



NATIONAL ETHNIC DISABILITY ALLIANCE

Submission to the Senate Inquiry into the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005* and the *Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005*

November 2005

Introduction

The role of NEDA

The National Ethnic Disability Alliance (NEDA) is the national peak organisation representing the rights and interests of people from non-English speaking background with disability, their families and carers throughout Australia. NEDA is funded by the Commonwealth Department of Family & Community Services to provide policy advice to the Australian Government and other agencies on national issues affecting people from NESB with disability, their families and carers.

NEDA actively promotes the equal participation of people from NESB with disability in all aspects of Australian society. It manages a range of projects relating to NESB and disability communities and works closely with its state and territory members to ensure that its policy advice reflects the lived experiences of people from NESB with disability. In states and territories where no NESB-disability advocacy agency exists, NEDA undertakes development work to establish a structure that can support people from NESB with disability, their families and carers

The NEDA network consists of the following state and territory peaks:

- ACT Multicultural Council (ACTMC)
- Amparo Queensland
- Diversity and Disability VIC
- Ethnic Disability Advocacy Centre (EDAC)
- MALSSA
- Multicultural Disability Advocacy Association of NSW (MDAA)
- Multicultural Community Services of Central Australia
- Multicultural Council of Tasmania (MCOT)

A comment on terminology

NEDA uses the term *Non-English Speaking Background* in preference to *Culturally and Linguistically Diverse Background* as those from an English speaking background are encompassed by the latter term and they are not part of NEDA's constituency. NEDA contends that coming from a linguistic and cultural background other than Anglo-Australian can be a great social barrier and a source of discrimination in Australia. The intention of using NESB is not to define people by what they are not but to highlight the inequity people experience due to linguistic and cultural differences. NEDA also uses the term *people from NESB with disability* rather than *people with disability from NESB* as we consider cultural background (not disability) an appropriate means of developing social identity.

NEDA maintains that disability is a social construct and arises when a society's infrastructure is not developed to ensure all individuals, regardless of capacity or

impairment, can fully participate in society. Thus though the DDA and other Australian legislation defines 'disability' as arising from individual functional restrictions NEDA sees these definitions as too closely akin to individual impairments and would argue that remedies sought to ameliorate the effect of discrimination will not be found until this definition is challenged and the social basis of disability is acknowledged in legislation. Thus NEDA refers to *people with disability* rather than *people with disabilities* to underline that disability is not a characteristic of an individual but a consequence of a society designed (whether consciously or inadvertently) to exclude many of its citizens from equal participation.

Overview

NEDA endorses the submission made by the Australian Federation of Disability Organisations (AFDO). NEDA's submission focuses on the specific implications the Bills will have on people from NESB with disability. It should be noted that the extremely short time frame between the Bills' introduction and the close of submission for this Inquiry, the length of the Bills and the complexity of the changes has not allowed in-depth public comment and scrutiny. This submission is necessarily brief due to the time limitation.

The current situation

According to the 2001 Census 24.5% of the total population are people from NESB. This includes people who were born in a non-English speaking country or who have at least one parent who was born in a non-English speaking country. The 2001 Census also indicated that 15.2% Australians speak a language other than English at home.

NEDA estimated that 24.5% of the disability population are people from NESB with disability. Correlating the percentages of people from NESB and people with disability, the total population of people from NESB with disability is 5% of Australians.

Centrelink data shows that 20% of Disability Support Pension (DSP) recipients are identified as people from NESB. Given that migrants with disability are mostly unable to obtain permanent residency and the few who do must wait ten years before becoming eligible for DSP the incident of disability among migrants is quite high. Many migrants have to engage in manual labour due to language barriers and/or the lack of recognition for overseas qualifications and they are more likely to acquire work related injuries. However, people from NESB with disability are less likely to receive assistance from Disability Open Employment Services (DOES).

The Australian Government Disability Services Census has been conducted on a regular basis since 1993. The Census' results consistently indicate that people from NESB are vastly underrepresented among clients of disability employment

services. The *Australian Government Disability Services Census 2002* showed that less than 8% of employment service clients with disability are from NESB. Using NEDA's estimate based on the 2001 Census (noted above) equity requires this figure should be nearing 25%.

The same publication stated that 6% of employment service clients speak languages other than English at home though only 0.7% clients received interpreting service for spoken language other than English. This is significantly lower than the 2001 Census data that indicated that 15.2% of people speak a language other than English at home.

Disability employment services are clearly incapable of delivering equitable services to people from NESB with disability. Lack of information available in community languages and racist attitudes of service providers are examples of the range of specific barriers experience by people from NESB. The Disability Employment Standards that DOES are expected to meet make no reference to cultural competency. Therefore, lack of access and equity and outcomes for people from NESB are not monitored nor services made accountable.

People from NESB with disability are equally underrepresented in all other disability support services funded under the Commonwealth State/Territory Disability Agreement. According to *Disability Support Services 2002 – National data on services provided under the Commonwealth/State Disability Agreement* published by Australian Institute of Health and Welfare only 3.6% of service consumers are from non-English speaking countries and 1.3% received interpreters for spoken language other than English. These figures clearly demonstrate the systemic disadvantage experiences by people from NESB with disability when trying to access services whether disability specific or mainstream.

This has a significant impact on the capacity people from NESB have to participate in paid employment. Due to the failure of the service system, whether be mainstream or disability specific, people from NESB with disability are subject to:

- extreme isolation and marginalisation;
- financial vulnerability and fewer opportunities to reach their full potential through education and employment;
- reduced capacity to participate in social, economical, political and cultural life;
- dependence on families and cares.

Practical implications

NEDA conducted three consultations earlier this year to elicit the views of people from NESB with disability in relation to employment. They were held in

Melbourne, Sydney and Perth arranged by NEDA's state based member organisations.

Comments on the *Welfare to Work* reforms were generally negative. One group felt it was a "Punishment Model" and that the emphasis on individual obligation to seek work was seen as unmatched by government's obligation to provide an accessible working/living environment.

Putting people on a lower rate of payment is not encouraging workforce participation. Being \$40 worse off per week means less capacity to pay for job seeking related expenses, not to mention disability related costs. Considering that people from NESB with disability already experiencing a wide range of disadvantages the above will put them into further poverty.

The proposed compliance framework is too harsh. For example, an eight week non-payment period is proposed as punishment for failing to complete an employment diary correctly. This particularly disadvantages people from NESB, especially those with cognitive disability. There is no mechanism for individuals to negotiate job seeking requirements that are appropriate to their capacity and needs. People with language barriers would experience further difficulty and frustration trying to negotiate a more complicated system. Many already experience difficulties when communicating with Centrelink. The new system will put these people at the risk of significant financial loss for not complying, even when non-compliance is due to a communication barrier.

Discrimination and racism are common across workplaces. Yet under the new system people from NESB with disability will not be able to leave a job without suffering 8 weeks of financial loss. It is often difficult to prove discrimination is the basis for the decision to leave a job. The legislation should list exemptions including workplace discrimination and bullying as acceptable reasons for leaving a job without penalty. Without this safeguard it allows Centrelink too much discretion in determining what constitutes a valid reason for leaving a job.

It is estimated by AFDO that 30,000 assessments will take place over the next financial year using the Comprehensive Work Capacity Assessments. NEDA has no confidence in the assessment tools or the assessors to conduct assessments in a culturally relevant manner. The major concern is the lack of validity which has a financial implication and may lead to inappropriate referral outcomes for people from NESB with disability.

Although the employment entry payment is increased the overall funding for Job Network and DOES is reduced. This means employment services now have to take on people with significant support needs (15-29 hour capacity) with less pay. This further disadvantages people from NESB as there is no provision for interpreting costs and intensive on-site support. With less payment per client the quality of support can only get worse. The proposed system will force more

people from NESB with disability into an employment service system that is already unable to meet their needs.

Conclusion

If the Government's intention is to increase workforce participation of people with disability then the proposed Bills are counter productive. The practical implications of the Bills will further entrench the poverty and vulnerability of people from NESB with disability.

NEDA is deeply disappointed that the Government has pushed through a Welfare Reform agenda without any meaningful dialogue with people from NESB with disability.

NEDA strongly opposes the Bills and recommend to the Committee that both Bills should be rejected. The Bills are about punishing individuals for what the Government has failed to deliver. What people from NESB with disability need is commitment and leadership from the Government in addressing structural and attitudinal barriers to employment. Strategies should be developed through genuine consultation to increase opportunities to education, training and support.