

NATIONAL COUNCIL ON



DISABILITY
Incorporated in the ACT

National Council on Intellectual Disability

Submission to Senate Inquiry on:

Employment and Workplace Relations Legislation Amendment (Welfare to Work and other Measures) Bill 2005

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www.ncid.org.au

PO Box 771 Mawson ACT 2607
Ph/fax: 02 6296 4400
ncid@ncid.org.au

NCID is:

The National Council on Intellectual Disability (NCID) was established over 30 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, ie, 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. 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.

Intellectual Disability means:

*Intellectual Disability is a disability characterised by **significant limitations both in intellectual functioning and in adaptive behaviour** as expressed in conceptual, social, and practical skills. This disability originates before age 18.*

***Intelligence** is a general mental ability. It includes reasoning, planning, solving problems, thinking abstractly, comprehending complex ideas, learning quickly and learning from experience.*

***Adaptive behaviour** is the collection of conceptual, social, and practical skills that have been learned by people in order to function in their everyday lives. Limitations in adaptive behaviour affect both daily life and the ability to respond to life changes and environmental demands.*

*In both measuring intellectual functioning and adaptive behaviour a **significant limitation** is two standard deviations below the mean for the general community.*

There is clear evidence that people with intellectual disability learn through competent 'instruction'. This learning capacity is the same as the general community though it will be at a slower pace and may not reach the same level of complexity.

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NCID supports the Government’s philosophical basis of its Welfare to Work Legislation.

I think that work, where there exists a capacity to work, is fundamental to a person’s sense of wellbeing. Having a job creates the opportunity to get ahead financially, to make friends through work and to contribute to the community and these are things that make people feel better about themselves and to feel connected with others. I don’t believe that people should miss out on all the benefits that come from work simply because of a disability. It is my priority to help as many people as possible with disabilities into work. Since becoming Minister, I have had the chance to interact with people who have disabilities about their abilities, their desires, their dreams and their goals. I have been impressed with the drive and determination of many people with disability to work, and to remain in work, despite often significant barriers.

The Hon P Dutton, MP Minister for Workforce Participation, in Interaction Vol 19 Issue 1 p 23.

1. Disability Support Pension (DSP)

To turn the rhetoric into practice ie, to make employment a real option for people with intellectual disability, the key questions are:

1. what does an assessment of intellectual disability tell us about a person and their capabilities to find and keep employment? and
2. in looking at the capacity of a person with intellectual disability are we looking at the most important determinant in the person getting and keeping a job?

NCID supports the new DSP qualification criteria for people with intellectual disability; ie, not capable of working 15 hours or more a week at award wages within 2 years or capable of working 15 hours or more a week at award wages within 2 years, but to do the work the person will require ongoing or regular support.

It is important to consider the eligibility criteria for the DSP to gain an understanding of why people with intellectual disability have a disability that requires them to have ongoing support to keep their employment.

The qualification for DSP is set out in Schedule 1B of the Social Security Act 1991.

Tables for the assessment of work-related impairment for disability support pension.

TABLE 10. INTELLECTUAL DISABILITY

This Table is only to be used for intellectual disability. Three key criteria are assessed, IQ using the Weschler Adult Intelligence Scale (Revised WAIS-R) and two areas of social functioning: adaptive behaviour and capacity for independent living. The claimant is given a score for each and **the three scores are then added**. The final figure is converted to a work-related impairment rating using the table below. A score can only be assigned for the two social functioning criteria if a score has been assigned for a low IQ. Where it is clear that the person is moderately to severely intellectually impaired, formal psychometric testing may not be necessary but in borderline and mild cases where no formal testing has been performed, this should be arranged.

INTELLIGENCE (IQ)	SCORE	ADAPTIVE BEHAVIOUR	SCORE
Normal	0	No or only mild behavioural problems	0
70 – 79	3	Moderate to severe behavioural problems	3
50 – 69	5		
30 – 49	6		
Below 30	8		

CAPACITY FOR INDEPENDENT LIVING SCORE

Self-sufficient	0
Needs supervision of daily activities and routine financial transactions eg. needs to be reminded to perform routine tasks/personal care	3
Needs regular help with daily activities and routine financial transactions	4
Needs major help with daily activities and routine financial transactions	5
Totally dependent	6

Table for conversion to work-related impairment rating

SCORE	RATING
3	TEN
5	TWENTY
6	TWENTY FIVE
7	THIRTY
8	THIRTY FIVE
9 OR ABOVE	FORTY

These criteria differ from the commonly accepted definition of intellectual disability in two important aspects:

1. It includes an IQ score of 70 – 79 which with a behavioural difficulty or assistance with routine daily activities qualifies a person for the DSP. This criterion is very good as it safeguards people who have difficulties in their lives and yet may perform well on an IQ test. (The 70 – 79 score also captures the +/- 5 points margin of error that is associated with IQ tests and where having intellectual disability is defined as having an IQ of < 70.)
2. There is a concern though that the capacity for independent living score criteria is too limited for the demands that are made on the cognitive abilities of people today. For example, higher purchase and mobile phone contracts are not normally seen as routine financial transactions yet people within the 70 –79 IQ range have great difficulty reading and understanding such contracts and the implications for their financial situation. Another area, relevant to this legislation, is the ability of a person to enter into a workplace agreement. A person with an IQ in the range of 70 – 79 will not be able to bargain with an employer and will not be able to read and understand the Workplace Agreement that they will have to sign, the terms and conditions of which will be legally enforceable.

The DSP qualification criteria and a consideration of what it means to have an intellectual disability, ie, difficulty with *reasoning, planning, solving problems, thinking abstractly, comprehending complex ideas, learning quickly and learning from experience*, illustrates why a person with a mild intellectual disability (IQ 70 – 79) will require ongoing support to maintain their employment, as in the example provided by the Explanatory Memorandum to the legislation:

Sue has a mild intellectual disability. At her Comprehensive Work Capacity Assessment, it is determined that Sue is currently able to work less than 15 hours per week at award wages. With the provision of a Disability Open Employment Service to help her prepare for and find employment, and to provide her with support to maintain that employment, Sue could work 15 or more hours per week at award wages within 2 years. However, in order to work 15 hours or more per week at award wages, Sue will require regular support by her Disability Open Employment Service provider in the workplace. This will include support through changes in the workplace, and for more than 2 years, support to reinforce previous tasks learned and to learn new tasks. As Sue requires ongoing support, she cannot do the work independently of a program of support and will qualify for a disability support pension.

Employment and Workplace Relations Legislation Amendment (Welfare to Work and other Measures) Bills 2005. Explanatory Memorandum. P 18.

NCID perceives that a real danger for people with intellectual disability is that they will be forgotten. If they are unable to work for more than 30 (or even 15) hours at award wages without support then NCID is very concerned that the funding to support people with disability into employment will over time not be available to people with intellectual disability. To counter this NCID will continue to remind the Government, government departments and the Fair Pay Commission of the words of the Minister, regarding the value of work, quoted above.

To address the second question posed at the beginning of this submission, it is also important to acknowledge that like everyone else in the community people with intellectual disability learn, gain skills and contribute to the community. Having an intellectual disability does not make them unemployable it merely means that they need assistance and support to find and keep work. If this is understood then the essential question is not the capacity of the person with intellectual disability but rather the capacity/expertise of the supported employment network!

What researchers of the late 1960s and early 1970s discovered was that people with intellectual disability do learn. The shift in thinking came about through the efforts of a number of committed researchers and practitioners, (e.g. Brown, Bellamy, Gold, Mank, Wehman, etc), who demonstrated that we had severely underestimated the capacity of children and adults with intellectual disability to learn.

We now have substantive research and repeated demonstration that people with significant intellectual disability can be supported into jobs alongside co-workers without disability.

A critical piece of obtaining these *outcomes* was moving away from assessments that attempted to *predict capacity*; and away from segregated service models that focused on *readiness*, to a model of *finding or creating employment opportunities* and providing *on-the-job* training and support. This shift produced successful employment rates of 50%

It is enough to know that someone is unemployed to determine NEED. Based on research on successful employment outcomes and models of employment assistance, the question of capacity is one for US to answer or be measured by – do WE have the competency to find or create employment opportunities and provide the on-the-job training and support?

The most successful employment services for people with significant intellectual disability have reported that service access and employment outcomes are dependent on at least four key pre-conditions: (1) the motivation of the person to work; (2) the support of the person's family; (3) an opportunity to perform paid work; and (4) access to on-the-job training and support.

If our wish to maximize workplace participation and earned income, and minimize dependency on welfare, were matched with evidence-based employment research, we would offer all people with intellectual disability an actual job “try-out” matched with competent on-the-job training and support.

Interaction Volume 19 Issue 2, p19

NCID appreciates that the Government has drafted this legislation so that people with intellectual disability will not be adversely affected. NCID urges the Government, the relevant government departments and the Fair Pay Commission to monitor the application of this legislation to people with intellectual disability so that they:

- **are given the opportunity to seek and be supported in employment, and**
- **be eligible for the DSP so as to maintain viable income levels.**

2. Parenting Payment

The qualification for the Parenting Payment has been amended to so that a single parent will receive the Parenting Payment until their child reaches the age of 6, subsequent to that age the single parent will have to undertake participation requirements to continue to be eligible for the Parenting Payment.

Exemptions to the participation requirement includes special family circumstances such as:

- *the person is the principle carer of one or more children who has a physical, intellectual or psychiatric disability or illness and whose care needs are such that the person could not be expected to satisfy participation requirements for the period;*

NCID supports this exemption but has concerns about how the care needs of the child with intellectual disability will be assessed. **As a minimum this exemption must include those single parents who are in receipt of the Parenting Payment and also the Disability Allowance. The Disability Allowance is an acknowledgment that the child with a disability requires significant support, though it has limited eligibility criteria and NCID urges that the exemption criteria be sufficiently wide enough to capture all the children who (theoretically) will be eligible for the DSP when they turn 16 years.**

It must be remembered that all children with a disability require additional support. In many instances that support will be significant as the parent supports their child into school, supports both their child and the teachers during school and importantly before and after school. There are also numerous health and therapy appointments, and introducing and maintaining their kids in sport and other community activities. Supporting their child with a disability increases the capacity and capabilities of the parent, providing them with a range of skills that will enable them to gain employment if their caring responsibilities allow.

NCID acknowledges and applauds the Coalition Government for expanding the Carer Payment criteria to include child with difficult behaviours. This is an important initiative that will have an enormous benefit for many families.

3. Mobility Allowance

NCID supports the higher rate of Mobility Allowance though there must be only one rate that applies to all DSP recipients. There is no logical rationale why the increased rate should only apply to those working or looking for work of at least 15 per week at award rates or more.

This limited criterion will disadvantage people with intellectual disability.

4. Telephone Allowance

NCID supports the extension of the Telephone Allowance.

5. Concession Cards

NCID supports the extension of Pensioner Concession Cards.

6. Pharmaceutical Allowance

NCID supports the extension of the Pharmaceutical Allowance.