

Independent Advisory Council to the NDIS

NDIS Participant Employment Taskforce: IAC submission

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Vision

NDIS participants of working age have a career or are on a pathway to a career, paid at award/productivity-based rates and sustained by a system and services that provide support at the intensity and for the duration required to secure and retain employment.

This vision will be achieved via an affirmative set of actions including:

- a focus on participants to ensure they get the supports they need to work
- allowing participants to choose where they want to work, who supports them at work and how. Choices may include working:
 - in a job of their own choosing in the public or private sector
 - in a social firm or similar environment paying award/ productivity-based wages
 - in their own micro-business, or in a family run business
 - in an evolving model of ADE that employs people with and without disability and provides workers with a transitional pathway of growth and development, further training and the opportunity to move to open employment
- providing reasonable and necessary support (related to the nature of their disability) required to secure and retain employment.

Context

Much is required to improve employment outcomes for people with disability making the work of the NDIS Participant Employment Taskforce critical and urgent.

Australia ranks 21st out of 29 Organisation for Economic Co-operation and Development (OECD) countries in employment rates for people with a disability. Australia ranks 27th out of 27 OECD countries when it comes to the relative poverty risk for people with a disability.¹

Cultural and structural exclusion has constrained many people with disability to lives as clients of welfare systems, inhibiting the realisation of their social and economic rights and their full citizenship.

Despite the *Disability Discrimination Act 1992*, which prohibits discrimination based on disability, people with disability face higher barriers of entry to employment than non-disabled individuals. At present only 53% of Australians with disability are active in the labour force, with higher unemployment rates than non-disabled workers.² While much of the effort to increase both labour force participation and the employment rate focuses on programs on the disabled labour supply-side, less is done to encourage employment from the demand-side of the equation. Without appropriate attention on the latter, substantial changes will have reduced effect.

¹ Reported in Australian Human Rights Commission, 2016, *Willing to Work*, Report of the National Inquiry into Employment Discrimination Against Older Australians and Australians with Disability.

² 2015 ABS Survey of Disability, Ageing and Carers (SDAC)

The 2016 *Willing to Work Report*³ documents challenges in services and systems that prevent people with disability getting into work. These challenges include that many employers have no understanding of pathways to support employees, that the rate of employees transitioning out of supported employment into open employment is unacceptably low (less than 1%) and that people with disability do not feel that DES staff understand their desire for a career.

The DES policy of excluding people with disability deemed unable to work a minimum of 8 hours per week may have contributed to our low standing compared to other OECD countries because it removed a whole class of people (who successfully secured and retained jobs in open employment in the 1970s) from the possibility of employment. This DES policy has certainly contributed to a loss of knowledge, skills and experience in helping people with significant disability to secure and maintain open employment.⁴

The value of increasing employment outcomes for NDIS participants is significant at the government, societal and participant levels.

Increasing employment participation for people with disability is part of the Australian Government strategy to address labour shortages, as well as to reduce economic pressures associated with welfare dependence.⁵ Modelling of the economic benefits of lifting employment levels for Australians with disability to the OECD average⁶ (including increased participation of carers) suggests that by June 2030, 117,000 more Australians would be employed (an increase of approximately 0.8%) and \$11.9 billion would be added to real GDP (an increase of approximately 0.5%).

A living wage from employment is a key step to reducing poverty. Employment however provides much more than economic security; employment is a gateway to *financial independence, a better standard of living and improved physical and mental health. Entering employment can provide individuals with increased confidence, expand their social network and social skills as well as provide opportunities to develop a career by gaining new work skills and knowledge.*⁷

The majority of NDIS participants in employment do not however earn a living wage with only 41% of 15-24 year olds in a paid job in open employment at full award wages and a further 14% in open employment at less than full award wages. The corresponding percentages for the 25 and over cohort are lower at 33% and 10%.⁸

³ Australian Human Rights Commission, 2006 op cit.

⁴ Research by Gold, Bellamy, Horner, Inman, Moss, Wehman and Brown, reported in Cain, P, The knowledge of assisting people with intellectual disability to participate in employment *Interaction*, v18, no 3 2005

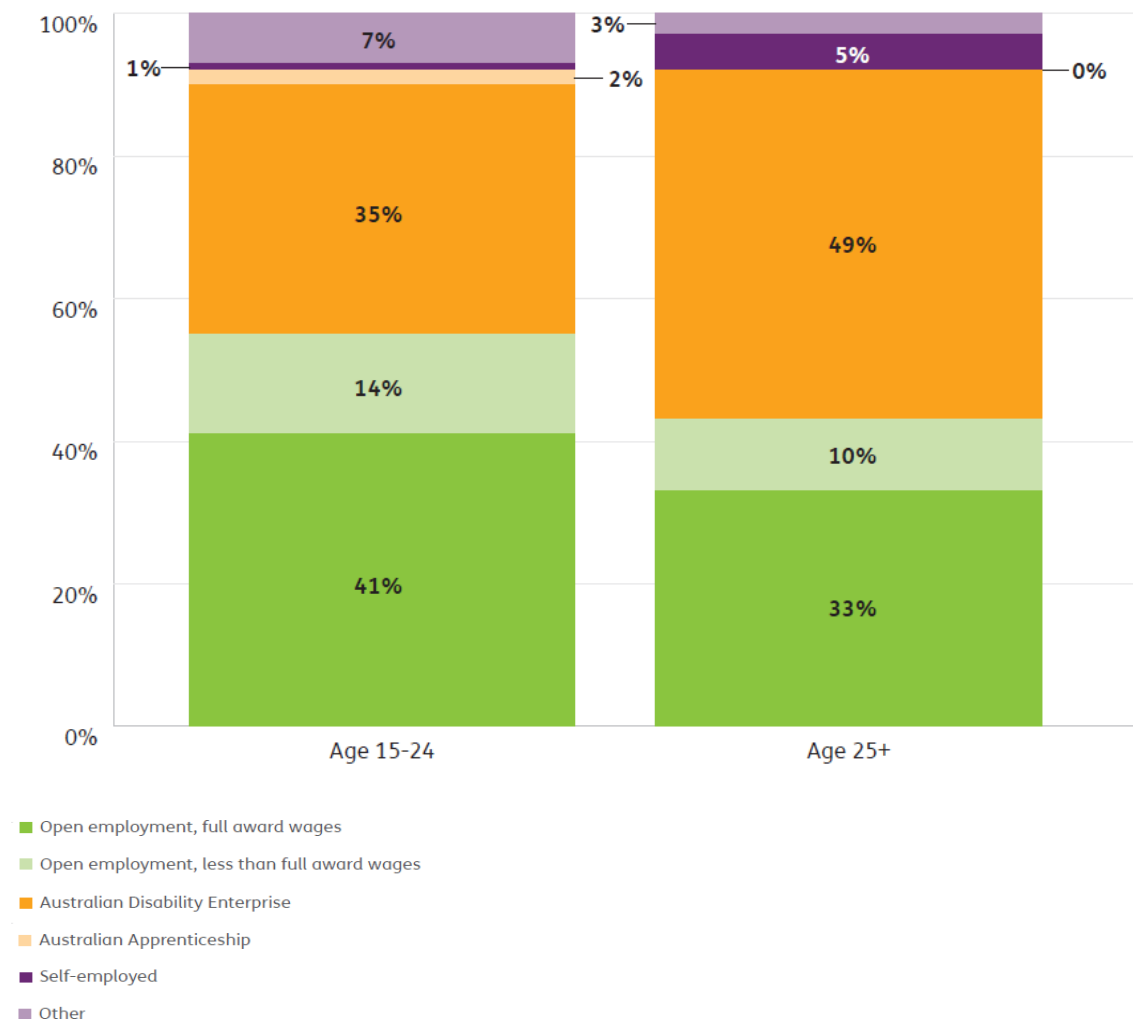
⁵ (Buckup, 2009; Department of Education, Employment and Workplace Relations [DEEWR], 2011)

⁶ Deloitte Access Economics 2018 *Increased labour force engagement among Australians with a disability*, Report prepared for the NDIA

⁷ Williams, R., (2013) *Model of Citizenship Support*, Purple Orange, Unley South Australia, p42

⁸ NDIS Actuarial data

Table 1: Types of employment for participants who entered the NDIS in 2016-17 and 2017-18



Reports related to the National Disability Strategy confirm that many people with disability are frustrated about relying on welfare benefits, such as the Disability Support Pension (DSP), when they have the ability and readiness to work.⁹ For many however, the motivation to seek open employment is impeded by their perceived fear of financial insecurity associated with loss of the DSP including the uncertainty of unskilled employment and the mutual obligation requirements related to the Newstart Allowance. Safety net provisions for income security would give confidence to many NDIS participants to extend their aspirations to open employment.

Article 27 of the UNCRPD¹⁰ sets the framework for the work of the Taskforce. Article 27 recognises the *right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with*

⁹ (Commonwealth Department of Social Services, 2011; National People with Disabilities Carers Council [NPDCC], 2009)

¹⁰ [Convention on the rights of persons with disabilities \(external\)](#) Accessed 11 February 2019

disabilities. The NDIS support for participant choice, control and economic participation are vital ingredients in bringing Article 27 to life.

Employment is a whole of government / whole of community responsibility. The Interface Principles identify the NDIS part of that responsibility as *reasonable and necessary supports additional to those required by reasonable adjustment, that assist people with disability to take part in work, where the person's impairment has an impact on their functional capacity and/or productivity and the person is unlikely or unable to find or retain work in the open market, including with the assistance of employment services*.

A potential disruptor

Two key aspects of the Taskforce's proposals have the potential to positively disrupt the current programmatic constraints in employment.

- 1) Automatic eligibility for DES¹¹ opens the door to NDIS participants of working age to mainstream employment services charged with helping people with disability to find and retain work.
- 2) Reasonable and necessary decision making in the domain of employment enables the participant to choose where they want to work, who supports them at work and how.

For those familiar with the NDIS and not familiar with the complexities of disability employment, the proposition is natural. For those familiar with disability employment, the proposition is explosive.

The disruption occurs because this formulation:

- removes the current program structures that define supported employment as a place of employment for a targeted group of people¹²
- links support for employment to the participant rather than the provider
- identifies the role of mainstream agencies as including the responsibility of the employer to provide reasonable adjustment for the job and the DES provider to provide the support necessary for the participant to obtain work that meets the benchmark hours
- derives the function of NDIS reasonable and necessary support as ... *reasonable and necessary supports funded under the NDIS may provide supports for participants that are over and above the supports available under reasonable adjustment by the employer or available under the DES model regardless of employment setting*.¹³

Together, these proposals transform supported employment into support FOR employment enabling the participant to apply that support in employment of their choosing.

¹¹ Canvassed by Michael Lye, Deputy Secretary, Disability and Carers DSS. Requirements to make automatic eligibility to DES meaningful for NDIS participants discussed on p11 of this submission

¹² Current programs guidance is derived from Section 8 of the *Disability Services Act 1986* that defines supported employment as services for a) people who are unlikely to attain competitive employment and b) people who need substantial ongoing support to obtain and retain employment

¹³ NDIS, "Supporting NDIS participants' employment goals" p4 (undated discussion paper distributed by to the NDIS Participant Employment Taskforce

The meaning of work

Work is a defining feature of life for most adults and a way in which we consciously and unconsciously classify new acquaintances. For most people, work represents financial independence and a better standard of living. It also signifies an identity as a contributing adult.

For some people with significant disability who may struggle to gain financial independence from work, work roles remain important. This is because work roles signify the person is a contributor and facilitate increased social networks and opportunities that flow from being engaged in purposeful activity with other valued citizens.

The IAC affirms that all participants of working age should be assisted to work to gain for the financial benefits, the valued status as contributors, the social networks and the opportunities that flow from work roles.

Principles

The best employment outcomes are underpinned by the recognition that all NDIS participants:

- can build their capacities and gain new skills
- can work with the right support including in a 'standard' job with reasonable adjustments and support, a customised job or have support to make their own job (e.g. in a micro business)
- have the right to:
 - support to raise their expectations of themselves and their lives
 - transitional support with ADEs providing opportunities for growth and development, further training and open employment, mixed social firm models or micro businesses
 - expect a career rather than remaining in the same role for all their working life
 - expect to be paid a living wage so that they can save and plan for retirement.

To implement these principles requires:

- peer support and cultural change from capacity building that assists participants and their families to aspire to work.
- SLES type assistance for participants to explore their options, map vulnerabilities and plan personal safeguards related to employment.
- exploratory and other capacity building support to be available as required to move to the next role and stage of working life.
- the separation of employment support from a job so that participants are not steered toward a place of employment because of the availability of support.
- the opportunity for participants to select employment supports for themselves including choosing DES providers, NDIS registered providers, mainstream employment agencies, job finding services and recruitment agencies.

Requirements to achieve employment outcomes

Employment outcomes for people with disability require effective processes of:

- preparing the participant
- obtaining and if appropriate customising a job and negotiating reasonable adjustment
- on the job support that includes:
 - support to enable the worker to perform day to day core tasks
 - developing informal support in the workplace
 - additional training when aspects of the job change
 - in-servicing of a new supervisor
 - assistance to develop simple business systems to run a micro enterprise.

Preparation

The NDIS provides School Leaver Employment Support (SLES) to help school leavers get ready for work and plan their pathway to employment. SLES provides the opportunity for discovery, as described in customised employment, and in the NDIS employment context must include:

- engagement with the participant and family to develop a vision of employment and strategies to move from vision to outcome including:
 - planning to address concerns about 'safety, transportation, long term placement, work hours, disability benefits, social, environment and work skills issues'¹⁴
 - learning about effective ways to support the person to secure and retain employment.
- a discovery process with opportunities to explore the participant's strengths (potential contributions to employers), their needs (the features that need to be in place for success) and their interests (providing a direction to the type of work that the individual wants to do).
- capacity building, targeted at factors known to impact positively on employment outcomes.

Actuarial analysis identifies drivers of employment success that should guide capacity building in an age dependent employment strategy.

¹⁴ Carey (2015), Game to work: The social capital of employees with an intellectual disability in a supported workplace (doctoral dissertation, University of South Australia, reported in Smith, P. (2018), *Ensuring a strong future for supported employment inquiry response* Melbourne. Centre for Disability Employment research and Practice, p9

Table 2 Drivers of employment success

Cohort	15-24	25+
Positively associated with having a job at plan review	<p>Highest education level</p> <p>Increased independence (number of daily activities where participant does not require support)</p> <p>Positive interaction with a community group</p> <p>Left unpaid job between baseline and review (i.e. had a volunteer job at baseline but not review)</p> <p>Participant ability to choose what they do each day improves between baseline and review</p> <p>Participant has got to know people in the community at review</p>	<p>Has university qualifications</p> <p>Left study during plan period</p> <p>Has intellectual disability</p> <p>Lives with partner and children</p> <p>Participant has work goal in their plan</p> <p>Participant has NDIS employment funding in their plan</p> <p>Participant's self-assessment of their health has improved</p> <p>Started or left an unpaid job</p>
Negatively associated with having a job at plan review	<p>Higher support needs (number of activities where participant requires support at baseline)</p> <p>Higher unemployment rate of LGA</p> <p>Reduced independence (increase of 2 or more daily living activities where the participant requires support) between baseline and review</p> <p>Participant volunteered at baseline and review or started volunteering at review</p>	<p>Higher support needs (number of activities where participant requires support at baseline)</p> <p>Lower level of function (success rate decreases as severity score increases)</p> <p>CALD background</p> <p>Entry age between 55 and 59</p> <p>Participant doesn't know people in the community at baseline and review</p>

The data suggests that an age-dependent employment strategy may be appropriate and that the focus for:

- Participants aged 15-24 be on increasing independence and building capacity to seek employment
- Participants 25+ to include work goals in plans and provide employment funding to those who do not have access to mainstream or community supports. Supporting participants to improve their health may also have a positive impact, noting that this is primarily the responsibility of the health system.

Noting the better employment outcomes of participants 15-24 compared to those 25+ identified in table 1, the analysis concluded that the existence of SLES for young participants and the absence of a similar program for older participants may be driving difference in employment outcomes.¹⁵ The analysis proposed consideration be given to introducing an employment support program targeted at older adults.

Given that most secondary school students begin to prepare for employment from at least year 9, it is generally agreed that SLES should be available to secondary school students from at least that time. The Ticket to Work¹⁶ initiative, auspiced by National Disability Services (NDS) is an example of a partnership approach to support the young person to transition to the world of work. Under the initiative, a 'Ticket to Work Network' is developed in local areas to provide students with career development, workplace preparation, work experience and Australian School-based Apprenticeships and Traineeships.

Recommendation

The IAC recommends that the NDIA provides reasonable and necessary support to enable participants and their families to address their fears and develop personal safeguards to mitigate the real and perceived risks associated with open employment.

The IAC recommends that the NDIA introduces:

- SLES type support for participants:
 - in the senior school years to begin to think about employment
 - in the cohort 25+,
 - in ADEs to support the exploration of alternate pathways
- capacity building that promotes independence for participants aged 16-24
- ILC grants to develop Ticket to Work type networks in local areas to improve school to work transitions.

Finding and where appropriate customising a job

Fundamental to the NDIS is that job seekers:

- are assisted to make informed choices including through the availability of transparent and uniform data
- have a choice of providers of employment supports and are able to negotiate the types of supports that will lead to employment.

The base line of the current employment landscape for people with disability is a two-tiered system: Disability Employment Services (DES) for people deemed able to work a minimum of 8 hours per week and a supported employment system (ADEs) for other people with an employment goal. ADEs and some DES providers have transitioned into the NDIS as registered providers of employment supports.

¹⁵ National Disability Services notes that the older group consists of people who have had little experience of work or relevant qualifications and that providers will struggle to place them in sustainable employment

¹⁶ Accessed at [Ticket to work \(external\)](#) 22 March 2018

This early streaming of school leavers, the current program structures and the variable effectiveness of providers may inhibit participants from getting effective support to find and maintain a job.

DES risk adjusted funding and performance framework mean that job seekers who are more challenging to place and maintain in work are not prioritised, reflected in the fact that only 7% of DES customers have an intellectual disability.¹⁷ In addition, many commentators note that practices such as incentive payments to employers make it unprofitable to support participants beyond 26 weeks and in consequence many participants lose their jobs when the DES wage subsidy cuts out. People with intellectual disability and ASD seem to be especially impacted.

Most NDIS participants use registered disability employment and disability support providers to help them find, customise and maintain a job. Actuarial analysis¹⁸ documents the wide range of performance amongst registered providers with a small number of employment providers with 'exceptional' results and the majority performing poorly. Historically, supported employment providers (ADEs) were funded as a DSS program to provide supported employment, not to find and maintain jobs in open employment. Not surprisingly, their track record in finding jobs in open employment is extremely low (less than 1%).¹⁹

Mainstream professional organisations that support people to get work have not registered as providers with the NDIS and hence unless a participant self-manages their NDIS employment support, their only option is an NDIS registered provider with the variable effectiveness in achieving outcomes documented above.

Disability Employment Services (DES)

The Taskforce foreshadowed the possibility of automatic eligibility into DES for NDIS participants. Even though DES has a history of securing employment outcomes for people with significant disability using customised employment in the 1980s, many stakeholders argue that the 21st century DES needs a major redesign if it is to be fit for purpose for NDIS participants. Whilst the number of participants with intellectual disability has grown since the start of the new DES program in July 2018, DES data²⁰ indicates that only 4.2% of the total DES caseload and 7.5% of the clients of the Employment Support Service stream are people with intellectual disability.

For automatic eligibility to DES for NDIS participants to be meaningful, the adjustments recommended below are required.

Recommendation

The IAC recommends that the NDIA makes representations to DSS to adjust current DES requirements including:

¹⁷ National Disability Services, (2018) Response to discussion paper *Ensuring a strong future for supported employment*

¹⁸ Regression analysis models are used to determine the number of participants expected to be in paid employment at review based on the characteristics of the participants supported by the provider

¹⁹ Australian Human Rights Commission, 2016, *Willing to Work*, Report of the National Inquiry into Employment Discrimination Against Older Australians and Australians with Disability.

²⁰ DES Monthly Report, 31 December 2018

- removal of current Employment Services Assessment and Job Capacity Assessment that determine income support entitlement
- removal of min 8 hours work requirement
- new categories of risk adjusted funding that would enable job development including customised employment
- appropriate adjustment of DES performance framework recognising the additional time and work required
- new requirement that customised employment is a core skill of DES providers
- removal of restrictions related to working with people who are already in work to support the aspiration that participants have a career, not just a job is to be met.

If eligibility for DES also facilitates access to other mainstream employment services such as New Enterprise Incentive Scheme (NEIS), Job Access, Job in Jeopardy and Youth Employment Supports, program guidelines for each of these programs will need to be reviewed to ensure meaningful access by all NDIS participants.

A customised approach

NDIS participants with moderate to high support needs need a more tailored, customised approach than currently provided by DES to achieve employment at award / productivity-based wages. The customised approach uses discovery type processes outlined in the section Preparation on p8. It also includes:

- working with an employer to facilitate placement including customising the job to match the skills, interests and stamina of the person. Customised jobs can be achieved via:
 - i. Job carving: using some elements of a job description, but not all responsibilities
 - ii. Job negotiation: combining tasks from multiple job descriptions within a business to create a new job description
 - iii. Job creation where a new job description is created from unmet business needs identified during discussions between the employer and the employment specialist.
- working with the workplace supervisor to explain the learning style of the participant, any adjustments desired in the supervision frequency or style, any adjustments desired in the workplace etc.

Both jobseekers and employers benefit from the customised approach. It provides employers with reliable employees, reduces recruitment and hiring costs, enhances employee retention and can help employers to expand their customer base and enhance worker diversity.²¹ A customised approach provides the flexibility required by some participants including the ability to adjust hours of work in response to factors related to disability and the opportunity to 'have

²¹ National Disability Services, (2018) Response to Australian Government Discussion Paper: the next generation of employment services

a go' where job opportunities present themselves. This is in contrast with current rigidities where for example a person seeking permanent work 21 hours per week was prevented by their DES provider from taking up a temporary 7 hours per week position that would have provided valuable experience.

Whilst not all participants of DES and NDIS employment providers will require a customised approach, if customised employment is a core competency of all providers, NDIS participants will be have access to a range of providers in their area from which to choose.

Micro enterprises

A specific and distinct area of customised employment is self-employment: the creation and operation of self-owned businesses or micro enterprises²² that provides goods and services in the local area with help from paid and unpaid supporters.

Some participants with moderate to high support needs and participants who require a high level of flexibility, find a micro-enterprise the most effective way to focus their interests and skills at a scale, stamina and schedule that suits them. The micro enterprise is easy to start, uses minimal capital and enhances the social and community participation, citizenship and valued status of the person with disability.

A micro enterprise begins with the individual discovery process, the insights of which underpin a business development process in which product and service markets are explored, skill and funding sources identified and products and services trialled. People with disability running a micro enterprise are usually assisted by a management group that guides and supports the person to make things happen. Some micro enterprise projects have found benefit in the development of a hub – a community space where people can 'do their work'.

Micro enterprises in Australia include:

- Valued Lives WA [About us, Valued lives webpage \(external\)](#) ILC grant in April 2018 and working with 23 people of all ages
- National Disability Services Project in Perth Hills with school leavers
- Community Living Project SA [Community living project website \(external\)](#) that has worked with 50 people to set up micro-enterprises
- In Charge NSW with an ILC grant [In Charge website \(external\)](#)

Examples of micro enterprises can be found at [Valued Lives website \(external\)](#)

Recommendation

In order to maximise the opportunity for participants with moderate to high support needs to succeed in open employment, the IAC recommends that the NDIA:

- requires competence in customised employment as core for DES providers and NDIS registered providers of employment supports.

²² The concept of a micro enterprise was pioneered by Nobel prize recipient Muhammad Yunis, founder of the Grameen Bank in Bangladesh that made small loans to the poor to help them obtain economic self-sufficiency.

- commissions work to scope the core competencies, training, practice frameworks and systemic requirements of customised employment
- showcases providers using a customised approach including assisting participants to develop micro enterprises to achieve outcomes in open employment.

Support on the job

The NDIS proposal for reasonable and necessary support *over and above the supports available under reasonable adjustment by the employer or available under the DES model regardless of employment setting*²³ is anticipated to be based on *consideration of the level of support required to perform day to day core tasks, the employment context and the hours worked*.²⁴

The CEO of the employment provider with the top ranking in achieving employment results for participants 15-24 identifies support required to maintain a job²⁵ includes:

- core support: assistance to complete some or all of the tasks of the job: Examples may include driving the van and assisting a participant with intellectual disability to deliver parcels, scribing for a participant with cerebral palsy who is slow at typing, assistance in filing for a participant with visual impairment.
- Capacity building support including:
 - assistance to develop informal supports in the workplace: Examples may include identifying and providing information and guidance to co-workers in the workplace who may prompt the participant to attend work related social events or get coffee for a participant whose mobility is limited
 - ongoing access to training, especially if aspects of the job change: Examples may include teaching new skills as work tasks change, providing additional training (over and above the workplace training) to use new equipment
 - in-servicing of a new supervisor: Examples may include supporting the supervisor to understand the individual, their strengths and needs, adjustments currently in place, formal and informal supports in place, avenues for backup discussion and support, etc.

People with disability running a micro enterprise are usually assisted by a management group that guides and supports the person to make things happen. Ultimately the operation of a micro enterprise requires:

- core supports: usually a personal assistant or PA to assist the participant to create and deliver the product or services; and

²³ NDIS, "Supporting NDIS participants' employment goals" p4

²⁴ NDIS, "Supporting NDIS participants' employment goals" p5

²⁵ the CEO of Job Support, the employment provider rated as exceptional in achieving employment outcomes.

Tuckerman, P, Jobsupport: a demonstration of what is possible, *Inside, Interaction*, v21, no 3 2008, p8JobSupport report that a staff member makes regular visits to the workplace to check that all the conditions for the client's successful work performance are still in place. Ongoing support will sometimes include additional training if aspects of the job have changed, and in-servicing to a new supervisor if the client's original supervisor leaves. On average, ongoing support requires 9-12 hours/ client per month

- skilled support to develop and embed systems and processes for the management group to monitor, standards, pricing, marketing, finance and overseeing PA and creating a sense of future for the enterprise.

Recommendation

The IAC recommends that the NDIA provides:

- core on the job support,
- capacity building support including:
 - assistance to develop informal supports in the workplace
 - ongoing access to training, especially if aspects of the job change and
 - in-servicing of a new supervisor
 - assistance to develop business systems to run a micro enterprise.

Enabling a career

In the mobile economy of the 21st century, workers are often required to upskill and change careers. In addition, participants have the same right as other workers to have career including to change jobs and seek promotion.

The NDIS can facilitate career development by enabling participants to call on SLES type support on multiple occasions throughout a working life including capacity building support to enhance vocational skills, productivity, engagement and independence at work. Reasonable and necessary employment support must also be available to enable the participant to seek and maintain alternative employment.

Recommendations

In order to facilitate a career, the IAC recommends that the NDIA enables participants to access:

- SLES type support on multiple occasions across their working life
- reasonable and necessary capacity building support to enhance vocational skills, productivity, engagement and independence at work
- reasonable and necessary support to enable the participant to seek and maintain alternative employment.

A changed approach by ADEs

With the transition of supported employment into the NDIS, ADEs will cease to have a named status and will join other registered providers as providers of employment supports.

The Taskforce Discussion Paper acknowledges that during transition, the NDIS funding for ADEs has mirrored the DSS funding agreements, based on the Disability Maintenance Instrument (DMI) ²⁶ or average outlet prices. However, in the context of reasonable and necessary decision-making, prior DSS program rules are no longer relevant.

With a) the removal of the current ADE rules and funding framework and b) adjustments to the DES framework identified in this paper, participants will be able to use their reasonable and necessary support to negotiate with a variety of providers to achieve their personal employment goals in a job of their choice.

These choices may include a job in the public or private sector, in a social firm paying award/productivity-based wages or similar environment, in their own micro-business, in a family run business or in an evolving model of ADE that employs people with and without disability and provides workers with a transitional pathway of growth and development, further training and the opportunity to move to open employment.

For ADEs to remain viable providers, they will need to provide services that participants want to buy.

This pivotal point is made in the submission of National Disability Services (NDS) to the review of supported employment. The NDS submission argued that ADEs *should evolve to expand the range of employment settings in which [Australian] Disability Enterprises can support workers with disability. This should include options such as transition to work supports, social enterprise models, labour hire and even providing support to people with disability running a business.* The submission goes on to canvass ADEs transitioning to more open employment models, service providers offering other NDIS supports and becoming specialist employment support providers as a non-employer.

Some ADEs have already developed new services in response to participant demand. The JobAccess website showcases Brite,²⁷ an ADE in Melbourne that has been:

piloting a model, based on the customised employment framework developed in the United States, to expand our person-centred approach to creating sustainable open employment opportunities. This involves undertaking a process of discovery to better understand the interests, hopes and needs of people with disability, and what they want to get out of their work. We then use this understanding to create opportunities within Brite, or to help individuals access jobs in the open market.'

*'We've also been able to support some great new microbusiness ideas.'*²⁸

ADEs may also transition to social firm models that increase the employment of people without disability to provide an integrated work environment.

²⁶ Used by ADEs to record the work-related support needs of a supported employee to maintain their employment

²⁷ <https://ade.org.au/ades-directory/directory/brite-services>

²⁸ <https://www.jobaccess.gov.au/videos/strong-future-supported-employment>

Social firms

Social firms are a well-established international model of social enterprise developed to meet the employment needs of people excluded from the labour market as a result of mental illness, disability or other disadvantage. Social firms have been operating successfully in Europe for more than three decades and although there can be some variation from country to country the model, the key criteria ²⁹ are:

- an integrated workplace: between 25-50% of employees have a mental illness, disability or other disadvantage
- the majority of income is generated through the commercial activity of the business
- all employees are paid at award/productivity-based rates
- the same work opportunities, rights and obligations are provided to all employees
- a supportive working environment is provided, with the modifications required for employees in need of support built into the design and practices of the workplace.

Consultancy support is available for business expertise and mentoring support for the development of social firms based on sustainable models.

Barriers to and enablers of ADE transition

The table below identifies barriers, enablers and strategies that could support ADEs to transition into broader options of support for employment for participants with moderate to high support needs.

Table 3 Barriers and enablers to transition

Issue	Barrier / enabler	Response
Expertise	Models that demonstrate how to enable participants with moderate to high support needs achieve employment are not visible	<p>Showcase practice of high performing providers</p> <p>The Australian Centre for Disability Employment Research and Practice³⁰ has developed training for ADE staff to offer customised employment</p> <p>Showcase social firms demonstrating the value of an integrated workforce</p> <p>Enable participants to use mainstream employment agencies, job finding services and recruitment agencies</p>

²⁹ [Social Firms Australia submission to Senate Economics Committee Inquiry, Finance for the not for profit sector](#) Accessed at 11February 2019

³⁰ developed and trialled with an innovative Workforce Fund grant in 2018 Accessed at [Customised employment webpage \(external\)](#) 4 February 2018

Issue	Barrier / enabler	Response
Participants	Are 'comfortable' in ADEs and perceive open employment as risky with concerns about 'safety, transportation, long term placement, work hours, disability benefits, social, environment and work skills issues. ³¹	<p>Develop SLES type program for ADE participants that enables participants and families to explore options</p> <p>Provide process for participants and families to work through fears and plan personal safeguards</p> <p>Publicise safety net provisions for DSP recipients (see section 'Remove perverse incentives')</p> <p>NDIA to negotiate with DSS for NDIS participants to be eligible for Health Care Card (see section 'Remove perverse incentives')</p> <p>Showcase positive stories</p> <p>Showcase a range of service agreements that will shape different practice</p> <p>Encourage peer networks to see as focus area</p>
Pricing	New pricing currently being developed	Proposal for R&N support for participants to replace DSS funding for ADEs will incentivise providers to provide services that participants want to purchase.
ADE systems	Transition to new funding regimes sets requirements for change	<p>Removal of DSS funding rules based on DMI or average outlet prices reduces constraints</p> <p>Set clear expectations in relation to practice</p> <p>Showcase training³² that would assist ADE staff to gain skills in customised employment</p> <p>Provide Industry Development Fund to assist ADEs to implement change</p>

Supporting ADEs to change

ADE providers argue the need for an Industry Development Fund to assist them to change. Whilst acknowledging recent assistance of consultancy support to plan for a changed model,

³¹ Carey (2015), Game to work: The social capital of employees with an intellectual disability in a supported workplace (doctoral dissertation, University of South Australia, reported in Smith, P. (2018), *Ensuring a strong future for supported employment inquiry response* Melbourne. Centre for Disability Employment research and Practice, p9

³² developed by Centre for Disability Employment Research and Practice and trialled with an innovative Workforce Fund grant in 2018 Accessed at [Customised employment webpage \(external\)](#) 4 February 2018

ADEs lack the resources to reconfigure their businesses in ways identified via consultancy support.

In the NDIS market approach to service provision, the IAC is mindful that the future of each ADE rests with its board and management. The NDIS can however assist by providing policy clarity as to the desired direction of supporting:

- participants on a pathway to open employment or
- ADEs as employers of people with and without disability providing workers with transitional pathways including growth and development, further training and the opportunity to move to open employment.

Recommendation

The IAC recommends that the NDIA provides the strongest possible signals to the market as to the desired policy direction via:

- pricing incentives
- supporting participants to become more informed
- the publication of good practice guides including guides to transition
- showcasing training that would assist ADE staff to gain skills in customised employment and
- providing a time limited Industry Development Fund to assist ADEs to implement plans for changed businesses.

Whole of government responsibilities

Removing perverse incentives

Overall 77% of NDIS participants receive the DSP while only 7% of DSP recipients have an approved NDIS plan.

Many NDIS participants with moderate to high support needs do not seek open employment because they fear the financial insecurity associated with loss of the DSP. This includes the insecurity of unskilled employment and the mutual obligation requirements related to Newstart Allowance.

The current social security rules allow an 'automatic return to DSP' for a defined period. If a DSP recipient starts working for 30 hours a week or more, their DSP will be suspended for up to two years, but it will not be cancelled. This means that if the person's working hours drop or they lose their job within two years, they can return to DSP easily. People whose DSP is suspended due to their working 30 hours or more continue to have access to the Pensioner Concession Card for one year.

Clear information about the safety net provisions for income security would give confidence to many NDIS participants to extend their aspirations to open employment.

A further disincentive to seek employment is the fact that DSP recipients receive ongoing entitlement to a Health Care Card and those with other Centrelink benefits such as Newstart Allowance and the Mobility Allowance are entitled to the Health Care Card for only one year. The Health Care Card provides significant savings for the recipient including access to bulk billing for doctor's appointments, more refunds for medical expenses through the Medicare Safety Net and discounted mail redirection through Australia Post. In addition, holders of a Health Care Card are eligible for a range of concessions from State and Territory and local Governments for costs such as energy and electricity, healthcare, including ambulance, dental and eye care, public transport and rates.

Recommendation

In order to remove any perverse incentives, the IAC recommends that the NDIA make representations to DSS to:

- publicise information about the provisions return to DSP for recipients who drop working hours or lose employment and
- secure automatic eligibility to a Health Care Card for NDIS participants (given Mobility Allowance is now part of the NDIS).

Supporting job creation

A significant challenge facing job seekers who have a disability is the stereotypes that exist with regard to people with disability in the workforce. Perceptions of a lack of ability to fit in, higher employer and training costs, capability of performing basic jobs only, higher insurance and safety costs, higher absenteeism and lack of productivity, are all common misconceptions of employees with disability. Although it may be the case that changes are needed to adapt working environments and training regiments for individuals with disability, these may not be as drastic or expensive as employers believe.

Individuals with disability are capable of more than just basic jobs with 19% of those employed working in professional positions, 15% working in clerical positions, 15% in technical positions and 13% being business owners themselves.³³ According to the studies reported by the Australian Network on Disability, individuals with disability have a low incidence of workplace injury, a lower absenteeism and a lower turnover rate than non-disabled individuals.³⁴ In addition, studies show that employees and customers are more to organisations that demonstrate they value diversity and inclusion.³⁵

³³ Peter de Natris

³⁴ Australian Safety and Compensation Council, 2007. Are People with Disability at Risk at Work? A Review of the Evidence, ASSC, Canberra, Du Paul University 2007 and Graffam J, Shinkfield A, Smith K and Polzin, U 2002, Employer benefits and costs of employing a person with a disability. Journal of Vocational Rehabilitation, vol. 17, no. 4, p. 251-263.

³⁵ Employer of Choice Study, 2014 by Instinct and Reason for Heads Up campaign. AND surveys of members and case studies.

Changing the stereotypes about individuals with disabilities is a necessary first step for an increase in demand for employees with disability. This change must be coupled with a change in cultural attitudes from employers and society as a whole. The hiring process will require appropriate leadership at the employer level. It will also necessitate adequate government resources for businesses, especially small businesses, as well as community support. These changes make economic sense both for companies as well as society.

Job creation is a whole of government/ whole of community responsibility. A comprehensive suite of employer incentives to include people with disability as part of the workforce is required. IAC proposals to drive employers to employ people with disability include:

Performance requirements on CEOs

Real change is often only successful when the most senior person in a company is held accountable for its achievement. Holding CEOs accountable for improving employment participation of people with disability is one such strategy. The value of employing people with disability would be further enhanced in the public mind if performance reporting was required of ASX listed companies.

Social procurement processes

Government could use procurement and purchasing to preference or require companies to employ people with disability. As a starting point, the NDIA could place this requirement on all its grants and in the contracts it enters with consultancy firms. ADEs already have a preferential treatment in Australian Government procurement processes. The IAC recommends that future government contracts prioritise requirements related to companies employing people with disability in open employment or using social firms that pay award/ productivity-based wages.

Employment registers

In 2001, as part of its whole of Government Disability Strategy, the South Australian Government established a Disability Employment Register³⁶ as part of its strategy to increase the employment rates of people with a disability across all departments. The register was managed by an NGO DES provider (Disability Works Australia) who promoted and managed the Register to ensure all who were on it were suitable and work-ready. Like the Aboriginal Register, people on the register had early access to the Notice of Vacancies. The Register manager was able to job match those on register with vacancies to arrange interviews. Many started short term contracts but this led to further exposure, experience and longer-term positions.

Affirmative action under the National Disability Strategy

Commonwealth, State and Territory and local governments have committed to a whole of government approach to build an inclusive Australian community. The strategy 2010—2020 has been a dismal failure in the employment domain. Concerted action is required to commit

³⁶ [Disability access and inclusion plans \(external\)](#)

to an affirmative action strategy to increase employment of people with disability in the next strategy.

Reduction/ removal of red tape associated employees from DES

Due to the current prescriptive DES procedures, employers are often faced with excessive red tape. Recruitment procedures for employers should be simple, flexible, benefit employers and ensure access to and awareness of assistances such as wage subsidies, workplace modifications, specialist advice and streamlined personal support.³⁷

Annual PM award

Attention to the economic and social benefits to business and the Australian community could be generated via an annual Prime Ministerial award for companies that employ people with disability.

Tax incentives for employing people with disability

The US Federal Government offers three types of tax credits to small businesses that employ people with disability:

- Disabled Access Credit, a non-refundable annual tax credit for making a business accessible to persons with disability including for expenditure such as sign language interpreters, readers for employees with visual impairment, purchase of adaptive equipment or modification of equipment, production of print material and removal of barriers in buildings or vehicles that prevent businesses from being accessible to, or usable by people with disability.
- Architectural Barrier Removal Tax Deduction that encourages business of any size to remove architectural and transportation barriers to the mobility of people with disability
- Work Opportunity Tax Credit that enables an employer of any size to claim a federal income tax credit for a proportion of the new employee's wage when they fill a vacancy with a person with disability.³⁸

In addition, states such as New York and California provide income tax credits when companies employ people with disability.

Tax incentives for social firms

Social firms are businesses with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or in the community, rather than being driven by the need to maximise profits to shareholders and owners.³⁹

In essence, social firms have as their foundation both a strong sense of mission *and* a commercially viable business model. For people with disability, the essential features of a social firm include an economically viable business which provides a 'living wage' in a setting

³⁷ National Disability Services, (2015) Response to DSS National Disability Employment Framework Issues Paper

³⁸ [Small business tax credits to hire people with a disability \(external\)](#)

³⁹ Heaney, V., (2010) Investing in social enterprise: the role of tax incentives, Centre for the Study of Financial Innovation, UK, p5

involving meaningful work that includes opportunities for the acquisition of socially valued skills and career development, as well as contributing to the person's opportunities for social relationships.⁴⁰

An Australian research project⁴¹ investigated how a Social Enterprise Framework could be used as a mechanism to transform supported employment services (ADEs) into open employment settings that secure meaningful, rewarding and sustainable employment for people with intellectual disability.

ADEs have charitable status and are already tax exempt.

Clear and trusted advice and support

Clear advice needs to be available to business and industry in relation to the benefits of employing people with disability together with support to navigate employment supports. This is confirmed in a recent report⁴² commissioned by the Australian Government that identifies employers need greater guidance, advice and information to employing marginalised job seekers; practical advice and strategies for workplace integration including information and advice that can be tailored to specific employer needs; supports that provide practical and/or financial incentives to employers; and better promotion and awareness raising of information content and support mechanisms already in place.

Projects of this nature could be funded through the ILC mainstream program. Examples include:

AFDO Field Officer Service designed to build the confidence of small and medium sized businesses to create opportunities for people with disability. The AFDO approach:

- focuses on the needs of the business and is independent, offering one to one, practical strategies that are specific to each business
- focuses on more than job placements, assisting businesses to think about how welcoming and accessible they really are by improving current comfort around people with disability, improving workplace culture, the customer experience, as well as current employment practices and barriers that exist in recruitment and interviewing
- provides capacity to work with the leadership team of small to medium sized businesses, scaling back support over time as confidence increases
- equips business with strategies and resources to retain staff who acquire or disclose a disability
- helps the business to think about opportunities from entry level to the CEO including work experience, volunteering, apprenticeships, internships and job carving in addition to improving regular recruitment processes
- connects businesses to local services that can support their objectives
- establishes connections between businesses to share stories and advice.

⁴⁰ Smith, P, McVilly, K, McGillivray, J & Chan, J, (2018) Developing open employment outcomes for people with intellectual disability utilising a social enterprise framework, *Journal of Vocational Rehabilitation*, v48, 59-77

⁴¹ Smith et al (2018) op cit.

⁴² Kantar Public, Building Employer Demand Research Project, Department of Social Services, Accessed at [Employer Demand Research Report \(external\)](#), 22 March 2019

Another option is a partnership project between for example the local Chambers of Commerce and service organisations such as Rotary to create and support employment opportunities for people with disability. Disability Support Organisations can provide technical assistance to such a partnership rather than act as employment facilitators.

Implications

General

The IAC affirms that all participants of working age should be assisted to work for the financial benefits, the valued status as contributors, the social networks and the opportunities that flow from work roles.

To achieve this goal, the IAC recommends that the NDIA:

- uses peer support and capacity building to assist participants and their families to aspire to work.
- confirms the use of reasonable and necessary support as outlined in the Taskforce Discussion Paper.
- separates employment support from a job so that participants are not steered toward a place of employment because of the availability of support.
- provides opportunities for participants to select employment supports for themselves including choosing DES providers, NDIS registered providers, mainstream employment agencies, job finding services and recruitment agencies.

For reasonable and necessary support

To maximise the opportunity for participants with moderate to high support needs to succeed in open employment, the IAC recommends that the NDIA provides reasonable and necessary employment supports:

- with the skill, at the intensity and for the duration required to secure and retain employment
- of a duration that recognises the pace of skill acquisition of participants with moderate to high support needs.

To prepare NDIS participants for work:

The IAC recommends that the NDIA provides reasonable and necessary support:

- to enable participants and their families to address their fears and develop personal safeguards to mitigate the real and perceived risks associated with open employment
- to all NDIS participants of working age who want to explore employment options and build skills including senior school students, adults seeking employment or career development and supported employees wishing to explore other forms of employment
- to participants aged 16-24 to build independence.

The IAC recommends that the NDIA provides ILC grants to develop Ticket to Work type networks.

To improve the effectiveness of finding and where appropriate customising a job

The IAC recommends that the NDIA:

- makes representations to DSS to ensure that automatic eligibility to DES for NDIS participants is meaningful by:
 - removal of current Employment Services Assessment and Job Capacity Assessment that determine income support entitlement
 - removal of min 8 hours work requirement
 - new categories of risk adjusted funding that would enable job development including customised employment
 - appropriate adjustment of DES performance framework recognising the additional time and work required
 - new requirement that customised employment is a core skill of DES providers
 - removal of restrictions related to working with people who are already in work to support the aspiration that participants have a career, not just a job is to be met.
 - adjustments to mainstream employment services such as New Enterprise Incentive Scheme (NEIS), Job Access, Job in Jeopardy and Youth Employment Supports to ensure meaningful access by all NDIS participants
- upgrades the requirements of NDIS registered providers of employment supports by
 - identifying customised employment as core requirement
 - commissioning work to scope the core competencies, training, practice frameworks and systemic requirements of customised employment
 - showcasing providers using a customised approach including assisting participants to develop micro enterprises to achieve outcomes in open employment.

To ensure NDIS participants are well supported on the job

The IAC recommends that the NDIA provides:

- core on the job support,
- capacity building support including
 - assistance to develop informal supports in the workplace
 - ongoing access to training, especially if aspects of the job change and
 - in-servicing of a new supervisor
 - assistance to develop simple business systems to run a micro enterprise

To facilitate a career

The IAC recommends that the NDIA:

- enables participants to access SLES type support on multiple occasions across their working life including for job/career change
- reasonable and necessary capacity building support to enhance vocational skills, productivity, engagement and independence at work
- reasonable and necessary support to enable the participant to seek and maintain alternative employment

For providers

To enhance the effectiveness of providers of employment supports, the IAC recommends that the NDIA:

- showcases customised approaches in registered providers and other examples of good practice to support its adoption
- commissions work to scope the core competencies, training, practice frameworks and systemic requirements that would enable a customised approach to become expected practice of DES, and NDIS registered providers.
- makes adjustments to DES discussed on p11 of this paper
- seeks to attract mainstream employment agencies, job finding services and recruitment agencies to register with the NDIS
- sends the strongest possible signals to the market as to the desired policy direction of supporting participants on a pathway to of growth and development, further training and the opportunity to move to open employment or the transition of the ADE to a social firm via:
 - pricing incentives
 - supporting participants to become more informed
 - the publication of good practice guides including guides to transition and
 - providing a time limited Industry Development Fund to assist ADEs to implement plans for changed businesses.

For whole of government

To remove system features that inhibit participants from seeking open employment, the IAC recommends that the NDIA make representations to DSS to:

- publicise information about the provisions return to DSP for recipients who drop working hours or loose employment and
- secure automatic eligibility to a Health Care Card for NDIS participants (given Mobility Allowance is now part of the NDIS).

To support job creation, IAC recommends that the NDIA explore proposals to drive employers to employ people with disability including:

- Performance requirements on CEOs
- Social procurement processes
- Employment registers
- Affirmative action under the National Disability Strategy
- Reduction in red tape associated with taking on an employee through DES
- Annual PM award
- Tax incentives for employing people with disability
- Tax incentives for social firms
- Clear and trusted advice and support.

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