



27 February 2024

Re: DES reforms—recent reviews and recommendations relating to disability employment

Dear DSS Engage team,

Inclusion Australia is the national peak organisation representing the rights and interests of Australians with an intellectual disability and their families. Founded 70 years ago in 1954, our mission is to work to make sure people with an intellectual disability have the same opportunities as people without disability.

Our strength is in our national representation and our connection to our community. We have a member organisation in every state across Australia, and a branch in the Northern Territory:

- Council for Intellectual Disability (CID)
- Parent to Parent (P2P)
- South Australian Council on Intellectual Disability (SACID)
- Speak Out Association of Tasmania (Speak Out)
- Victorian Advocacy League for Individuals with Disability (VALID), and
- Developmental Disability WA (DDWA).


We are pleased to be part of this consultation process to develop ongoing reforms to DES in relation to recent recommendations made by the NDIS Review, the House Select Committee on Workforce Australia Employment Services, and the Disability Royal Commission.

We were heavily involved in the work of both the NDIS Review and particularly the Disability Royal Commission, in which we prepared our own submissions, commissioned research, provided case studies and supported witnesses, amongst other activities.

Unfortunately, the short timeframes of this consultation have meant that we do not have capacity to respond to every question set out in the webinar slide pack. However, we are strongly committed to working with the Department to ensure there is a robust response to the Royal Commission's recommendations in relation to DES and employment more broadly, and that reforms are grounded in the expertise of people with an intellectual disability and their families.

Thank you for the opportunity to participate in this consultation and we warmly welcome further conversations about any of the issues raised in this submission.

Kind regards,



Catherine McAlpine
Chief Executive Officer, Inclusion Australia

Accessibility and inclusion of people with an intellectual disability in DES and other employment reforms

Several of the recent consultation processes in relation to DES reforms (including the current consultation) have not been accessible to people with an intellectual disability. Largely, this is because of the short timeframes and the lack of Easy Read information.

This has limited opportunities for our community to provide feedback and to be meaningfully involved in the development of DES reform. Providing Easy Read materials in future consultations is a crucial part of ensuring the expertise of people with an intellectual disability is included in consultation processes.

Co-design with people with an intellectual disability will be a critical part of developing a DES system that is fit-for-purpose and can appropriately meet participants' needs.

We appreciate the Department's response to our question raised in the webinar on 21 February 2024 in relation to this issue and look forward to continuing to engage with the Department about how to improve its feedback mechanisms for people with an intellectual disability.

Inclusive ways to inform the Government's response to NDIS Review and Disability Royal Commission recommendations

More broadly, we see this as being a crucial part of the Government's response to the recommendations made by the NDIS Review and the Disability Royal Commission, which is a key part of the scope of this consultation.

The Disability Royal Commission definitively showed that experiences of violence, abuse, neglect, and exploitation are frequently and disproportionately experienced by people with disability—and that those experiences are more likely to (though do not solely) take place in segregated settings, separate from the community.¹

We also know that people with certain disability types are more likely than others to experience life in such settings. That cohort is predominately people with cognitive impairment,² including people with an intellectual disability. This is even more likely for people with complex needs, including those with high communication support needs.³

A snapshot of evidence drawn from the findings of the Disability Royal Commission demonstrates the ways experiences of violence, abuse, neglect and exploitation—the very antithesis of an inclusive life—significantly impact people with an intellectual disability, as shown in the diagram on page 9. This includes inequitable access to employment supports, open employment opportunities, and increased rates of financial hardship.

Large-scale, systemic change is clearly needed to address the findings of the Disability Royal Commission and the NDIS Review. However, we strongly believe that to achieve the long-term aspirations set out in their recommendations, including in relation to employment, **the development**

of reforms must involve equitable and inclusive collaboration with people with an intellectual disability.

In our recent submission to DSS regarding the Australian Government's response to the Disability Royal Commission, we put forward the following three elements, which we believe must guide the approach to reform. This includes DES reform and other employment policy developments.

Designing a phased approach to reforms: three key elements

1. Equitable collaboration with people with an intellectual disability and their families through paid employment opportunities to lead and shape policy change:

We know that when included early, equitably and meaningfully in systemic advocacy, people with an intellectual disability and families make highly valuable contributions to shaping policy that is fit-for-purpose and doesn't have unintended consequences.

2. Partnerships with trusted advocacy organisations with specialist expertise in representing the rights of people with an intellectual disability:

This includes organisations like Inclusion Australia and our members, who have significant experience and expertise in building trusting relationships in which people—who have often experienced violence, abuse, neglect or exploitation—feel safe and supported to access information resources, share their experiences, build their skills in systemic advocacy and participate meaningfully in government processes.

3. Prioritisation of people who experience the greatest barriers to inclusion, and who it is likely will experience the greatest impact because of reform.

The Disability Royal Commission showed that people with an intellectual disability experience some of the most frequent and severe human rights abuses, and face some of the biggest barriers to an inclusive life. The design and implementation of government reforms must be commensurate to the level of impact they will have for this cohort. At every step of the way, comprehensive risk assessment and mitigation strategies must be implemented to avoid the unintended consequence of leaving anyone worse off because of reforms.

Source: Inclusion Australia's submission to DSS re: Australian Government's response to the Disability Royal Commission: <https://www.inclusionaustralia.org.au/submission/the-australian-government-response-to-the-disability-royal-commission/>

Part of enabling a genuinely inclusive and collaborative approach to reform is the provision of accessible materials, such as Easy Read, as well as extended timelines (4-6 weeks, ideally) to enable our community sufficient time to read, understand and provide feedback with the support of advocacy organisations like Inclusion Australia and our members.

We are committed to working with the Department and the Australian Government to ensure there is a robust response to the NDIS Review and Disability Royal Commission's recommendations and

that we collectively work towards an inclusive Australia in which all people live free of violence, abuse, neglect and exploitation.

We warmly welcome any further opportunities to work with the Department to ensure its feedback mechanisms are accessible and inclusive of people with an intellectual disability.

Summary of our previous submissions in relation to DES reform

In response to the number of reforms that have been planned or undertaken for the DES program in recent years, we and our member organisations have consulted widely to gather the experience, expertise, and evidence from people with an intellectual disability and their families, as well as researchers, advocates, and other experts. This has culminated in the following recent submissions:

- [What Works: Making Disability Employment Services \(DES\) work for people with an intellectual disability, December 2021](#)
- [DES Reform Submission, February 2022](#)
- [DES Draft Quality Framework, March 2023](#)
- [DES Quality Ratings System, December 2023](#)

As the evidence in these submissions demonstrates, DES is not working for people with an intellectual disability. In its current form, DES presents significant barriers to people with an intellectual disability to open, inclusive, and equitable employment, including the:

- Exclusionary entry threshold to accessing DES
- Lack of evidence-based supports
- Lack of ongoing support funding
- System complexity
- Lack of training to build the capacity of employers and employment service providers.

As a result, fewer than 10,000 people (3.1% of the DES caseload) supported by DES are people with an intellectual disability.⁴ This is one of the reasons why it is critical to ensure their experiences are captured in any consultation or reform processes—the current DES program does not work for people with an intellectual disability so many are missing out or receiving poor quality service. Any redesign or reform of the program must consider the needs of this community.

As we argued in our submissions last year on the [Draft Quality Framework](#) and [the Ratings System](#), it is imperative that all aspects of DES embed principles of evidence-based practice to support the dismantling of these barriers and implement the recommendations outlined in the submissions mentioned above, and reiterated in the following section.

Eligibility and quality in DES

Currently, people with an intellectual disability who are assessed as being able to work less than eight hours per week, or more than eight hours per week without support, are not automatically offered DES Support. While they can technically self-refer, this very rarely happens in practice (and there is no accessible information on how to do this)—with the effective result being a denial of access to DES support.

We strongly agree with the Disability Royal Commission's recommendation to:

Remove the requirement for a person to have a minimum future work capacity of eight hours a week in order to access the Disability Employment Services program, to facilitate access for all people with disability to the new model. (Recommendation 7.16 of the Disability Royal Commission)

We believe that getting in the door of DES needs to be the easiest part of starting to look for a job.

In addition to Recommendation 7.16 of the Disability Royal Commission, we believe the following must also be implemented:

Additional reforms to implement as part of Recommendation 7.16 of the Disability Royal Commission:

- Ensure that everyone who wants employment support is eligible and referred for DES services, no matter how many hours they want to work.
- Ensure all people with an intellectual disability who use the NDIS should be automatically referred to DES if they want to work.
- Replace Job Capacity Assessments with a strengths-based evaluation that focuses on what the person wants to do and the supports they need to do that.
- Fund specific long term, DES support for older people with an intellectual disability who have either never worked in mainstream employment, have had long periods out of the workforce, or who want to explore other work options after working in an ADE.

What would quality employment look like for those have an assessed work capacity of less than 8 hours per week, and what are the key features of a service for this cohort?

The evidence about what works to support people with an intellectual disability at work is clear both nationally and internationally but is not reflected in the current DES system. This evidence says that people with an intellectual disability need:

- The presumption of employability among parents, educators, employment services, the business sector, government and the wider community
- A high level of job customisation to suit the needs and interests of the individual and the employer, including job carving, job sharing and job creation

- Proactively seeking job opportunities and connecting individual job-seekers to employers (instead of waiting for job vacancies to be advertised), and that this begins as early as possible, with an emphasis on the role of schools to make those connections
- On-the-job training or on-site training mixed with work experience
- Time unlimited and ongoing support in the workplace to continue to acquire work-related skills and capacity to independently access and maintain employment
- A strong role for employment brokers or vocational specialists to work with disability support services, health services (including mental health services), employment services, training organisations, schools, employers, families and jobseekers.⁵

Key among these criteria is the need for time unlimited and ongoing support. Through extensive consultation with our community, we have learned the importance of ongoing support in the workplace, particularly when there are changes in the workplace or personal circumstances of the person with an intellectual disability. Peoples' support needs naturally fluctuate over time, and support needs to be flexible and ongoingly available to reflect this and meet peoples' needs.

What kind of expertise would be required in providers to deliver this service?

The Disability Royal Commission recommends developing education and training resources for Disability Employment Services staff (Recommendation 7.17).

We support this recommendation in full and emphasise the need for resources to train DES staff about the needs of people with an intellectual disability specifically, and what works for this cohort in getting and keeping a job.

As we mentioned above, the evidence base for what works in inclusive employment is well established, especially internationally. We believe an essential role for a new DES system and DES providers will be collecting what is already known and sharing that across the community, to people with disability, families, employment services, and employers.

This should include active technical support for services and employers to put the knowledge into practice, and peer-to-peer learning so better performing providers can share their approaches.

What type employment incentives or support would be beneficial?

The Disability Royal Commission recommends establishing specific and disaggregated targets for disability employment in the public sector, and for new public service hires in government agencies and departments (Recommendations 7.18 and 7.19).

We strongly agree with these recommendations, and that all levels of government need to play an active role in opening employment to people with an intellectual disability and providing and modelling the right support.

Currently, the Australian Public Service Disability Employment Strategy sets a target of 7% for people with disability but makes no mention of people with an intellectual disability, nor sets specific targets.

The NDIA, DSS and the NDIS Commission are well placed to model and grow employment for people with an intellectual disability. We firmly believe that these agencies must set specific and ambitious

targets for the employment of people with an intellectual disability. This will demonstrate leadership and a model of good practice for the rest of government and should be implemented as a matter of priority.

In [our submission to the Disability Royal Commission regarding inclusive employment](#), we also made the following recommendations around setting targets for employment, which we argue should be implemented in conjunction with the above Disability Royal Commission recommendations:

Additional reforms to implement as part of Recommendation 7.18 and 7.19 of the Disability Royal Commission:

- Set targets at each level of government for employment of people with an intellectual disability in their public sector disability employment strategies
- Ensure all government departments and agencies—such as the NDIS, the NDIS Quality and Safeguards Commission and the Department of Social Services at the federal level—that directly work with people with disability set higher targets for employment of people with disability, including specific targets for people with an intellectual disability
- Provide funding to local government, starting in regional areas, to facilitate the employment of people with an intellectual disability
- Ensure DES works with local government and NDIS providers in regional areas to facilitate employment, particularly to meet the new employment targets.

Is there potential for unintended consequences that should be considered?

While we support the removal of the eight-hour minimum work requirement, we are aware this could lead to some people with an intellectual disability losing smaller jobs. We suggest the Department remain cognisant of this potential unintended consequence, and ensure it engages with people with an intellectual disability and their representative organisations to ensure the right supports are in place to mitigate this.

However, we strongly believe that if the eight-hour minimum work capacity was removed, this would enable more people with an intellectual disability to access DES. It is essential that people with an intellectual disability are meaningfully included and equitably collaborated with (meaning that people are remunerated for their contributions and provided with accessible materials and the supports they need to engage in consultation processes) in the design of a new DES model.

People with an intellectual disability and their families have experiences of the social security system, DES, and other employment supports that are unique. Because of the range of intersectional identities among people with disability as a group, many within this community experience the compounding impacts of these systems, and therefore have knowledge of them from a range of important perspectives.

Further, negative attitudes among employers and low expectations of people with an intellectual disability are some of the biggest barriers to inclusive employment.⁶ To address these and change negative community attitudes, the active, visible presence and leadership of people with disability is essential.⁷

Our vision for a DES system that works for people with intellectual disability and their families

A DES system that supports people with intellectual disability into open and self-employment, and sustains that work, looks very different to the current system. A system that works for people with an intellectual disability is one where:

- People with intellectual disability and their families find it easy to get accessible information about and to access open and self-employment.
- The forthcoming **Disability Employment Centre of Excellence** provides evidence-based research and best practice material to a network of **specialist DES providers in each state and territory**. In addition, they facilitate a high-level taskforce to harmonise settings across government.
- Specialist DES providers can be accessed from anywhere in the state or territory, and implement the **evidence-based practice** in everything they do. There is widespread expertise, education and training about **what works for people with an intellectual disability**, and this is continually improved through ongoing investment from government in developing research and evidence-based practice.
- Education and training about what works for people with an intellectual disability is delivered by people with an intellectual disability and families, and people are remunerated for doing so.
- Mainstream DES providers get training from the specialist DES and work in their communities to invest the time and expertise so people with intellectual disability can access open and self-employment.
- The **NDIS and DES work together**, alongside other government agencies, such as Centrelink, to ensure that people with intellectual disability do not have barriers to finding and keeping work.
- DES staff are well trained, supported and funded—with sustainable funding mechanisms—to ensure they have the **time and resources needed to support people with intellectual disability**.

Lessons from the Disability Royal Commission

People with an intellectual disability are more likely to:



Live in a group home

Almost half of Specialist Disability Accommodation (SDA) participants have an intellectual disability as their primary disability (42%).



Be unemployed, or work for subminimum wages

People with an intellectual disability are less likely to be employed full-time than other people with disability and are more likely to be employed in an Australian Disability Enterprise, with only 15% having a job in open employment on a full wage.



Suffer from financial hardship

Among people with disability, people with an intellectual disability are among the least likely to receive an income from a wage through employment and report higher rates of financial hardship.



Rely on government payments as a primary source of income

72% of people with an intellectual disability's main source of income comes from a government pension or allowance, usually the Disability Support Pension.



Be a victim of violence and abuse

67% of people with an intellectual disability have experienced violence since the age of 15. The rate is higher among women with an intellectual disability.



Be overrepresented in the criminal justice system

People with an intellectual disability, especially First Nations people, are significantly overrepresented at all stages of the criminal justice system, from police contact and arrest, through to court processes and correctional settings.



Be detained for longer periods if found unfit to stand trial

When a person with an intellectual disability does not have access to appropriate supports, they are likely to be detained for longer periods than had they been found guilty and sentenced accordingly, and are at risk of being detained indefinitely.



Be subject to restrictive practices in response to 'behaviours of concern'

People with disability are subject to the greatest use of restrictive practices in segregated settings such as group homes, where people with an intellectual disability are more likely to reside.



Be overprescribed psychotropic medications

In some cases, the number and dosage levels of psychotropic medications administered to people with an intellectual disability are so significant, they constitute abuse.



Experience seclusion and solitary confinement in youth detention and prisons

Isolation amounting to solitary confinement is over-used in criminal justice settings, especially youth detention, in which people with an intellectual disability are overrepresented.



Have limited access to legal aid as victims of crime

People with an intellectual disability are likely to experience a range of barriers to access to justice, such as support to give evidence with proper legal representation.



Have limited access to quality healthcare

People with an intellectual disability experience significant barriers in accessing safe and quality healthcare, and experience higher mortality rates, increased incidence of preventable illness and more frequent hospital admissions.

Reference List

- ¹ McVilly, K. et al. 2022. Outcomes associated with ‘inclusive’, ‘segregated’ and ‘integrated’ settings.
- ² ‘Cognitive impairment’ is an umbrella term used by the Disability Royal Commission. It describes a range of cognitive disabilities, including intellectual disability.
- ³ Ibid.
- ⁴ Labour Market Information Portal DES Data 30 November 2021.
- ⁵ Ibid., see also: Wilson, E. and Campaign, R. (2020). Fostering employment for people with intellectual disability: the evidence to date. Centre for Social Impact, Swinburne University of Technology. Retrieved from: <https://www.everyonecanwork.org.au/wp-content/uploads/2020/11/Fostering-employment-for-people-with-intellectual-disability-Accessible.pdf>
- ⁶ Sandu, B. (2017). The Value of Lived Experience in Social Change: The need for leadership and organisational development in the social sector. Retrieved from: <https://thelivedexperience.org/wp-content/uploads/2017/07/The-Lived-Experience-Baljeet-Sandhu-VLE-full-report.pdf>. The Centre for International Economics. 2023. Specialist disability employment services post 2025—Practices that work: the missing keystone. Retrieved from: <https://www.thecie.com.au/>
- ⁷ Idle, J., Giuntoli, G., Fisher, KR, Robinson, S., Purcal, C., Newman, C., Reedy, K. (2022). Research Report – Changing community attitudes to improve inclusion of people with disability. Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. Retrieved from: <https://disability.royalcommission.gov.au/publications/research-report-changing-community-attitudes-improve-inclusion-people-disability>. Page 53-57.

Appendix A

Evidence from the Disability Royal Commission demonstrating that people with an intellectual disability are more likely to experience a range of forms of violence, abuse, neglect and exploitation, compared with other people with disability in Australia.

Australian Institute of Health and Welfare. 2022. *People with disability in Australia—Income*.

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Executive Summary: Our vision for an inclusive Australia and Recommendations. Page 124.

Retrieved from: <https://disability.royalcommission.gov.au/system/files/2023-09/Final%20Report%20-%20Executive%20Summary%2C%20Our%20vision%20for%20an%20inclusive%20Australia%20and%20Recommendations.pdf>, p. 84-85.

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