



Inclusion Australia

acting locally - representing nationally - connecting globally

PO Box 771
Mawson ACT 2607
61 2 6296 4400
info@inclusionaustralia.org.au
inclusionaustralia.org.au

Sunday, 22 February 2015

Committee Secretary
Senate Education and Employment Committees
PO Box 6100
Parliament House
Canberra ACT 2600
eec.sen@aph.gov.au

Dear Committee Members

Inclusion Australia (formerly known as the National Council on Intellectual Disability) is the national peak organisation for people with intellectual disability and their families in Australia.

We would like to thank the Committee for the opportunity to provide a late brief submission to this inquiry into the operation, regulation and funding of private vocational education and training (VET) providers in Australia.

In our view, the current regulatory and funding framework is insufficient to protect the rights and needs of youth with intellectual and developmental disabilities.

We are increasingly receiving feedback about the behaviour of some VET providers who prey on the vulnerability of youth with intellectual disability to gain access to government VET funding in return for little, if any, benefit to the student.

As a result youth are presented with offers of training in which;

- they have difficulty in understanding the nature and consequences of such an offer;
- are inappropriate in meeting their training and employment needs, and;
- burdens them with a lifelong debt that provides little or nothing in return or benefit.

We realise that the government acknowledges that there are serious problems with the behaviour of some VET providers and is trying to address this abuse of youth and taxpayers money. We believe more needs to be done.

If we may borrow the words of the Prime Minister, some in the VET system are playing us for “mugs”.¹ Inclusion Australia is now of the view that the government must do something to stop the rorts, and stop the abuse of young vulnerable people.

¹ Prime Minister Statement on National Security, February 23, 2015

People with disability currently experience high levels of unemployment and underemployment.² It is vitally important that the generous government funding provided for education, training and employment programs provides value for money by demonstrating outcomes and employment participation rates for people with disabilities.

The following is a cross section of the kinds of reports we have received. We have modified the reports to remove names of individuals, VET providers, and other people and organisations, and also the locations or any other information that may identify the individuals or organisations in the reports we have received.

— — — —

“An individual recently told me that he has been enrolled into a Diploma of Business Administration through a VET provider and that they will be providing him with a “free laptop”. According to the individual they went door-to-door and sold him on the idea of doing the course. The client was made aware during their discussions that the course wouldn’t cost anything if he never earns over \$52,000 per annum. I have tried discussing the suitability of the course, in hopes of having the individual withdraw from the course as I believe it to be unsuitable relative to his learning abilities at this time and irrelevant to his overall employment goals, sadly however, he is convinced and wishes to complete the course.”

— Specialist disability provider

— — — —

“We have spruikers for VET outside our building looking to pick up youth with significant intellectual disability and sign them up for very expensive and totally unachievable qualifications.”

— Specialist disability provider

— — — —

Two individuals were signed up by VET spruikers – we believe they will be incapable of completing a Diploma and were enticed by the promise of laptops.

— Specialist disability provider

— — — —

A jobseeker came to us with the following tale of woe. He is 19 and has a diagnosis of Asperger’s syndrome and recently completed his mainstream schooling receiving an HSC.

He registered with a Disability Employment Service provider who referred him to a language, literacy and numeracy course; a full time course for a period of 10 weeks.

² 8% of people with intellectual disability using disability support services report work in the open labour market. See —Australian Institute of Health and Welfare 2014. Disability support services: services provided under the National Disability Agreement.

The provider claimed an educational outcome and got paid for an unnecessary course that involves the jobseeker doing nothing while sitting in a classroom for 5 days a week. He's Australian from birth, and his literacy and numeracy skills are better than the instructor.

— Specialist disability provider

There are people walking the streets encouraging young people with disabilities to sign up for training programs with offers that include the provision of 'free' iPads or laptops if they will sign up.

If individuals are unfortunate to be beguiled into signing, they incur a debt that then attracts interest and, while the course is 'free', the debt is anything but, and it may never be repaid.

Abuses of training programs including the offer of inducements to sign up for unnecessary or inappropriate training is rife at the moment — these waste taxpayers money, saddle people with disability with debt they will never repay, do not contribute to employment that leads to economic independence, and tarnishes the reputation of education, training and employment programs.

— — — —

Capacity to provide valid consent

Many people with intellectual disability will find it difficult to understand the detail of complex contractual propositions without supported decision assistance.

Without independent safeguards this group of people will frequently acquiesce to the wishes of others particularly when subject to premeditated marketing techniques aimed to achieve a sale in the best interests of a business or service.

According to the specialist legal service, Intellectual Disability Rights Service (IDRS);

“People with intellectual disability may need support in entering into contracts; i.e. they may need help to understand the nature and effect of the specific contract at the time it is made. The more complex the transaction and the higher the value of the property, the greater the understanding and help required.”³

IDRS state that help for people with intellectual disability to understand a contract may include;

- “having a support person present
- making them feel comfortable and not vulnerable
- having the contract read and explained in simple terms
- asking them to explain in their own words what the contract means
- asking questions that test their memory
- testing their ability to understand their needs and how to meet them
- asking questions that test if they understand when and how much to pay

³ IDRS Factsheet: Consumer protection and people with intellectual disability. Source: idrs.org.au

- avoiding the use of questions that only need a “yes’ or “no” answer
- overcoming any speech problems
- avoiding nodding” or “smiling” etc. to influence answers
- checking for undue influence
- allowing time to think, or change their mind, or get independent advice.”⁴

These kinds of help recognise the impact of intellectual impairment in making informed decisions without undue influence. If, after this help, a person with intellectual disability does not understand the general nature and effect of the contract, then they are said to ‘lack legal capacity.’

It is clear that VET providers, and their associated marketing personnel and organisations, do not regularly provide safeguards and protections of this nature - nor does it appear that they are required to provide these minimum types of help, before signing up youth with intellectual disability.

Inducements such as iPads and laptops should not be permitted and should be considered a major non-compliance of standards and breach of consumer protection laws.

The Senate committee should recommend a minimum set of safeguards that include independent support to assist youth with intellectual disability before an enrolment for a VET course is approved for government funding.

Whereas Inclusion Australia knows that this level of support is explicitly needed for youth with intellectual disability, we are of the opinion that these kinds of help would provide universal safeguards and protections for all youth being offered VET courses due to the general vulnerability of youth due to their inexperience.

VET courses offered to youth should be highly relevant to their needs

Education, training and employment programs should provide services that highly relevant to the needs of participants. To be relevant, a program must first clearly identify what needs a participant has, and what is most relevant to meeting those needs.

What is most alarming for Inclusion Australia is that some VET providers are signing up youth with intellectual disability for courses which are inappropriate to their ability and capacity to benefit.

As a result, many will struggle to complete the requirements of the course, most are likely to withdraw and fail to complete the course, and failure will exacerbate an already fragile sense of self-esteem about being able to succeed in the adult world of work.

The costs of such failure to the individual, their families, their community and the nation is enormous. We are currently in the midst of a paradigm change where we wish to support youth with intellectual disability to increase their social and economic participation as opposed to traditional experiences of lifelong dependence on the pension outside the labour force.

⁴ IDRS Factsheet: Consumer protection and people with intellectual disability. Source: idrs.org.au

In this respect, training and employment programs, if they are to be *value for money* must be relevant to the needs of youth with intellectual disability to succeed and lead to participation in the workforce.

For people with significant intellectual disability (IQ \leq 60) there is little evidence of classroom based training leading to successful placement in jobs or careers in employment. This is directly related to the nature of intellectual impairment which includes a lack of ability to transfer and generalise learning from one environment to another. The evidence demonstrates the need for explicit on the job training. There is little evidence of a link between VET course completion and employment outcomes for this cohort of people.

Even for people with mild levels of intellectual disability, they will require substantial support in curriculum modification, multi-level teaching and explicit instruction techniques which take into account their literacy, numeracy and learning needs. This group will also need significant on-site workplace training.

We agree with the Consumer Action Law Centre's recommendation that VET providers be required to conduct a suitability (or relevancy) assessment for each student prior to enrolment.

Whereas we welcome Standard 5.1 of the VET Standards, which requires VET providers to provide advice to prospective learners about the training product appropriate to meeting the learner's needs, '*taking into account the individual's existing skills and competencies*', this does not go far enough.

There should be a requirement of VET providers to demonstrate that the course offer and enrolment is an appropriate match with the individual's current skills, career preferences, and that the provider has the competency to deliver this outcome for youth with intellectual disability.

Government funding should ensure value for money

It is a lucky country that can provide funding assistance to youth to give them the opportunity for education, training and employment support. This gives youth who would otherwise not be able to pay the cost of their chosen career pathway the capacity to do so.

Unfortunately, some VET providers have taken this good policy of government funding support as a signal to use youth as a commodity to raise funds for self interest.

Inclusion Australia has seen this kind of misuse of funds in related programs.⁵ It seems that the opportunity to obtain funding without providing any positive outcome for the people it is intended to benefit is clearly too tempting for some providers.

As a result, government is often forced to implement greater controls and accountability. Unfortunately this results in greater red-tape and administration for the sector as a whole. It is as if the sector must cop greater scrutiny due to the poor behaviour of some. This is

⁵ Department of Social Services. Evaluation of Disability Employment Services 2010-2013. Final Report. Chapter 6. School leaver pathways to employment through DES p. 102

unfortunate but clearly the government must respond by ensuring that resources are actually used as intended.

It is our view that funding should have 'strings' attached. Why pay for something "not completed", "inappropriate", or delivered with "poor quality".

We believe the government should consider an outcome based funding system - where a proportion of funding is withheld until certain requirements or milestones are met. Funding could be made contingent on meeting evidence requirements around performance indicators which are audited externally on a random basis, including;

- suitability of course enrolments;
- course completion,
- course delivered with quality training and assessment
- graduate employment outcomes six months after completion
- outcome data provided by student characteristic including students by intellectual disability and other primary disability groupings.

Outcome indicators for VET providers should be made transparent and included in marketing materials as a part of statement of disclosure to prospective students.

In Summary

Inclusion Australia wants to ensure that youth with intellectual disability are treated with respect by the VET industry.

This requires that VET providers ensure that:

- VET marketing strategies provide independent safeguards to ensure that students with intellectual disability make an informed decision and that the contract of service is valid.
- Course offers and enrolment are relevant to the skills, competencies and preferences of students with intellectual disability;
- Government funding is contingent on the achievement of outcomes; outcomes should include suitability, completion, and quality of training and assessment.
- Marketing materials should include outcome indicator results including completion rates and graduate employment outcomes six months after training completion.

Any enquires about this report should be directed to Paul Cain, Director of Research and Strategy at paul.cain@inclusionaustralia.org.au or 0419 462 928.