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Submission to the

Senate Community Affairs Committee Inquiry into Social Security and Other Legislation Amendment (*Disability Support Pension Impairment Tables*) Bill 2011

Impairment or Entrapment: Disability and employment

August 2011

www.anglicare.asn.au

Anglicare Australia

Anglicare Australia is a network of 43 independent organisations that are linked to the Anglican Church and are joined by values of service, innovation, leadership and the faith that every individual has an intrinsic value. Our services are delivered to one in forty Australians, in partnership with them, the communities in which they live, and other like-minded organisations in those areas. In all, over 13,000 staff and 13,000 volunteers work with over 615,000 vulnerable Australians every year delivering diverse services, in every region of Australia.

Between them, 19 of Anglicare Australia's member organisations provide disability support services for nearly 5000 clients with almost 100,000 per annum client contacts across the country, employ over 500 (FTE) disability support professionals and are actively supported by over 200 volunteers.

For details on which Anglicare agencies provide disability support services see Appendix 1.

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Introduction

Anglicare Australia has been involved in the several consultations and inquiries that have been occurring in the disability space. There has been a lot of activity in this area, as with ageing, supposedly due to the mushrooming expenses involved in catering to such a diverse range of people and needs now and into the future. Government needs to take action where it can and has developed solutions to identified policy problems. In looking at this particular policy solution, Anglicare Australia looked at the impairment tables in the context of the state of the labour market, income adequacy and the administrative traps that can evolve out of multiple policy solutions, concluding that though it was off to a good start, the new impairment tables require a closer inspection.

A good move

1. That the focus on functionality rather than deficits is a positive move toward person-centred approaches to providing care and support to people with a disability.

In both its submission and response to the Productivity Commission report on a long-term care and support scheme for people living with disability, Anglicare Australia argued that the core principles in developing any kind of policy or initiative concerning disability ought to be: a person-centred approach, flexibility and individualised support. The use of impairment tables has come to be an accepted part of the Disability Support Pension (DSP) with these tables utilised to determine a person's eligibility for that payment through the assessment of an individual's capacity, or previously, their incapacity, to participate in work. The tables recently released by Government have shifted the focus from a deficit approach - substantiating incapacity - to a model of functionality, looking at what a person is able to do. It demonstrates the Government's ability to shift in its perceptions of population groups and how they fit into the overall Australian picture. This is a brave step out of the dark by Government towards a more inclusive person-centred approach and as such it should be commended.

Unfortunately, this may be where the kudos ends.

Employment Prospects

Anglicare Australia appreciates that the Government has placed on itself a policy imperative to boost productivity. It also understands that there are many benefits to be gained, personally and socially, from individuals returning to the labour market. Finally, it is understood that the options, after the tables have been applied and the application to DSP is unsuccessful, would be to either move permanently into the workforce or apply for the *NewStart* Allowance (NSA) whilst looking for gainful employment, thereby making gains on the aforementioned goals. In both options, ie the immediate return to work or take up of the NSA, the presumption is that jobs are there to be had for people experiencing disability. As it happens, this is not the case. Ideally, permanent and appropriate employment to support an individual with a disability to meet their own ends and live a life of dignity commensurate with the Australian standard of living would be a plausible option. But in actuality, is not as realistic an option as the Government may think or more likely, hope, it to be. Ironically, the Government may be taking a neo-liberalist approach to markets allowing the Australian labour market to normalise disability employment. Though what incentives are there for business to turn to this sector to fill positions especially when misconceptions and stigma abound and employers are ill-informed and ill-prepared to respond to the specific requirements of workers with a disability.

2. Given reports of restricted approvals, ie that 4 out of 10 people currently on DSP would no longer be eligible, we are concerned for new applicants who are deemed to be in-eligible but who have a significant, but not permanent, disability thereby limiting their employment options in a market where stigma is rife and demand outstrips supply.

Anglicare Australia’s concern arises not out of the tables themselves but out of the cut-offs used to determine eligibility for the DSP. In the testing of the impairment tables it was found that around 40%¹ of people would likely be ineligible for the DSP. This will be an often quoted figure but one which highlights the extremity of the rating system. Should the job market be a vital and rich place where options abound for people living with a disability, perhaps the rating benchmarks might not seem so extreme but the truth is that the job market is not robust and cannot, as it currently stands, meet the needs or demand of jobseekers with a disability.

3. The timing of the implementation of the new tables is at odds with the roll-out of the participation initiatives announced as part of this year’s *Building Australia’s Future Workforce* budget measures; resulting in at least six but as many as 18 months of greater work expectations on people living with disability, without the promised increased support.

It was announced, by Minister Jenny Macklin that these impairment tables would come into effect on 1 January 2012 and yet the announcement was not accompanied by any other which mentioned the additional support for those who will be knocked back for the DSP. It might be argued that the Disability Employment Services (DES) will provide that support, but how well placed is that sector to absorb the expected inflow of new job seekers? There will be \$11.3 million going toward the support of an additional 1,000 registered job-seekers but this is earmarked for those who have been unemployed in excess of 12 months and even then, this money is not available until at least 1 July 2012. In fact the timing of the entire suite of participation initiatives announced as part of this year’s *Building Australia’s Future Workforce* budget measures is at odds with the changes to the impairment tables which come into effect on 1 January 2012. Take the initiatives listed in Table 1 for example; in this table it can be seen that any measure intended to support an individual into work or stimulate the job market to generate a supply does not come into effect until at least six months after the new impairment tables are implemented and most will not have any impact until well after the 18 months-two years mark.

Table 1. Roll-out of disability related budget measures

Initiative	Comes into Effect
Disability Support Payment Activity Tests	3 September 2011
Australian Disability Enterprises – continuation of funding for <i>existing</i> service levels	2011-2012
Increase work hours to 30 hours whilst remaining eligible for a part payment.	2011-2012
Implementation of new subsidy rates for employers for positions lasting more than 26 weeks at 15 hours or more a week. This also includes a training subsidy.	1 July 2012
Workforce participation interviews for people under 35	1 July 2012
\$1million to support connections between people with a disability and employers and industry groups	2012-2013
\$11.3million to subsidise 1,000 registered job-seekers who have been unemployed for more than 12 months.	2012-2013
DSP Claims audit identifying “deficiencies or inconsistencies in the current process”	2012-2013

¹ Department of Families, Housing, Community Services and Indigenous Affairs, (2011), *Analysis of the Testing of Draft Impairment Tables* accessed 22 August 2011
<http://www.fahcsia.gov.au/sa/disability/payments/Documents/taylor_fry_final_report.pdf>

Moderate and Intellectual Disability Loading and Eligible School Leavers pilots	Completed 2013
Disability Employment Service evaluation	Completed by 2012-2013
Disability Employment Service contracts extended pending provider performance assessment	Completed by 2013
Demonstration pilots for highly disadvantaged job-seekers	Completed by 2013-2014

(Source: Budget Measures Budget Paper No.2 2011-12)

This will be six to 18 months where job-seekers are searching for a job which is likely not to exist, languishing in queues for support whilst their resources dwindle and they move further and further into poverty. What is the Government's intention in perpetuating the disjunct between participation requirements and support? We already know that the demand for work, by people living with disability, far outweighs the supply and yet they continue to bear the load of the Governments 'work participation=productivity' agenda.

4. Assuming that people determined to be in-eligible for the DSP will be funnelled through to the NSA means that they will be living on \$34 a day. This is completely inadequate for those living without a disability, notwithstanding the additional medications, equipment, transport and other costs that people living with a disability accrue on top of ordinary living expenses.

To promulgate a policy agenda that supports people with a disability into work requires a few preliminary concessions: the first is to accept that, as it currently stands, the Australian job market is not in a position to offer gainful employment to many on a DSP seeking same. Though, it will be interesting to see the impact of the measure to increase work hours from 15 to 30, if any, on the take-up of paid employment- the expectation being that though individuals will want to take up the additional hours, those who don't already have a place of employment will not feel the benefit of the increase. Another concession is that people assessed to be in-eligible for the DSP will be funnelled through to the NSA, meaning that they will be living on \$34 a day, even though it is not enough for anyone to live on. The final concession is that supporting oneself with a disability requires additional supports as well.

The government has already recognised that living with a disability has its difficulties. It has been acknowledged as such with the increase in the DSP, when the carer's legislation was introduced (and passed), when the Disability Strategy was endorsed, and when the Government accepted the Productivity Commission recommendation for a National Disability Insurance Scheme - inherent in which is the tiered structure promoting the idea that those with impairments not profound or permanent in nature are still in great need of support to live a quality life. The Federal Government has acknowledged and undertaken all of this and yet is now prepared to conveniently put it to one side in what is effectively a 'sink or swim' policy initiative. It's important to reiterate at this point that the concern is not about the tables themselves or the use of the tables to determine eligibility but the forced exclusion from an appropriate benefit and ultimate entry into a labour market that is not prepared for such an influx of people with specific requirements and as such the inevitable disadvantage that is going to ensue.

Government has received substantial representations on the perceptions of the adequacy of the NSA from the community sector and has indeed felt the recriminations even of the Organisation for Economic Cooperation and Development in regard to the issue.

The risk of poverty has increased for some groups of the Australian population. The risk is very high for people who are not working: 55% for all people of working-age – up from 46% in 1995.²

² Organisation for Economic Cooperation and Development. (2008), *Growing Unequal? : Income Distribution and Poverty in OECD Countries* accessed 24 August 2011 <<http://www.oecd.org/dataoecd/44/47/41525263.pdf>>

The NSA was not a payment that was ever intended to support people with a disability and as such is completely inadequate for their needs. It is unfair to expect them, even though their circumstances have been acknowledged as difficult, to survive on such a limited amount especially in the face of probable long-term unemployment.

Caught in an administrative trap?

As mentioned, productivity is a major item on the Federal Government policy agenda as it seeks to further strengthen Australia's economic position after a string of international crises. As such, it has identified people with a disability as a source of productivity gains for the future. The Government wouldn't be incorrect in this assessment; people with a disability have a lot to give. This policy line is being pursued ferociously however and, as such, a slew of measures have been developed to further encourage people into the workforce. And it must be pointed out that it is not just people with a disability to be included in this; indigenous people, the long-term unemployed as well as single mothers are all included in the policy initiatives. The investigation of how the policies interact upon implementation is often omitted during such intensive policy construction.

5. Administrative traps created by the interaction of policy solutions potentially force people into pathways that lead to adverse 'unintended consequences'.

The policies that cause concern here which could potentially lead to an administrative trap are the compulsory Centrelink interviews for people under 35 years with work capacity of greater than eight hours, the application of the new tables and the reassessment process.

First, a condition and the resulting impairment must be assessed as permanent and stabilised, ie to last longer than two years and not to be subject to significant functional improvement within that time. If this assessment cannot be satisfactorily made then the assessment ends, the tables are not applied and the individual is directed to the NSA queue.

If the permanency test is satisfied, the assessor may then apply the tables to determine an impairment rating. This is where it gets sticky and the ultimate aim of the impairment table cut-off rates has to be questioned.

For new applicants under the age of 35 years, depending on how the cut-offs are applied, is a person only eligible for the DSP if they are determined to have a work capacity of *less* than 15 hours per week? Given that policy requirements stipulate that those who are working between 15 and 30 hours are only entitled to a part-pension which roughly equates to the NSA anyway. Further, if a person is deemed to have work capacity of *greater* than 15 hours, will this mean insufficient impairment to be eligible? Again, given that the increase in available work hours (to 30 hours) for current recipients entitles them to a part-pension only. Therefore, is the current system automatically geared toward screening people with a work capacity over 15 hours out of the eligible applicants pool and streaming them toward the NSA payment as this is effectively on par with a part pension and which, in theory, will be augmented with the 15-30 hours work a week, thereby amounting to an income similar to the DSP? Are the impairment tables cut-offs deliberately set so high that people with a work capacity will not be captured making income support available to those with a profound and enduring disability? So in essence, Government have used the positivist approach of looking at what people can do to have people effectively price themselves out of the market.

Finally, in regard to administrative traps, Minister Macklin announced that the impairment tables will only apply to new applications to the DSP. How will this policy decision interact with the requirement that people in receipt of the DSP must undergo a review of their claim every two years? There are two assumptions that could be made here: the first, that current recipients will be re-assessed under the old tables, perpetuating their claim, being subject to Centrelink interview requirements but with few other conditions entreating them to move back into the workforce; or second, current recipients will undergo reassessment based on the new tables wherein within two years of implementation up to 40% of current recipients will be forced on to the lower income.

It is difficult to expect that Government will allow, especially after extensive planning and resource investment into the workforce participation agenda that around 340,000 people (around 40% of current recipients) will as they say, leave the DSP only through ageing or death.

Recommendations

In a report soon to be released by the Major Church Providers: Catholic Social Services Australia, Uniting Care, the Salvation Army and ourselves, the following recommendations will be put forward as necessary actions to prepare the labour market for the advent of potentially thousands of people with a disability seeking employment.

- Direct APS hiring: The public service needs to lead the way in this area, not only is it one of the largest employers in Australia, it is the epitome, or at least should be, of equal employment opportunity.
- Federal government socially responsible procurement of goods and services – drawing on the precedent of a NSW govt project “Ready Willing and Able” – targeting procurement plans toward agencies that employ people with a disability.
- A campaign to influence private sector employer attitudes.

These recommendations will be further detailed in that report which will be provided to the committee upon release.

Conclusion

If it has been unclear up to this point, let us clarify – there are no jobs! Moving to a positive functional approach is a positive move by Government, only in so far as it is not used as a tool to manipulate and force individuals into a job market which at the moment is disinclined and unprepared to take on employees with a disability. The Government has measures in train to support jobseekers but it is oddly timed with this roll-out and whether it will be sufficient to ward off ‘unintended consequences’ which potentially have dire outcomes for those concerned, remains to be seen. Forcing people into circumstances, such as living on the NSA is undignified, unkind not to mention unjust. Beyond that, the trap that potentially awaits people with a disability in the administrative tangle is setting them up to fail. Anglicare Australia would like to see policies from Government that provide genuine support to people to seek, obtain and sustain work, not trick them into untenable circumstances in order to meet a hard bottom line.

Appendix 1: Anglicare Australia Network Members

AUSTRALIAN CAPITAL TERRITORY

Anglicare Canberra & Goulburn ○
St John's Financial Assistance

NEW SOUTH WALES

Anglicare Diocese of Sydney ○
Anglicare New England NW
Anglicare North Coast ○
Anglicare Riverina
Anglicare Western NSW
Anglican Counselling Service
Anglican Retirement Villages
The Buttery
CASPA ○
St John's Anglican Church Darlinghurst ○
Samaritans Foundation ○
Social Responsibilities- Diocese of Newcastle ○
Work Ventures Ltd ○

NORTHERN TERRITORY

Anglicare NT ○

QUEENSLAND

Anglicare Central QLD ○
Anglicare North QLD
Anglicare Parish of Heatley
EPIC Employment Services Inc ○
Spiritus ○

SOUTH AUSTRALIA

ac.care
Anglicare SA ○
Anglicare Willochra
Laura & Alfred West Cottage Homes Inc
St John's Youth Services

TASMANIA

Anglicare Tasmania ○
Glenview Community Services Inc

VICTORIA

Anglicare Victoria ○
Anglicare Ballarat
Gippsland Anglican Aged Care ○
Benetas
Brotherhood of St Laurence ○
E Qubed Inc
ECHO Inc
Melbourne Social Responsibility Committee
St Laurence Community Services Inc ○
St Luke's Anglicare ○

WESTERN AUSTRALIA

Anglicare WA ○
Anglicare South-Bunbury Diocesan, Anglicare Council ○
Parkerville Children & Youth Care Inc
Social Responsibilities Commission, Province of WA

NATIONAL & INTERNATIONAL

Anglicare StopAIDS PNG
The Anglican Care Network ○
The Selwyn Foundation
Australian Council to the Mission to Seafarers
Mothers Union Australia
The Anglican Trust for Women