members. In particular we:
  - ➔ conduct an annual survey of members and stakeholders
  - ➔ hold two meetings a year, rotating through all States and Territories
  - ➔ present at the Having a Say Conference each year, attended by over a 1,000 delegates the majority of whom have a disability
  - ➔ hold forums on specific issues
  - ➔ sponsor actions and representations on issues of importance to people with disability

## Executive Summary

The merits of the 2011 federal budget decision to undertake a competitive tender of Employment Support Services (ESS) for contracts with a performance rating of 3 stars and below has become the subject of discussion.

The National Council on Intellectual Disability (NCID) considers that the Minister and the Government is justified in taking this decision. The decision is responsible given that:

- The outcome performance of the ESS program is unacceptable. The national DES 26 week outcome rate for people with intellectual disability at 30 June 2011 was just 14%.
- All service representative organisations agreed to the performance framework and concerns about this framework have only been raised since the decision to tender was announced by the government.
- The Commonwealth has committed substantial funds to assist people with disability to participate in employment. It would be irresponsible to allow contracts to continue without an examination of options to improve program performance and the most efficient use of public funds.
- There is a need to look at alternative service purchasing strategies to respond to unmet need.

The Minister for Employment Participation, the Hon Kate Ellis MP, has been transparent in the provision of the interim DES evaluation report, indicated a commitment to continuous improvement, and a preparedness to receive advice relevant to the future tender process.

The decision to tender part of the ESS program is an opportunity for the Commonwealth to look at how purchasing can increase the employment participation of people with disability. Options which NCID believe should be considered by the Commonwealth to address the needs of people with intellectual disability include:

- Expanding the purchase of high performing specialist employment services with a proven performance record for people with moderate intellectual disability across all labour market areas via specialist direct registration contracts;
- Ensuring that future purchasing of both specialist and generalist disability employment services will meet the needs of people with (mild) intellectual and cognitive disability, and,
- Reviewing the performance framework to improve its capacity to promote good practice, prevent perverse practice, and adequately inform people with intellectual disability and their families when choosing employment assistance.

The Minister has already indicated to the Australian Federation of Disability Organisations (AFDO) that a review of the performance framework will be considered, and the Minister has asked the Disability Employment Services (DES) Reference Group to meet and provide advice on the nature of such a review.

The Minister has also indicated her preparedness to consider advice from the DES Reference Group on issues relating to tender criteria, specialist services, and direct registration models of service.

NCID will be working in close collaboration with AFDO to present our views to the Minister on how to address the current poor performance of ESS for people with intellectual disability.

Whereas NCID does not support the campaign to stop the tender process, we are grateful for the robust discussion that it has generated and the interest of the Senate to look at the

issue of how we can best address the employment needs of people with disability. It is within this spirit that we provide this submission to engage the Government, the Senate, and Members of Parliament.

## **Introduction**

NCID acknowledges the strong commitment of the Prime Minister, the Hon. Julia Gillard MP and the Commonwealth Government to improve the participation rate of people with disability in employment.

The equal rights and citizenship of people with disability is well articulated in the UN Convention on the Rights of People with Disabilities. Having a job is a key indicator of equality, citizenship and social inclusion, and is core to our dignity as adults. It is this same dignity of employment participation that NCID seeks for people with intellectual disability.

The Disability Services Act 1986 (DSA) gave rise to our first effort to provide employment assistance to people with disabilities who required specialist assistance to find and keep a job in the open labour market. The disability employment program has evolved and undergone many changes in terms of policy, funding, contracting and quality assurance over the past 25 years. NCID also recognises the bipartisanship that this issue has received from major and minor political parties in this period of time.

Since the 2007 election of the Rudd and Gillard federal governments, Ministers for Employment Participation, previously Ministers O'Connor and Arbib and now Minister Ellis, have been responsible for significant federal decisions to address the poor employment participation rate of people with disability.

NCID acknowledges and notes:

- The historic decision to uncap the open employment assistance program which removed the limitation on how many jobseekers with disability could seek employment assistance.
- The 2010 budget decision to provide a 70% funding loading for jobseekers with moderate intellectual disability which recognised the additional support hours this jobseeker group require to achieve 26 week employment outcomes.
- The 2010 budget decision to make it easier for school leavers to move from school or transition to work programs to disability employment services.
- The substantial budget made available to administer a demand based system of employment assistance.

The 2011 federal budget decision announced that the Employment Support Service (ESS) program of the Disability Employment Service (DES) would be for the first time subject to a competitive tender for contracts beginning 1 March 2013. This requirement is to apply to ESS providers rated a 1, 2, or 3 star rating. ESS services rated at a 4 or 5 star rating will have their contracts extended to 30 June 2015.

NCID believe that the Commonwealth Minister and the Government have made a responsible decision. It would have been irresponsible for the Commonwealth to permit current contracts to continue without examination and accountability. The investment and commitment of the Commonwealth government to increasing the participation of people with disability in employment is considerable. People with disability and their families expect that the government is ensuring that this expenditure achieves the greatest outcome. The national ESS 26 week performance outcome at 30 June 2011 of 16.1% for people with disability generally, and the national 26 week outcome of 14% for people with intellectual disability is, however, poor and unacceptable.

NCID believe that the decision to tender should be viewed as an opportunity to look at a purchasing framework that will facilitate better performance outcomes and address areas of unmet need and demand.

## **Intellectual Disability**

### ***Employment Participation Rates***

People with intellectual disability have the capacity to work in the open labour market when provided evidence based assistance and long term ongoing support.

According to 2008-09 data reported by the Australian Institute of Health and Welfare for people with disability in receipt of funded Commonwealth State Territory Disability Agreement services:

- 15.7% of people with intellectual disability between age 15 and 64 reported work in the open labour market, (see Table 3, Appendix).
- From 2003-04 to 2008-09 the trend of people with intellectual disability participating in the open employment program has been negative 0.4%, (see Table 1 & 2, Appendix).
- The number of people with intellectual disability reporting wages as their main source of income dropped from 7.7% in 2003-04 to 3.3% in 2008-09, (see Table 4, Appendix).

The data trends indicate that the numbers of people with intellectual disability entering the open employment program have stagnated. This stagnation is occurring against the backdrop of a program caseload that increased by 60.7% between 2003-04 and 2008-09.

People with intellectual disability are primarily unemployed and reliant on the pension as their main source of income. According to the *Characteristics of Disability Support Pension Recipients*, FHCSIA 2010, people with intellectual disability make up 11.6% (91,824) of the DSP population.

### ***ESS performance outcome rates***

The interim DES Evaluation used a commencement cohort methodology of participants who commenced in DES between 1 March and 30 June 2010, counting outcomes achieved by 31 December 2010. These outcomes were compared with DEN outcomes achieved by participants who commenced in services between 1 March and 30 June 2009, counting outcomes achieved by 31 December 2009. The interim findings for jobseekers with intellectual disability in the ESS program were:

- Commencements had dropped by 29.1% (694 to 492)
- The job placement rate had decreased from 41.9% to 29.9%.
- The 13 week outcome rate had decreased from 21.6% to 18.3%

According to DEEWR's presentation at the National Disability Services conference (6 September 2011) the DES 26 week outcome rate for people with intellectual disability is 14%. Less than 2 people with intellectual disability out of 10 entering DES are achieving a job that lasts 26 weeks.

There is no data reported for weekly wage rates, weekly hours of work, or the impact of earnings on income support reliance.

## **Direct Response to Terms of Reference**

### ***(a) the impact of tendering more than 80 per cent of the current DES on the clients with disability and employers they support under the current contracts;***

The DES published star ratings indicate that there are 1,213 ESS service sites with star ratings. Of these, 881 were rated at 3 stars or less. This is 72.6% of all service sites. Whereas this is not more than 80%, it is still a considerable proportion of ESS sites.

It must be noted that the star rating is designed to rate services in terms of distance from the mean or average. At 30th June 2011, the ESS 26 week outcome rate was a low 16.1%. A rating of 3 stars is 20% either side of the average, which means the bulk of ESS services, 52.4% of services, are achieving poor employment outcomes for jobseekers with disability. A further 20.2% of sites are achieving even less.

If the ESS program was achieving a national average 26 week outcome rate of around 40%, there would be a strong basis for arguing that the sector was performing at a reasonable outcome level and tendering a large proportion of service sites was an unnecessary process. However, this is not the case.

Whereas tendering is justified and represents a powerful instrument for the Commonwealth to improve the employment participation of people with disability, it is incumbent on the Commonwealth that tendering does have a positive impact on clients with disability and employers.

In this submission we argue that there needs to be a focus brought upon the tendering process to ensure purchasing decisions are linked to a plan to improve employment participation outcomes for people with disability.

### ***(b) the potential impact of losing experienced staff;***

There is a need for the disability employment sector to provide a career pathway that attracts and supports competent staff. Whether the decision to tender 72% of the ESS program can be attributed to a current or future loss of experienced staff is unclear.

It is imperative, however, that the ESS purchasing and funding meets the real cost of evidence based support that produces outcomes. There currently isn't a model of funding that is built upon actual support hours linked to the achievement of outcomes, or takes into account increases in CPI or wage costs.

The future purchasing framework needs to address the funding needs of the ESS sector to meet the real costs of high performing services and maintaining skilled staff.

### ***(c) whether competitive tendering of more than 80 per cent of the market delivers the best value for money and is the most effective way in which to meet the stated objectives of:***

***(i) testing the market,***

***(ii) allowing new 'players' into the market, and***

***(iii) removing poor performers from the market;***

The current national ESS outcome performance rates indicate that an extension of current contracts without examination and accountability is clearly not the best value for money, or in the best interests of people with intellectual disability.

The sector has already been subject to contract time extensions and alternative purchasing arrangements (i.e. invitation to treat). The federal budget decision also provided an extension of current contracts from 30 June 2012 to 28 February 2013 in response to feedback from consultations.

The Commonwealth has up to now been limited to purchasing current providers in current employment service areas. This has prevented the movement of high performing disability employment services from expanding to new employment service areas, or the opportunity for new organisations to put forward a proposal to address the employment needs of jobseekers.

While supporting the government decision to tender, NCID believes that such a decision should be seen as an opportunity to look at new options in how service is purchased for people with intellectual disability.

The interim evaluation indicates a decreasing program participation trend and a poorer average performance outcome for people with intellectual disability. The interim evaluation also indicates that the increase in overall participation in DES is *“almost entirely due to increased participation within the Newstart/Youth Allowance component of the target population”*.

The ESS program is at risk of failing to address the employment needs of people with intellectual disability who predominantly are recipients of the Disability Support Pension. We therefore propose the following purchasing ideas for the Senate to consider.

### ***A new program stream for DSP recipients***

As the target population for DES becomes increasingly wider through a demand based system, NCID believe that the Commonwealth should establish a new program stream that is based on a direct registration pathway for volunteer jobseekers in receipt of the Disability Support Pension. A program stream which is not dependent on tendering timeframes, competition for market share, or set contract periods.

This program stream would be characterised by:

- Clients in receipt of the DSP who are volunteer jobseekers that can work when provided the right support.
- Services that engage directly with people with disability, their families and schools, particularly youth in transition from school to work.
- Services competent in the skills of assisting people with disability whose impairment qualifies for the pension, and whose employment in the open labour market is dependent upon a program of ongoing support.
- Transparent performance outcome information (placement, 13/26 week outcome, maintenance, wages, hours of work) by jobseeker characteristics made available to individuals and their families so they may make informed choices of employment assistance.
- A minimum 3 star rating to maintain an authority to operate a direct registration service.
- A capacity for 4 and 5 star rated services to expand into additional employment service areas where there is a demonstrated unmet need. This capacity should not be contingent on a tender timeframe.

### ***Safeguard current ongoing support caseload***

To safeguard current client and employer relationships, NCID recommends the option of permitting 3 star services - who may not win a tender for market share - to retain their existing ongoing support caseload. This would prevent harm to existing employee-employer ongoing support relationships in the event of a service not 'winning' a market share. Further, such services should be invited to operate as direct registration services for volunteer DSP recipients.



Services rated 1 or 2 star would not be offered this option. A transition strategy with contracted services would need to be developed to maintain existing employee-employer relationships to ensure jobs were not lost.

### ***An expansion of specialist moderate intellectual disability contracts***

The successful 25 year demonstration of open employment assistance for people with moderate intellectual disability in Sydney by *Jobsupport* is an exemplar of the high performing service that NCID wants to see available for all people with moderate intellectual disability throughout Australia.

This service model has resulted in 26 week outcome rates of 67% at 30 June 2011; high performance results that have been consistently demonstrated for a quarter of a century. These outcome rates are about 5 times higher than the national DES average outcome rate of 14% for people with intellectual disability reported by DEEWR.

This service model operates a direct registration pathway as clients with this level of intellectual disability are rarely referred from Centrelink. This is the sole specialist service targeting people with moderate intellectual disability in Australia.

Family and advocacy groups in Melbourne and Brisbane have indicated to NCID that they want to have access to a specialist moderate intellectual disability service similar to *Jobsupport*. In these two major cities, families have indicated that it is rare that a person with this level of intellectual disability participates in the open labour market.

The purchasing framework should include the capacity for the Jobsupport model to be replicated and adapted to other labour market regions where there is unmet employment need for people with moderate intellectual disability. As this model is not based on a market share model, and assists clients rarely engaged by generic disability employment services, such expansion poses no competitive threat, and should be planned and developed without needing to be tied to a market share tender framework.

### ***A purchasing decision framework that ensures that contracted services are competent to address the needs of people with intellectual disability***

A regular complaint received by NCID is that a local contracted DES services are not committed or competent to address the employment needs of jobseekers with intellectual disability. As a result, many families will choose state funded non-work programs which put their son or daughter on a pathway of unemployment and reliance on the DSP.

NCID believe that tender decisions must ensure that either (1) a generic disability employment service has a demonstrated commitment and past performance in placing and supporting people with intellectual disability into jobs or (2) consider whether there is a need to purchase a specialist intellectual disability service to meet the needs of this jobseeker population.

The star rating will not be sufficient to make this judgement as this involves a regression methodology that masks actual performance based on jobseeker characteristic. Consideration of the breadth of competence of services will require the transparency of performance outcomes by jobseeker characteristics. This would enable the purchaser to determine the past performance for different disability populations. It will also enable the purchaser to identify any unmet need or gaps in service competence that could be addressed via purchasing within a labour market region.

### **Recommendations**

- The Commonwealth should create a new program stream targeted at volunteer jobseekers with disability in receipt of the DSP. A program stream that is based on a direct registration model of service and contract.
- Current 3-star rate services that do not win a tender for market share should be offered to maintain service to their current caseload of ongoing support clients. Such services should be invited to operate as a direct registration service.
- That the Commonwealth expand the purchase of specialist moderate intellectual disability across labour market regions. The opportunity for this expansion should not be restricted by the tender framework timeline.
- That the Commonwealth should ensure that purchasing decisions of generic and specialist services take into account service performance against jobseeker characteristics, including primary disability, to ensure services have the breadth of competence to meet the diversity of demand.

***(d) whether the DES Performance Framework provides the best means of assessing a provider's ability to deliver services which meet the stated objectives of the Disability Services Act 1986 such as enabling services that are flexible and responsive to the needs and aspirations of people with disabilities, and encourage innovation in the provision of such services;***

NCID believes that the DES Performance Framework is in need of review. The Minister has already indicated a commitment to improving the performance framework and has asked the DES Reference Group for advice on the nature of such a review.

The present framework was developed in consultation with all service representatives, and agreed by all service representatives. The performance framework is a component of the contract deed signed by all services. The current criticism of the performance framework by some service providers and representatives has occurred since the federal budget decision to tender services rated 3 stars or less. Whereas some criticism did exist during the development of the performance framework, all service representatives supported its inclusion. As a result it is difficult for NCID to accept the current criticism as objective or without questionable motivation.

Nonetheless, there are problems with the performance framework. The Australian Federation of Disability Organisations (AFDO) identified several problems with the current performance framework before it was finalised. AFDO has also provided additional critique of the performance framework post the implementation of the performance framework.

NCID wants the performance outcomes of services to become transparent to individuals with disability and their families. Star ratings are limited in what they can tell an individual or family. We want core outcome indicators (i.e. placement, 13 week, 26 week, maintenance rates, wages and hours of work) to be made publicly available to individuals and their families so that they may make an informed decision when choosing employment assistance. This information should be made available by jobseeker characteristics such as primary disability, income support type, age, gender and cultural indicators. Volunteer jobseekers should have the right to choose their employment service and not be assigned to a service based on market share.

For example, parents of a son or daughter with intellectual disability should be able to search online for employment services contracted in their employment service area. They should be able to look at performance outcomes achieved by each service and specifically for people with intellectual disability.

It is NCID's intention to work towards an improved performance framework for the purposes of the next contract period. It is NCID's view that the current performance framework, due to its link with the current contract, and the full agreement by service representatives in the development of the framework, should run its course with this contract.

### **Recommendations**

1. That the Senate committee recognise the need to review the performance framework in order to refine and improve its capacity for the next contract.
2. That due to the agreement by service representatives, and contracts signed by service providers, the present performance framework should run its course.
3. That the Senate recognise the intention by the Minister to review the performance framework.
4. That the Senate recommend the development of transparent service performance information for individuals and their families that set out the performance outcome rates of services by jobseeker characteristics.

***(e) the congruency of 3 year contracting periods with long-term relationship based nature of Disability Employment Services – Employment Support Services program, and the impact of moving to 5 year contract periods as recommended in the 2009 Education, Employment and Workplace Relations References Committee report, DEWR tender process to award employment services contract; and***

There is clearly a need for greater certainty for clients and employers who require long term employment support. For people with intellectual disability this is critical, as changes at the workplace that are not addressed can quickly led to a job loss.

Whether the contracting period is 3, 5, or 10 years, a change of service will always be an issue of concern when an individual's employment is being supported for the long term.

The Minister and the government has in part responded to this issue by permitting higher performing services at 4 and 5 star ratings to continue until 2015 without the need to tender. This (good) decision matches NCID's belief that when services are placing and supporting people with intellectual disability in meaningful employment at high outcome rates, the Commonwealth should simply acknowledge and support such organisations through certainty and adequate funds to meet real costs.

The future tender process must be sensitive to the needs of employees with disability in receipt of ongoing support from contracted services. NCID recommends that services which are currently rated 3 stars but fail to win a tender for market share, should be offered a direct registration contract to maintain the support of their current caseload of clients. Such a service would not be able to receive new clients via the Centrelink referral system but through the direct registration pathway. The benefit of this recommendation is to provide a level of certainty for employers and employees being provided ongoing support.

***(f) the timing of the tender process given the role of DES providers in implementing the Government's changes to the disability support pension.***

The changes to the Disability Support Pension will require a proportion of people with disability making new claims for the DSP to demonstrate an inability to work by participating in an employment program.

This is part of the federal budget decision to "help people with disabilities return to the workforce by focusing on their ability, rather than their disability".

These budget changes increase - even more - the importance of having an employment program that is effective.

The budget decision does also reiterate the need for a separate program stream targeted to assist people with disability in receipt of the DSP without an obligation to work. It must be remember that many in the DSP population have the capacity to work when an evidence based program of employment assistance and ongoing support is provided.

## Appendix: Data References

Table 1: Primary disability of CSTDA-funded open employment service users 2004 - 2009

CSTDA	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	Trend
Intellectual	12088	12050	12430	11271	11061	12,039	-0.4%
Specific Learning	4165	4307	2920	6138	6434	7,452	78.9%
Autism	890	1037	1722	2016	2391	3,126	251.2%
Physical	8708	8512	5552	12922	18420	24,803	184.8%
ABI	1568	1556	1312	1984	1959	2,433	55.2%
Neurological	1599	1745	1867	2133	2344	2,187	36.8%
Deafblind	180	206	108	22	29	36	-80.0%
Vision	1513	1513	1652	1949	2466	2,264	49.6%
Hearing	1871	1874	2120	2306	2466	2,751	47.0%
Speech	174	195	116	271	309	384	120.7%
Psychiatric	10286	10836	13595	17874	21792	30,166	193.3%
Not Stated	0	0	10046	592	5		
Source: AIHW DSS 2007-08, p. 132; AIHW DSS 2008-09. p. 86							

Table 2: Disability employment service consumers, by primary disability 2001 - 2007

Primary Disability	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	Trend
Intellectual	11,620	12,282	12,668	12,447	12,325	12,357	11,167	-3.90%
SL/ADD	2,718	3,442	4,145	4,551	4,746	6,145	6,572	141.80%
Autism	427	595	761	924	1,081	1,780	2,108	393.68%
Psychiatric	8,951	9,838	10,766	11,077	11,256	14,546	18,192	103.24%
Physical	7,334	8,590	9,314	9,250	8,922	9,652	13,171	79.59%
Hearing	1,830	2,031	2,131	2,084	2,020	2,238	2,402	31.26%
Vision	1,740	1,752	1,784	1,657	1,748	1,759	2,008	15.40%
Deafblind	145	194	164	174	181	99	5	-96.55%
Acquired brain injury	1,395	1,457	1,643	1,645	1,631	1,798	2,040	46.24%
Neurological	1,262	1,536	1,651	1,719	1,894	1,919	2,194	73.85%
Speech	137	146	162	189	199	225	283	106.57%
Not Stated						3,546	632	
Total	37,599	41,863	45,189	45,717	46,003	56,064	60,774	61.64%
Source: Disability Service Census Reports 2001 to 2007, FaHCSIA.								

Table 3: Labour Force Status of CSTDA service users, by intellectual disability 2004 - 2009

Intellectual Disability	2003 -04	2004-05	2005-06	2006-07	2007-08	2008-09
<b>Total</b>	71,701	70,614	72,226	76,673	77,320	79,319
<b>15 - 64 Years</b>	59,962	59,316	60,708	63,787	64,328	66,315
<b>Employed</b>	8,595	9,887	6,718	9,544	10,503	10,401
<b>Unemployed</b>	6,689	8,567	10,295	6,794	6,716	8,012
<b>NiLF</b>	23,616	23,918	25,417	25,804	29,546	30,846
<b>Not Stated</b>	7,239	3,171	3,475	6,760	2,639	3,742
<b>ADEs</b>	13,823	13,773	14,803	14,885	14,924	15,142
	Source: AIHW DSS 2004 - 2009					

Table 4: Main Source of Income of CSTDA service users, by intellectual & learning disability 2004 - 2009

Main Source of Income	Paid Employment	% of Group	16 yrs & over
<b>2003-04</b>	5,252	7.7%	67,875
<b>2004-05</b>	4,640	6.8%	67,755
<b>2005-06</b>	3,503	5.1%	68,702
<b>2006-07</b>	2,749	3.6%	76,365
<b>2007-08</b>	2,023	2.6%	77,466
<b>2008-09</b>	1,911	2.3%	82,015
	Source: AIHW DSS 2004 - 2009		