

**Disability Services Amendment (Improved Quality Assurance)
Bill 2001**

Submission from ACE National Network (ANN),

**the Australian peak body association representing organisations that
provide employment assistance and post-placement support to people with
disabilities in competitive environments.**

to the

Community Affairs Legislation Committee

This has been compiled from membership consultation on the issues being considered under this committee.

Issues for Consideration:

- 1. Whether the legislation will safeguard the basic employment rights of people with disabilities.**

Standard 9 identifies the employment rights of people with disabilities as having the employment conditions “that are comparable to those of the general workforce”

ANN is of the view that this establishes a need for a common wage assessment process applied in any type of employment service funded under the Disability Services Act. Without this, comparability is not achieved.

ANN considers that the Supported Wage System, currently the recognized tool to assess wages for people with disabilities where the disability impacts on productivity, should be the selected tool for use across all employment services funded under the Disability Services Act. This is because it has the capacity to protect the employment rights of people with disabilities through the following mechanisms:

- The assessor is independent of the employer.
- The tool applied is clearly measurable, with justifiable and easily explained results.
- The SWS system contains an independent “watchdog” with real power in the monitoring role played by the Industrial Commission.
- The core feature of the assessment is easily explained to the worker being assessed. For example, “ you will be paid according to how much work you can do”.

- It has important features that maximize how much work the worker can achieve because the work trial system facilitates skills development, and the job can be tailored within the capacity of the employer to modify the job. The assessment is then made on the actual tasks to be undertaken which ultimately impact on the contribution of the worker in monetary terms.
- The assessment is aligned with the employment conditions experienced in the general workforce because it must be aligned with an award.
- The assessment process contains features of quality assurance in the training, certification and requirements for skills maintenance by the practicing assessors. Assessors are required to undertake two assessments per annum to maintain their certification.

2. Concerns with the level of Standards of the draft set of key performance indicators and ability to address the current non compliance

ANN membership is concerned about the capacity for the wording of the KPI's in Standard 9 to become meaningless. It is apparent that there is resistance to reform in employment conditions provided to people with disabilities in some Business Services. The wording of the standard is very clear in its intention. Without considerably more detail about the features of the wage assessment tool to be applied, there is room for very broad interpretation of what is intended by the KPI 9.1 addressing wage assessment. This will not ensure that employment rights of people with disability to receive comparable employment conditions can be protected.

There is no commitment within the policy and programme context for a single tool to be applied across all service types and all employment situations requiring a pro-rata wage. The KPI as it is proposed documents the more detailed features required of the assessment tool within the "signposts" developed to assist auditors in their interpretation of the KPI. The auditors are not in a position to assess the fairness of each assessment made. The tool itself must be sufficiently robust to achieve this. The auditors are not in a position to evaluate the effectiveness of a tool to achieve fair wages. Defining the tool to be applied becomes essential.

The tool requires external monitoring in its application in multiple industries and for workers with very varied types of disability. The auditors are only in a position to make broad judgement of the features of the tool outlined to them as used by the service under audit.

In conclusion, the detailed requirements of the tool to be used are so important in the achievement of the intent of this standard, they should be documented within the KPI's or alternatively contained within the legislation itself. Ideally, a tool should be named to provide clarity in the intent.

For several years the open employment service sector have been required to apply such a tool in the assessment of a pro-rata wage. It is a tool that was some time in its development, and has been applied across multiple industries, workplaces, and with differing types and levels of disability. It has had a lot of scrutiny nationally during this time. It has been demonstrated to work for employers who consider decisions on employment issues to be business decisions. Employment decisions must work economically to be acceptable for these employers. It has been demonstrated to work for consumers with high support needs as well as those requiring some minor adjustments to their wages based on their productivity. The tool in question is the tool used by the supported wage system.

Within the QA working party, ANN has accepted that there are issues within the Supported Wage Assessment process that require refining to make it work for all services, and all employment situations when needed. However, it has seen that any compromise it has made in not naming the Supported Wage Assessment tool within the KPI's for standard 9 to keep the process of QA moving towards its goals of reform, have been exploited by those opposed to achieving real reform in wages. Verbal commitments to a single tool have not been translated into documented commitment. There appears to be a risk growing that multiple tools will be acceptable. Through multiple tools, compliance is avoided i.e. There will be the more likely outcome that not everyone with a disability enjoys working conditions comparable to those of the general workforce, when this KPI is applied.

It appears clear now, that cost is the main issue preventing the setting of a wage system within the Quality Assurance structure proposed that will ensure delivery of comparable employment conditions for people with disabilities wherever they are employed. There is fear about the wage bill increasing within business services if people with disabilities are assessed under the same methods applied in open employment situations. There is also concern about the un-funded increase in the cost of administering the tool because of its current system of application. The cost of administering the tool as a blockage to its application has not been openly discussed as an agenda item within the QA working party. This issue has been hidden behind the tool itself. The arguments presented for why the Supported Wage System cannot be applied in business services have been limited but have been used as justification not to name it in the KPI's despite considerable support within the working party for this action.

ANN acknowledges the cost issue as something that would need addressing if the Supported Wage Assessment system was to be named within the Quality

Strategy. However, the question asked from this submission relates to the rights of people with a disability which ANN considers a different issue.

3. Issues of development of the QA System

There has been considerable effort put into the development of the QA system over a number of years to achieve the structure proposed by FACS and the working party. A focus on achieving consensus has largely been healthy but lacking in boundaries that ensure there is clarity when consensus cannot be achieved. The discussion of more contentious issues was avoided to keep the momentum going to achieve deadlines required, which has led to a hiatus of contention building up in the last stages of the system's development which must now be resolved. This has meant that there have been considerable time pressures on debating these issues that has led to lack of satisfaction by all parties involved and a risk of it not achieving the required goals because the detail has not been attended to e.g. Real wage reform achieved as an outcome of the QA system and achievement of standard 9.

4. Issue of people employed in non-viable business enterprises resulting in poor wages and institutionalization.

There has been a growing demand by people with disabilities for open employment services because of these issues. Open employment ensures comparable working conditions are applied and institutionalization is avoided or at least on par with that experienced by any worker. There are reasons why people make the choice to work within Business Services, rather than pursue open employment. However, if that Business Service is not paying an individual the contribution they make to the productivity of that business operating under normal business conditions, because it cannot afford to pay, it is not a viable business. It is not competing fairly with other businesses because its labour costs are lower, and it does not meet Standard Nine because people are not enjoying comparable working conditions with that of the general workforce.

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