Disability in respect of employment itself, 'it should not be on the basis of charity'.[87]

3.70 From the evidence of a number of submissions and witnesses, this issue of image and perception of people with disabilities in employment situations is a complex one which cannot be resolved easily. Many witnesses referred to the difficulties which they experienced with colleagues, often noting that they were aware of the effect they had on other people[88] and, in particular, the tremendous stress they themselves faced, and the difficulty of maintaining any self-esteem.[89] Co-operative work mates and skilled managers can ensure that people with disabilities are no longer seen as dependant but are accepted and seen as equals. The wide range of types and levels of disability demand a range of information packages.

3.71 These issues are referred to later in the context of employment services. While there are a number of factors involved in establishing and maintaining a sense of self-worth, positive images are likely to be crucial.

Recommendation

The Committee RECOMMENDS:

5. That further community information and education programs about people with disabilities be developed. These programs should be directed to all members of the community, including primary and secondary schools, where they should be co-ordinated with integration programs. Emphasis should be placed on the needs that people with disabilities have for access to all aspects of community life, including employment. Such programs should indicate the ways in which obvious and more indirect discrimination can occur, particularly in employment and in access to employment.

Government

3.72 Witnesses perceived governments as performing a number of functions, including funding services, providing pensions and, in some instances, offering employment. They noted that various government departmental staff held a range of attitudes which, as in the wider community, reflected constructive and positive approaches as well as indifference and thoughtlessness.[90]

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87. *Transcript of Evidence*, p. 3717 (The New South Wales Council for Intellectual Disability).

88. Submission No. 2, p. 3 (Miss L. Roberts).

89. *ibid.*

90. For recent evidence see the Spastic Centre of New South Wales' recent publication *The Rhetoric and the Reality: Employment of People with Disabilities*, October 1991 – '... results clearly indicate that Government employees have a significantly more positive attitude towards the employment of people with severe physical disabilities' (p. 10).

3.73 There was considerable support for the positive image of people with disabilities that some departments projected, and of the fact that this image was maintained by staff as well as demonstrated through programs and services. However, adverse comments were made about the staff of various departments and the existence of uninformed[91], disinterested or unskilled staff, particularly in direct contact positions, is a matter which departments will need to address if they wish to project a positive attitude to people with disabilities as a Departmental image.[92]

> Often officers of the Commonwealth employment services [CES] have little if any knowledge of the needs of people with disability. I know of a man who suffers from cerebral palsy being offered road work . . . he should not be put in a position where he has to explain to an officer of this service why he cannot do it, especially after he has stated his physical disability on this form. The officer is not to blame personally for his lack of knowledge; rather the system as a whole is to blame. Officers should be educated.[93]

3.74 The Queensland Spastic Welfare League referred to the staff in departments recommending that people with disabilities go on to benefits or pensions, rather than discussing other options such as employment; providing inaccurate information; or sending people out to jobs for which they were manifestly unqualified.[94]

3.75 Other witnesses indicated that 'departments' rejected information that did not accord with preconceived notions, thereby denying the validity of individuals' opinions or experience. One witness referred to:

> . . . the lack of insight shown by the staff and the project worker at Community Services and Health regarding the cooperatives. We did place someone in a job at an inner urban cooperative, and that was not recognised as a competitive employment placement until I argued the point.[95]

Another organisation stated:

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91. *Transcript of Evidence*, p. 4444 (Disabled Peoples' International, Queensland Branch).

92. *Transcript of Evidence*, pp. 4441-2 (Disabled Persons' International), p. 5199 (PE Personnel), p. 5391 (Summit Industries). See also *People with Disabilities: Attitudes of Service Providers in DSS, CES and CRS*, Artcraft Research, June 1990.

93. *Transcript of Evidence*, p. 4441 (Disabled Peoples' International, Queensland Branch).

94. *Transcript of Evidence*, pp. 4288-4289 (The Queensland Spastic Welfare League). See also *Transcript of Evidence*, p. 4441 (Disabled Peoples' International, Queensland Branch).

95. *Transcript of Evidence*, p. 5711 (The Brotherhood of St Laurence).

... in the implementation of [the legislation] I do not believe that the Department is really listening to the ground swell of people who actually will be required to run with the implementation of the Act.[96]

3.76   In considering the broad issues raised by the *Disability Services Act*, a number of witnesses and submissions considered that the (then) Department of Community Services and Health had often demonstrated too great a concern with theory and too little with practicalities. While it is clearly the job of departments to implement programs with a view to broad as well as individual outcomes, some witnesses expressed concern that ideology has dominated at the expense of the people involved.[97]

3.77   One of these organisations expressed a belief that the ideology of the Department led to specific discrimination against it, and a refusal to consider its service and proposals for change, or to accept that there were valid reasons for not being able or willing to meet transition timetables.[98]

3.78   Another organisation referred to some of the early problems with Departmental attitudes on transition:

The Department was enthusiastic in its implementation of the Act in the early stages, which I think caused some problems around Australia. Now it is reviewing its method of implementation and allowing a greater degree of flexibility in the transitional period, which seems to be a fairly positive step.[99]

3.79   Another witness believed that the Department was working according to a set of principles and a timetable which seemed inflexible to some organisations[100], and, in effect, not to be concerned with the fate of persons who might prefer to stay in sheltered employment or who would not have been placed in another form of employment by the end of June 1992.

... we were told then that they would support the idea of enclaves, they would support the idea of integrated work settings, if you like, but they would not support the idea of gathering together about 12 school leavers and giving them a year's course — I suppose you could call it a training course — of highly structured work preparation to enhance the

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96.   *Transcript of Evidence*, p. 696 (Centacare).

97.   *Transcript of Evidence*, p. 696 (Centacare), pp. 4252-4 (Endeavour Foundation), pp. 4463-4 (Australian Red Cross Society, Queensland Division).

98.   *Transcript of Evidence*, pp. 4252-4 (Endeavour Foundation).

99.   *Transcript of Evidence*, p. 1353 (Disabled Peoples' International, Australia).

100.   *Transcript of Evidence*, pp. 5247, 5261-2 (West Australian Special Schools Parent Action Group).

opportunities of success when they left little program to go into, perhaps, open employment. It seems to me that the funding is going towards the mildly disabled person and restricting the moderately, severely and profoundly disabled people because they cannot meet the criteria for integrating into the workforce.[101]

3.80 Some organisations, however, may also be seen as inflexible and as not wishing to change their service philosophy or to make any obvious change to their methods of operation.[102] Others may be perceived as not working towards transition as rapidly as possible and as not assisting service users to understand the benefits offered by the DSA.[103]

3.81 While some of the opposition to the Department's approach appears based on a misunderstanding of the future of sheltered workshops[104], allegations of an inflexible approach and lack of concern for individuals may contribute to a belief that government officials have little understanding of, or interest in, the needs of people with disabilities and/or their carers and families.

Recommendation

The Committee RECOMMENDS:

6.   That information and education programs about people with disabilities be developed by the Public Service Commission to improve the knowledge of departmental staff about the needs of people with disabilities, and how departmental services can assist people with disabilities.

3.82 However inaccurate any negative views of the Department of Health, Housing and Community Services are in reality, such perceptions have fuelled the controversy about equity in distribution of resources. Such controversy has centred on the high level of services available for some and the limited funding directed to others. Some witnesses questioned the apparent refusal to fund services to meet specific needs when these needs were not adequately met by other employment options.[105] There are differences of opinion regarding the benefits of generic rather than disability-specific services. Much of the opposition of certain consumer/provider groups to 'generic' services, however, is based on the belief that generic services are too broad to meet key specific needs of some people with

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101.   *Transcript of Evidence*, p. 5261 (West Australian Special Schools Parent Action Group).

102.   *Transcript of Evidence*, pp. 4258-9 (Endeavour Foundation), p. 4986 (ACROD Limited).

103.   *Transcript of Evidence*, p. 4877 (Disability Advisory Council of Australia), p. 5953 (DHH&CS).

104.   See for example, *Transcript of Evidence*, p. 4757 (DHH&CS), pp. 5923–5 (DHH&CS), p. 5950 (DHH&CS), pp. 5952–3 (DHH&CS). See also Chapter 6, Paragraphs 6.179-6.197.

105.   *Transcript of Evidence*, pp. 5572-3 (National Multiple Sclerosis Society of Australia).

disabilities.[106] Consequently, any emphasis by departments on the benefit of generic services may be seen as ignoring the needs of some groups for the only type of service appropriate enough to achieve a result. This issue is discussed further below.[107]

3.83   Departments (among others) were also seen as suggesting that work which people with disabilities were said to enjoy was in fact demeaning because it was repetitious or boring[108], thereby not being able to perceive that the issue was one of whether the needs of specific individuals were met by certain types of jobs which *they* found challenging. This issue is a complex one, in that (as is discussed later)[109] the nature of the job may be less important than whether it is seen as a 'real' job and whether there are other benefits from working in more open employment. It is important that the value of work to the individual is recognised, both as work and as a means to obtaining greater access to community life in general.[110] If government departments are concerned that job options for people with different types of disabilities do not provide a challenge or a future for those people, then they have an obligation to either suggest other types of work as more suitable or to relate levels of job satisfaction to those of the general community. After all, too excessive a concern with the 'needs' of people with disabilities may be seen as being too protective, patronising and essentially in opposition to the principles of the *Disability Services Act*.

3.84   A further area of criticism of government departments, particularly of the then Department of Community Services and Health, related to staffing turnover. This matter was discussed in the Committee's report *Accommodation for People with Disabilities*[111], but it is worth noting some key points again since they clearly concerned service providers in particular and were to some extent seen as indicative of a lack of commitment to people with disabilities.

3.85   One organisation indicated that effective liaison with departments was adversely affected because of this problem, and that this involved building new relationships — 'You have to repeat the process again, again and again'.[112] Another service provider made much the same point.

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106.   *Transcript of Evidence*, p. 4768 (DHH&CS), p. 5572-3 (National Multiple Sclerosis Society of Australia). See also above Paragraphs 2.63-2.66, 2.75, 2.77-2.79.

107.   See Paragraphs 5.31-5.33.

108.   *Transcript of Evidence*, pp. 5007-8 (Sola Optical), pp. 5225-6 (The Disabled Workers Union of Western Australia), p. 5910 (Human Rights and Equal Opportunity Commission).

109.   Chapter 5, Paragraphs 5.6-5.8; Chapter 6, Paragraphs 6.115-6.119.

110.   *Transcript of Evidence*, pp. 4011-12 (Inner-Western Sydney Developmental Disability Service, Community Program Services).

111.   *Accommodation for People with Disabilities*, Chapter 5, pp. 64-67.

112.   *Transcript of Evidence*, p. 4210 (Epic Employment Service, M.O.R.E. Inc.).

I found it quite extraordinary that these nine people to whom I presented [a training project] had between them only eight years' experience in the Department. Therefore, some of them did not understand the process. This concerned me greatly.[113]

3.86 Similar comments were made by another organisation which believed that Departmental staff brought little support and insight to the employment area[114] (although the specific problem referred to indicates that it is sometimes difficult to be definitive when new service types are being developed). In general, however, this organisation was most concerned with staff turnover because of the difficulty that new staff had in grasping the 'entire field' of disability issues.[115]

3.87 While new programs may cause particular problems for departments as well as for service providers and consumers, the inevitability of new service developments should lead departments to ensure that effective training and staff placement is operative before programs are introduced. This is essential in order to reduce the pressure on service providers and consumers and on departmental staff themselves.

3.88 Where staff turnover is high, departments should ensure that key information is stored and readily available to all new staff, and that in areas of intense and complex service development, systematic studies of developments should not only be produced but should be an obligatory part of the training of new staff.

3.89 It is noted that the Department of Health, Housing and Community Services has developed a series of key documents which provide the basis of a 'corporate memory' of changes in disability services. Any problems that have resulted from staff changes in this department, therefore, may result from training and staff management problems. In order to assist departmental officers, service providers and consumers, departments should ensure that liaison officer positions are established and maintained and that such officers are thoroughly familiar with all aspects of disability services philosophy and administration, and sensitive to the needs of people with disabilities.

3.90 The Committee is concerned at the staffing problems such as rapid staff turnover in Commonwealth Government departments and has made the following recommendations in this area.

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113. *Transcript of Evidence*, p. 5394 (Summit Industries).

114. *Transcript of Evidence*, p. 5711 (The Brotherhood of St Laurence).

115. *Transcript of Evidence*, p. 5715 (The Brotherhood of St Laurence).

Recommendations

The Committee RECOMMENDS:

7. That Commonwealth departments establish liaison officer positions in programs such as the Disability Services Program, and ensure that such officers are sensitive to the needs of people with disabilities, thoroughly conversant with all aspects of the program and able to provide accurate information on policy and practices. Where possible new liaison officers should be fully trained before the previous position holder leaves or moves to another job.

8. That Commonwealth departments maintain the principle of service to the community by building up sections and programs of committed staff who remain in their positions for at least two years.

9. That Commonwealth departments provide adequate and ongoing training to such staff.

10. That the Commonwealth public sector be eligible for a special category of the Prime Minister's Employer of the Year Awards.

3.91 Some government departments were seen to be lacking in their ability to sell a positive message.[116] Yet, as the source of policy implementation and funding, any unsympathetic and negative image which departments project is clearly quite damaging to the self-confidence and self-image of people with disabilities. While organisations are able to counter and deal with negative messages, individuals with disabilities could be at risk of being affected by unfavourable images. Therefore, departments have a major responsibility to ensure that services, including the provision of information, are always up to date and directed to the needs of consumers and that a positive image is presented, if this is a realistic portrayal of departmental philosophy.

3.92 The commitment of both State and Federal governments to people with disabilities should be indicated by their own record as employers which is generally perceived as poor. Governments are seen by some witnesses as hypocritical[117], critical of the private sector (and of many sheltered workshops) for not providing opportunities or new employment options but failing to provide many options themselves. Neither government departments[118] nor the wider public sector

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116. *Transcript of Evidence*, pp. 4448-9, 4451 (Disabled Peoples' International, Queensland Branch).

117. *Transcript of Evidence*, p. 5383 (JobMatch).

118. *Transcript of Evidence*, pp. 3722-3 (The New South Wales Council for Intellectual Disability), pp. 4421-2 (Queensland Association for Mental Health), p. 5149 (Health Department of Western Australia), pp. 5197-8 (PE Personnel), pp. 5345, 5382 (JobMatch).

(hospitals, schools, etc.)[119] were seen as having demonstrated a commitment to the employment of people with disabilities, although the greater part of evidence referred primarily to the public service. Although not spelt out by witnesses, the distinction between the public sector and the public service was considered important. It was felt that people in the public service should be setting an example of implementing policy in their own workplace.

3.93 There was some consideration given to the marginally advantageous situation of people who had already been employed at the time of becoming disabled, and some witnesses suggested that these employees would be more likely to be catered for than would persons with an equivalent disability attempting to enter the public service.[120] Others felt that the support available was likely to vary according to the type of disability. This situation, however, of providing support to an existing employee while not deliberately seeking to employ a person with a similar disability, may well be common to all employers.[121]

3.94 Overall the opportunities for entry into government employment for people with existing disabilities was considered to be limited and, in spite of a range of access programs, to set a poor example.

3.95 Evidence of discriminatory practices regarding entry and advancement in the public sector, both Federal and State, was given to the Committee during 1989 and 1990. In particular, concerns were raised about discriminatory entrance examinations and criteria, and the difficulties of gaining permanent status and superannuation which are associated with medical examinations. Although some of these practices have changed, the issues raised indicate some of the barriers to employment previously experienced by people with disabilities. These experiences may continue to affect those who felt excluded and hence reluctant to make further efforts to join the public service, even though changes have been made.

3.96 Basic entry criteria such as a requirement to have a school leaving certificate or basic literacy and numeracy skills operated as bars to people with intellectual disabilities, and normal entry examination procedures discriminated against people with a range of physical, sensory, and intellectual disabilities. In some cases, special measures are taken to accommodate the needs of disabled applicants; these measures include provision of examination papers with large print, aides who can read out questions, the granting of extra time for completing an examination, and the provision of separate rooms for people who are uncomfortable with crowds. However, these measures do not cater for all disabilities, and do not appear to have been universally available. As a placement agent in the Commonwealth public service, the Commonwealth Employment Service (CES) was considered by some

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119. *Transcript of Evidence*, p. 5382 (JobMatch). See also *Transcript of Evidence*, pp. 5511-12 (Australian Council of Trade Unions).

120. *Transcript of Evidence*, pp. 4425-6 (Queensland Association for Mental Health).

121. *Transcript of Evidence*, pp. 5513-14 (Australian Council of Trade Unions).

witnesses to be particularly unhelpful, and to illustrate a gulf between policy and practice in the Federal arena.[122]

3.97 On a positive note, at the Federal level, public service entry provisions which would disadvantage people with intellectual disabilities are being bypassed by a new recruitment initiative, the Intellectual Disability Access Programme (IDAP). By regulation under the Public Service Act, the IDAP allows discrimination in favour of people with intellectual disabilities, if they are recruited through the program. Recruits do not have to compete for access into the APS through standard selection processes but on individual merit. The Committee heard that IDAP was set to 'go national'[123] in 1990 after a positive PSC evaluation of a pilot program with ten IDAP recruits in the ACT in 1988.[124] By the end of 1991 although it was considered to be available across Australia, IDAP was operating in the Australian Capital Territory and New South Wales only (50 people), and was to be reviewed in the near future by the Public Service Commission, DHH&CS and DEET. DEET is responsible for maintaining statistics on the program.

3.98 Some problems were identified late in 1991 by the sponsoring body for the program in the ACT, Advance Personnel, as needing to be addressed. These included:

- the need for greater emphasis to Government departments that the Program was a Government initiative and departments should therefore become much more involved in it;

- the decline in base-grade positions in the APS, which added to the difficulty of obtaining placements; and

- lack of non-disabled staff in departments, and of other resources, to provide assistance, and to provide the training required for IDAP staff to have reasonable access to promotion.

Recommendation

The Committee RECOMMENDS:

11. That there be sufficient flexibility in the allocation of staffing resources for Commonwealth departments to have positions available for people on the Intellectual Disability Access Programme and for people with disabilities who are eligible for higher level positions.

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122. *Transcript of Evidence*, p. 4441 (Disabled Peoples' International, Queensland Branch).

123. *Transcript of Evidence*, p. 5772 (Public Service Commission).

124. *Ronalds Report*, pp. 93-4.

12.   That sufficient resources be provided to departments employing people with disabilities to provide training, job rotation and other measures which can enable access to promotion on merit.

3.99   The Commonwealth has also reviewed its procedures with regard to medical examinations relating to superannuation and permanency through the 'Review of Commonwealth Medical Standards and Procedures'. At the time of the Review, Federal public servants aspiring to permanency were obliged to pass a medical examination which deemed them fit to serve for three years, and similar provisions limited access to superannuation.

3.100   The medical examination procedures regarding access to permanency and superannuation in the APS have now been revised, and the new provisions took effect on 1 July 1990. It is now no longer possible for access to superannuation and permanency to be refused solely on the grounds of medical examinations, but there are still hurdles and obstacles that people with disabilities have to overcome in order to achieve security within the APS. Under the new guidelines relating to medical examinations and permanency in the APS, government departments will be able to exercise their own judgment on the matter of the granting of permanency to an individual officer, after taking into account the recommendations of a Commonwealth Medical Officer.[125]

3.101   The principle of 'reasonable adjustment' allows that 'adjustments can be made to a work environment to reduce or eliminate the effects of disabilities and enable people with disabilities to compete, on their merits, for recruitment and career advancement opportunities'.[126] If people with disabilities are disproportionately represented in the lower ranks of the public service, the EEO principle of 'reasonable adjustment' may not being practiced sufficiently well in many public sector workplaces. Part of the reason for this could be attitudinal, but since the devolution of responsibility for EEO from the Public Service Board to the Public Service Commission, DEET, and individual government departments, adjustment costs which previously operated continually through special schemes such as Technical Equipment for Disabled Commonwealth Employees Program (TEDCEP), are now paid directly by individual departments.[127] Each department is given TEDCEP allowance in their base funding allocation and therefore is funded to purchase equipment or to modify the workplace. In a context of ever-increasing

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125.   *Transcript of Evidence,* pp. 5885-6, 5912-13 (Human Rights and Equal Opportunity Commission). PSC document, *Changes to Medical Standard for Appointment/Confirmation of Appointment to the APS,* June, 1990. The new guidelines relating to superannuation enable people with disabilities who do not meet the superannuation entry medical standard (ie who may need to take excessive sick leave in their first three years) to make superannuation contributions and become 'limited benefits members' of the scheme until they have completed three years of membership. At the completion of the three year period, if the public servant has not retired on an invalid pension, s/he will automatically become entitled to full coverage under the superannuation scheme.

126.   Submission No. 206, p. 32 (Human Rights and Equal Opportunity Commission).

127.   *ibid.,* pp. 35-6.

competition for funds, departments may be unwilling to take on employees who require expensive special equipment. The funding allocation may therefore be absorbed into departmental revenue and not directed to people with disabilities.

3.102 The abolition of the Public Service Board in 1987 and the ensuing diffusion of responsibility for Federal EEO programs appears to have been a major setback in the advancement of the human rights of people with disabilities in the employment arena. In its submission, the HREOC[128] indicated that the new arrangements did not augur well for a co-ordinated EEO program and in a discussion paper prepared for HREOC[129], it was stated that: 'Despite the formulation of EEO programs by each department, the establishing of Special Placement Officer positions, the principle and process of reasonable adjustment, and the IDAP, employment in the APS remains difficult for most people with disabilities, and particularly for people with intellectual disabilities'.[130] After the abolition of the Board, recruitment activities became the responsibility of individual departments, and DEET took over the administration of the Selective Placements Program for people with disabilities. The EEO unit of the newly-formed PSC replaced the EEO Bureau of the PSB, central staff numbers were radically reduced, and regional office staff positions were abolished.

3.103 Departments have established EEO officer positions or sections, and, in some cases, specific areas of responsibility for certain EEO groups such as women. However, since 1987, the recruitment of people with disabilities into the APS has been considered to have 'fallen dramatically'[131], relative to that of non-disabled staff and this fall was seem to relate directly to the above administrative changes.

3.104 However, there is some controversy about the extent and rate of decline. While data are kept, through the Continuous Record of Personnel (CRP) which is maintained by the Department of Finance, such data must be placed in context. No information is available on 32 per cent of APS staff, as information is only recorded at appointment. It has been considered that the 4.5 per cent (end 1990) of total APS staff defined as having a disability under CRP figures is an underestimate. Based on the EEO data maintained by departments, it is considered that a more realistic assessment is 6.7 per cent. This may also be an underestimate, with individuals choosing not to provide such information about themselves.

3.105 Other factors may also have limited recent intake into the APS generally. In 1990-91, some 71,650 persons undertook the Administrative Service Test for selection to 4,564 ASO1 positions — an increase of over 20,000 applicants from 1990. In short, there are fewer positions available overall, and the claimed decrease in

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128. *Transcript of Evidence*, p. 5884 (Human Rights and Equal Opportunity Commission).

129. *The Rights of People with Disabilities: Areas of Need for Increased Protection.*

130. *ibid.*, p. 12. See also *Transcript of Evidence*, p. 5884 (Human Rights and Equal Opportunity Commission).

131. *ibid.*, p. 37.

positions available to people with disabilities must be put in the context of the decrease in base grade positions available *per se.* Mention should also be made of the Selective Placements Program which was set up to ensure that people with disabilities who are applicants for base-grade positions had their claims considered fairly. This program, in conjunction with IDAP, has helped to create a structure for entry into base-grade positions.

3.106 It is also important to note that promotion rates for people with disabilities are considered not to be significantly different to those of employees without disabilities. However, insofar as workplace restructuring will continue to have a significant impact on job structures, it is possible that people with intellectual disabilities and people with severe disabilities will be adversely affected. They may be unable to carry out all parts of a job without increased training and/or support. As is noted above[132], programs such as IDAP will require the provision of support by the employing department, yet, through the restructuring of the APS, the emphasis is on maximum use of available resources, with little if any flexibility to provide training or longer-term support. While departments do have funds available for assisting employees with disabilities, it is essential that a more systematic program of recruitment, training and support be established in order to provide data on costs and needs, including the need for job redesign. It is likely that under-notification of disability will decrease when a more positive policy on job structuring, including the establishment of a career path, is evident. It is possible that people with disabilities are more likely to report disability if they see that no disadvantage will occur and that job structuring (including career paths) is in place.

3.107 While it might be expected that the Australian Public Service would take the lead in the employment of people with disabilities, this does not appear to have been the case in the past. There is a need for a more active employment strategy by the Commonwealth and perhaps for an enhanced monitoring and enforcement role by the PSC.[133] The Commission maintains a central, monitoring role in the coordination and evaluation of departments' performance in adhering to Federal EEO guidelines, but believes it is hampered by resource inadequacies, and by the strategic difficulties of coordinating activities across numerous departments.[134]

3.108 A number of proposals relating to increased options for people with disabilities in the Australian Public Service were drafted as a result of work done in a sub-committee of the Disability Task Force. At the end of January 1992, a draft Strategic EEO Plan for the APS was released. The draft plan indicates that 'the

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132.   See Paragraphs 3.97-3.98.

133.   Proposals for increasing intake into the public sector (Estimates Committee E, 18 April 1991, p. 94).

134.   See *Transcript of Evidence,* pp. 5769-5770, 5774-5776, 5777-5778, 5783, 5793-5795 (Public Service Commission).

Government is committed to improving the efficiency and effectiveness of [existing] policies and programs'.[135] Such commitment includes:

> ... reviewing aspects of the Selective Placements Program, investigating the extent and impact of structural change in the APS on people with disabilities and examining the use of job redesign in the operation of the principle of reasonable adjustment.[136]

Data collection will also be a priority, with the Department of Finance and the PSC being asked to give special priority to this matter.

Recommendations

The Committee RECOMMENDS:

13. That a specific target of employment of people with severe disabilities be set for each Commonwealth department as a part of its EEO program. The Secretary of each department should be required to report on the operation of this program at least annually, in the department's annual report. A report covering all departments is to be provided annually to Parliament by the Public Service Commission (PSC).

14. That all departments be explicitly accountable for the funding received to pay for work adjustment costs or equipment for people with disabilities. A statement on the use of these funds is to be included in departments' EEO reports and in the PSC report to Parliament referred to above.

15. That the Australian Public Service (APS) develop (under the Department of Administrative Services if required) an equipment-lease system (such as that available to employers participating in labour-market programs) in order to provide the more expensive required equipment/aids for people with disabilities wishing to undertake employment in the APS. Where possible, such a scheme should be extended to State and Territory government departments.

16. That the Public Service Commission, in conjunction with departments, develop strategies to ensure that people with disabilities, other than severe, are able to gain access to permanent employment in the Australian Public Service.

17. That the Commonwealth public sector be *required* to provide more employment places for people with disabilities, including people with severe

135. Public Service Commission Equal Employment Opportunity: *A Strategic Plan for the Australian Public Service for the 1990's* (Public Service Commission, 1992).

136. Minister for Industrial Relations Press Release, 24 January 1992 'Release of Draft Strategic Plan on EEO in the Australian Public Service', p. 2.

disabilities. Strategy plans are to be developed by each department, authority, etc. to demonstrate how such employment policies will be implemented.

Organisations

1.   Service Providers

3.109 As with government departments, a wide range of attitudes was held by people with disabilities about different service providers and about the image which these organisations projected of their clients. Many responses were extremely positive, when witnesses felt that they had been perceived as individuals who needed some help.[137]

> After I expressed my fears about job interviews to DEAC [Disability Employment Action Centre, Melbourne] they immediately made me an offer of role playing interviews and going over with me [some] of the questions I might be asked. This was of enormous use to me. [Their] personal support and encouragement even more so.[138]

3.110 Many sheltered workshops were also seen as working actively with other organisations in order to develop working conditions which accept that people with disabilities are entitled to the same working conditions as non-disabled persons.[139]

3.111 Other witnesses stated that some organisations did not respect their individuality, including their abilities, their wish to move to other employment, or their right to be treated in the same fashion as other people.[140] One witness with a disability said:

> you have to educate the people who actually work with people with disabilities because if you do not educate them and you do not change their attitudes things will not improve.[141]

3.112 While perceptions are obviously influenced by experience and values there are grounds for believing that some service providing organisations, whether as employers or not, are limiting their clients/employees.

3.113 Many organisations are limiting because of over-protectiveness, believing that the individual could experience discrimination or would not be able to cope in other ways, or was not sufficiently qualified to work at a different level. Others hold

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137.   Submission No. 2, p. 9 (Miss L. Roberts).

138.   *ibid.*

139.   *Transcript of Evidence*, p. 4029 (Intellectual Disability Rights Service).

140.   *Transcript of Evidence*, p. 4028 (Intellectual Disability Rights Service).

141.   *Transcript of Evidence*, p. 4876 (Disability Advisory Council of Australia).

attitudes which are seen as more patronising and exploitative. Witnesses before the Committee gave evidence of the negative, patronising, paternalistic attitudes of some sheltered workshop staff. Some workshop employees are treated as though they are children, and humiliated in countless ways; one example provided was having to ask for permission to go to the toilet. As one witness told the Committee:

> In our education work with residential care workers, the biggest hurdle to overcome is getting them to realise that people with a . . . disability have the same human rights as themselves . . ..[142]

3.114 Service users are often expected to be grateful and dependent, and it is claimed that some organisations, particularly sheltered workshops, actively discourage people from moving into more adventurous and profitable areas. The messages given to people with disabilities by such services may not produce a good self-image[143]; and, insofar as such organisations have played a major role in the rate and extent to which a person has developed abilities or participated in different options, they can profoundly influence the lives of many individuals.

3.115 Prior to the enactment of the *Disability Services Act 1986*, sheltered workshops were funded under the *Handicapped Persons Assistance Act 1974*. The purpose of the workshops was to offer employment and training opportunities for people with disabilities, to assist access to 'open' employment. Many workshops have succeeded in meeting these objectives. However, a number of workshops did not perform well, not only in terms of advancing the social and occupational development of people in their employ, but in terms of respecting their human rights.[144] The shortcomings of these traditional facilities were identified in the Commonwealth's 1985 Handicapped Programs Review; the report arising from this Review provided much of the impetus for the changes proposed by the DSA.

3.116 The aims of the DSA are to ensure that people with disabilities have every opportunity to attain their maximal potential, and are not, as they were in the past, segregated, and allowed to become institutionalised and dependent. To that end, the DSA has tied the funding of services to compliance with the objects, principles, objectives and guidelines of the DSA.

3.117 There are approximately 11,700[145] people with disabilities currently employed in approximately 282 sheltered workshops around Australia, many of

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142. *Transcript of Evidence*, p. 4025 (Intellectual Disability Rights Service).

143. *Transcript of Evidence*, p. 4877 (Disability Advisory Council of Australia), p. 4986 (ACROD Limited).

144. See below, Chapter 6.

145. Figures varied throughout 1991, with both 11,000 and 12,000 being cited in speeches by the Minister. Some increase in numbers has occurred, though this appears to be very limited (Senate *Hansard* Estimates E, 12 September 1991, p. E207).

which do not appear to have taken significant steps towards transition[146] – by September 1991, 274 workshops had yet to finalise the transition process.[147] In evidence given to the Committee in 1989 and 1990 people with disabilities in many of these establishments still appeared to be subject to discrimination of various kinds. As one witness said to the Committee: 'Some workshops are getting better, but they could be a lot better'.[148] In its submission, the HREOC claimed that 'many sheltered workshops are as inadequate now as at the time of the introduction of the Act'[149], although it did not provide any evidence on this matter. In its original submission (February 1989) ACROD estimated that only 30 per cent of sheltered workshops were presently acceptable in respect of DSA principles and objectives, and the rest need to be upgraded according to these principles.[150] It had been expected that all organisations which had not completed transition would have signed the Minimum Outcome Standards, thereby indicating their willingness to abide by approved standards. However, given the considerable funding and other problems experienced by the more traditional services, coupled with resistance in some cases, it is not surprising the Minister in late 1991 noted that nearly 58 per cent of services 'are still struggling to put in place the necessary policies and procedures to meet the minimum outcomes, and that others have given no response at all about their intentions'.[151]

3.118 HREOC also stated that sheltered workshops had been criticised for paying 'allowances' instead of wages, deducting too much money from pensions for board, not respecting common law rights of employees failing to enhance the skills and self-reliance of workers and providing only boring, repetitious work, improperly restricting the freedom of workers, and denying workers the right to organise industrially or discouraging them from exercising that right.[152] 'The traditional format of sheltered workshops often breaches the rights of people with disabilities to develop their skills to the maximum, to engage in a useful, productive and remunerative occupation, to economic security, and to protection against treatment that is discriminatory.'[153]

3.119 A principal issue surrounding sheltered workshops is the status of the people with disabilities who work in them. In the eyes of many in the community, people

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146.   *Transcript of Evidence*, p. 3962C (New South Wales Department of Family and Community Services).

147.   DHH&CS Program Performance Statement 1991-92, p. 138.

148.   *Transcript of Evidence*, p. 4030 (Intellectual Disability Rights Service).

149.   *Transcript of Evidence*, p. 5858 (Human Rights and Equal Opportunity Commission).

150.   *Transcript of Evidence*, p. 4993 (ACROD Limited).

148.   Speech, 14 November 1991, p. 5.

152.   *Transcript of Evidence*, p. 5858 (Human Rights and Equal Opportunity Commission).

153.   *ibid.*

with disabilities who work in sheltered workshops are workers who are entitled to the status of 'employee', and to all that that status entails. However, at least one organisation, Endeavour[154], while welcoming the introduction of the DSA, believes there is a large gulf between service providers and the Department on the implementation of the Act. The Foundation regards sheltered employment as a service provided to a client, not purchase of labour by an employer.[155] The Department is therefore in opposition to the Foundation's viewpoint since it attempts to reflect the relationship between employer and staff as being the most appropriate in the client-organisation relationship.[156]

3.120 The legal status of sheltered workshop employees has never been judicially determined[157], and the ambiguous, negative status of people with disabilities in some sheltered workshops is manifest in conditions of work which would be unacceptable to most employed Australians today. A number of witnesses/ submissions indicated that poor working conditions in these sheltered workshops include low wages[158] and poor occupational health and safety standards.[159] This was also observed in some of the Committee's visits. Workers are generally not unionised[160], and are hence voiceless and in general unable to change their working conditions, although the development of advocacy services has helped to bring about changes.[161] There are frequent personal assaults on human dignity and pride and sometimes physical assaults.[162]

> People with intellectual disability have been segregated in special places such as sheltered workshops and other institutions.

> It was believed that they had to be looked after. Decisions had to be made for them, they were seen — at least subconsciously — as lesser

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154. *Transcript of Evidence*, pp. 4247, 4249 (Endeavour Foundation).

155. *Transcript of Evidence*, p. 4250 (Endeavour Foundation).

156. *Transcript of Evidence*, p. 4251 (Endeavour Foundation).

157. Submission No. 207, p. 3 (Intellectual Disability Rights Service). See also Ronalds Report, pp. 146-7 and *Transcript of Evidence*, p. 4026 (Intellectual Disability Rights Service).

158. *Transcript of Evidence*, pp. 86, 89-90 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.) and see below Chapter 6.

159. *Transcript of Evidence*, pp. 72, 74, 76 (Self Advocacy for Intellectually Disadvantaged People in S.A. Inc.), pp. 4037-40 (Intellectual Disability Rights Service), p. 4982 (ACROD Limited), p. 5025 (Australian Down's Syndrome Association Incorporated).

160. *Transcript of Evidence*, pp. 4026, 4034 (Intellectual Disability Rights Service), pp. 5506-7, 5518 (Australian Council of Trade Unions).

161. *Transcript of Evidence*, pp. 4033-4 (Intellectual Disability Rights Service), p. 4876 (Disability Advisory Council of Australia).

162. See Chapter 6.

people with lesser rights. This attitude leads to many unconscious infringements of rights and in some cases it can and has indeed led to physical abuses.

. . . It is as if the person's disability seems to disentitle him or her to human rights such as dignity, privacy or freedom from unnecessary interference.[163]

3.121 However, it is not intended here to demonstrate that traditional organisations, particularly those providing sheltered employment, are all to be seen as regressive institutions, nor, conversely, that all new services are providing exactly what clients want. The more traditional organisations have often evolved in response to local needs, often as a result of individual action, and this evolution has led to different social, attitudinal and structural problems. In the first place, while there have been a considerable number of problems with sheltered workshops, including those of attitude and conditions, many of these problems may have arisen from lack of funding and poor management as well as from attitudes which were in fact shared by many members of the community.[164]

3.122 Secondly, a number of sheltered workshop services were established by parent groups some of which retained involvement in their operation.[165] Such problems as have been demonstrated by these services, then, are ones which may have been known to persons most involved in the care of employees/clients. This does not excuse the existence of sub-standard conditions but it does suggest that the argument cannot be seen as simply one of good versus bad service provision. The existence of different community attitudes will have influenced the nature of service provision and therefore the issue is one of the extent to which poor conditions and degrading treatment of workers was tacitly endorsed by society in general.[166]

3.123 Thirdly, a number of traditional service providers involved in sheltered employment are also providers of new services and hence provision of sheltered services is in itself no indication of one particular series of attitudes which cannot be changed.

3.124 This situation has, of course, been acknowledged by the Department of Health, Housing and Community Services[167] and the atmosphere of co-operation

163. *Transcript of Evidence*, p. 4025 (Intellectual Disability Rights Service).

164. See for example, *Transcript of Evidence*, p. 4025 (Intellectual Disability Rights Service); this matter is discussed fully in Chapter 6.

165. *Transcript of Evidence*, p. 4993 (ACROD Limited).

166. Barry, Andrews and Elkin, *The Development of Services for the Handicapped in Australia* (DCSH-DSP Transition Resource No. 19, July 1988, pp. 12-13. Ariotti, *Services in Australia for People with Disabilities, loc. cit.*, pp. 2, 26. See also *Transcript of Evidence*, p. 1477 (DHH&CS).

167. *Transcript of Evidence*, pp. 4739-40 (DHH&CS).

and recognition of the contribution of established services has been a positive statement in the midst of discussion about old and new services. While not ignoring the serious problems that many sheltered workshop clients have faced, and the poor standards that exist, there must also be recognition of the positive side of this form of employment in order to assist in transition services for those able to take advantage of them. What is required, and what is expected to develop over time, are national standards adhered to equally by all services. Many sheltered workshops have performed a valuable role, and, as discussed further below, it is possible that they may have a continued role in providing services.[168]

> Those services which have met minimum outcomes requirements, <u>and</u> have committed themselves to undergo the rest of the change process, need have no fears for their future . . . Nor will any services which are needed by people with disabilities close down.[169]

2. Consumer groups

3.125 Like everyone else, people with disabilities must play a number of different roles. Circumstances have meant that groups often discuss their uniqueness, their differences, their special needs. To a degree, this is essential in that, as a broad group, people with disabilities may require assistance to meet one or more particular needs in order to enable them to participate more fully in society. This continual recognition of different types of need is essential in order to provide appropriate services to maximise potential. For example, many people with multiple disabilities, while severely limited in some areas, may also be capable of substantial achievements, relatively speaking; nonetheless, they have often been seen as incapable of attaining a quality lifestyle because their individuality has not been recognised. Others with more than one disability may have been placed in one category (for example, intellectual disability) and little attention paid to the effect of other disabilities and the degree to which these may limit or enhance opportunities for development.[170]

3.126 Within the context of employment in particular, emphasis on need in itself should be seen as a positive factor, enabling individuals to identify those services which can help make employment a viable option, thereby assisting government programs to be more effective. There is, for example, the need, certainly recognised by a number of Departments and service providers, to provide additional support to

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168. See Chapter 6, Paragraphs 6.278-6.292.

169. Speech by the Hon. Brian Howe, Minister for Health, Housing and Community Services at the official launch of NTAU, 5 July 1991, p. 12.

170. *Transcript of Evidence*, p. 4068 (Nadow Training Program), pp. 4302-3 (The Queensland Spastic Welfare League), p. 5067 (Southern Regional Planning Groups for People with Disabilities), p. 5083 (Royal South Australian Deaf Society Inc.), p. 5140 (Health Department of Western Australia).

employed people when jobs may change in content.[171] A variation of this may also be the need to accept that, depending on disability and previous experience, continuous and/or full-time employment or occupation may not be a viable option for a number of people, including those previously able to work full-time.[172] It is also recognised that the work performance of some people with disabilities will vary because of factors such as psychiatric disabilities and various head injuries, with resulting fluctuating moods and difficulty in controlling behaviour.[173]

3.127 However 'need' can be misinterpreted as 'dependence', an attitude which consumer organisations seek to overcome. Often this is done by organisations emphasising the differences between disabilities, and this can have unfortunate effects of further distinguishing people with disabilities from the mainstream.

3.128 The different historical experiences of organisations, their success or lack of it in establishing some separate financial standing and their need for considerable public support has tended to emphasise separate types of disability and the needs of particular organisations. Several witnesses commented on the better standing of groups other than their own[174], on the relatively recent 'acceptance' by the community of particular disabilities[175], and hence their consequent limited form of support, on the lack of understanding by the community and/or government departments of particular needs of some groups[176], and on the apparent priority of some service types over others, and the needs their own organisation and members had for special consideration.[177] Many of these complaints may be valid; what they reflect is tremendous pressure placed on services, carers and people with disabilities to lobby continually, gain community support, influence government, provide education and information and seek to expand and adapt to circumstances.

3.129 While acknowledging the importance to organisations, carers and people with disabilities of explaining their differences, the effect of the more obvious divisions between groups may be detrimental to the overall cause. It is essential that the

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171. See *Transcript of Evidence*, p. 1523 (DHH&CS), p. 4481 (Australian Red Cross Society, Queensland Division).

172. This is discussed in greater detail in Chapter 5; see especially Recommendations following Paragraph 5.58.

173. See Chapter 5, Paragraphs 5.22-5.36.

174. *Transcript of Evidence*, pp. 4301-2 (The Queensland Spastic Welfare League).

175. *Transcript of Evidence*, p. 4432 (Queensland Association for Mental Health).

176. *Transcript of Evidence*, p. 4768 (DHH&CS).

177. *Transcript of Evidence*, pp. 4416-19, 4423 (Queensland Association for Mental Health), p. 4472 (Australian Red Cross Society, Queensland Division), p. 5062 (Southern Regional Planning Groups for People with Disabilities), pp. 5101-2 (The Paraplegic and Quadriplegic Association of South Australia Inc.), pp. 5250, 5256-7 (W.A. Special Schools Parent Action Group).

particular needs of different groups are met, but equally important that the emphasis on particular needs does not give a message of division and of powerlessness. At present, and despite the intentions of many organisations and governments, fragmentation does occur, severely affecting access and equity and continually reinforcing disability rather than ability. The continual competition for government and community funding can lead not only to a decrease in collective power but an increase in the emphasis in disabilities and separateness as opposed to abilities and integration. Governments indicated an awareness of this and had clearly sought, or intended, to deal with some aspects of these problems. However, it is likely that redressing imbalances in funding would not in itself solve the problem, as another group may feel disadvantaged.

3.130 People hold many different images of people with disabilities which indicate changes in broad community attitudes and in those of specific groups within the community. These changes relate to a greater acceptance and awareness of the needs of people with disabilities; an awareness of the broad social and economic factors which inhibit people with disabilities in general and in the obtaining of employment; some capacity to accept differences; and a capacity to separate having needs from being dependent.

3.131 However, for people with disabilities there are still many areas in which their self image and others' perception of them need to be changed, and this does add further to the work which they and their families/carers etc. are obliged to undertake in order to increase self-esteem. For many, a positive and contributing image is desired, indicating that people with disabilities can give something to the community, rather than being seen as 'dependent'. For others, the issue is of being seen as needing some assistance to be equal, not as demanding privileges denied to the rest of society. For still others, the issue is to be seen 'as people, and not as people with a disability'.[178] It is important that general society-wide changes continue to be made in order to make real advances in opportunities. Otherwise, there is a strong likelihood that, like other disadvantaged groups, people with disabilities may retreat from social involvement and lose both work and social skills, many of which may not have been easily acquired in the first place.[179]

3.132 If real changes are not made, then society will need to look at the effects this failure has both in the short and long term. The cost to society in terms of health and support service funding, the additional indirect cost of lost opportunities and thwarted individual development, and of less than optimal participation in social as well as employment situations, is substantial both in cash and in other terms.[180]

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178. *Transcript of Evidence*, p. 4030 (Intellectual Disability Rights Service).

179. Submission No. 2, p. 2 (Miss L. Roberts).

180. Submission No. 84, pp. 4-5 (Ms B. Saxby). See also Daryl Dixon *Unemployment: the Economic and Social Costs*, Brotherhood of St Laurence Research for Action Series No. 2, Melbourne, 1988.

The cost in terms of personal suffering, expressed by many witnesses and in submissions, is incalculable.[181]

3.133 The solutions to such problems are not simple. Given the importance of addressing problems in terms of general and broadly-based change, there must be proper consideration of the issue of employment/occupation and the effect which it has on the individual and the community as a whole. A number of people with disabilities clearly demonstrate that they, as individuals, are thwarted and limited in their personal development. They make considerable efforts on a day-in-day-out basis to overcome these limitations.[182] However, the structure of society is such that generally individual problems are only to be resolved by integrated service and program developments and changes in community attitudes. 'Disability has too long been viewed as a problem of the individual and not the relationship for that individual and his/her environment.'[183]

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181. Dixon, *ibid.*, p. 22.

182. McConnell & Pretty, *Wage Determination in Sheltered Employment*, Discussion Paper, 1988, p. 39.

183. *Transcript of Evidence*, p. 1338 (Disabled Peoples' International).