

Final Report of the Royal Commission

Into Violence, Abuse, Neglect and Exploitation of People with Disability & Disability Employment Services (DES) Reforms Consultation

16 - 27 FEBRUARY 2024

RESPONSE OF THE
NATIONAL EMPLOYMENT
SERVICES ASSOCIATION
(NESA)

Final report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability &

Disability Employment Services (DES) Reforms Consultation – 16 - 27 February 2024

Response of the National Employment Services Association (NESA)

OVERVIEW

NESA is generally supportive of most of the recommendations in the Final Report; noting, many are dependent upon key conditions being met.

Many of the proposed recommendations would require significant funding to deliver. Inadequate funding will in many cases result in substantial detriment to an individual participant, and service delivery failure. Given the environment of fiscal restraint as expressed by the current Government, funding of any recommendations should not be to the detriment of funding for current service provision and should not require services to meet increased demand (outside of current contractual obligations) from within existing resources. Further, should the Australian Government accept the recommendation that all people with disability be provided access to the new disability service system, consideration must be given to the high cost of this proposal, and the impact upon people with disability (particularly those who choose not to identify as a person with a disability), the broader employment services system, sector, and service providers both within and external to Disability Employment Services (DES).

Notwithstanding this, there are many recommendations which NESA does support in principle, fully, or in part. In most cases, support is provided conditionally pending greater detail on what the recommendation would look like in practice, or whether the proposal can be appropriately resourced to avoid risk of service failure.

Reform Needs to be Incremental, Planned and Subject to Genuine Co-Design And Consultation

The most immediate concern is that the Department of Social Services is not engaging in robust co-design and consultation regarding the new DES Model. There is widespread concern within the sector that by persisting to aim for a July 2025 implementation of the new DES model, insufficient time is being provided for proper co-design with people with disability, providers, or the sector more widely. In particular, far longer time is required to engage with people with more complex disabilities, or an intellectual disability, or providers servicing this cohort. For example, the current 'consultation' process was last minute, truncated, and has not provided for sufficient opportunity for real and transparent engagement on the development of the model. NESA recommends that any DES program development be staged and incremental and underpinned by longer-term strategic and implementation plans developed in consultation with the sector to avoid any harmful unintended impacts. The development and roll out of the new DES model has the potential for significant impact on the best interests of jobseekers with a disability, the quality of service, workforce capability and the financial viability of many providers (both within and external to DES).

Lessons learnt from the implementation of Workforce Australia should not be repeated in the design of the new DES model and roll out. NESA strongly advocates that a roadmap be developed for sector reform, setting out the stages of reform, timeframes, accompanying consultation processes and key government decision making points. NESA strongly urges government to ensure its co-design and consultation processes are authentic and genuine, enabling broader stakeholders to have a role in designing any future new system.

Clear Principles Should Guide Government Decision-Making

NESA strongly advocates that clear principles should guide the development and implementation of any new DES model, that align with principles within the broader employment service system reform and Employment White Paper objectives, and the government's response to the Workforce Australia Inquiry and Royal Commission recommendations in the first instance. NESA recommends these include principles that accord with public expectations of government and its stewardship role, including an overarching principle that the best interests of jobseekers with disability should be of paramount concern. Other principles should include: fairness and competitive neutrality; client choice; accountability and transparency; evidence-informed decision making; value for money; merit-based selection; service quality; and avoidance of power imbalances, harm to sectors and markets, and conflicts of interest. These principles are particularly important in determining the respective roles of government and service delivery partners.

Major System Defects Need Immediate Action

While longer-term planning is supported, there are some fundamental defects in the current disability employment service system that require immediate priority action. In particular, there needs to be transparency and public reporting on the progress and learnings from the NDIS to DES pilot, and prioritisation of actions to strengthen the interface between the NDIS and DES.



**Responses to Employment Services Related Recommendations in the Final Report of the Royal Commission
Into Violence, Abuse, Neglect and Exploitation of People with Disability**

GENERAL RECOMMENDATIONS

Subject	Recommendations	Member Response	Comments
<p>New Department of Disability Equality and Inclusion</p> <p>Rec. 5.6</p>	<p>Establish a Department of Disability Equality and Inclusion responsible for national leadership on relevant policies and programs.</p> <p>Report also recommends the new department be responsible for national disability and carers policies and programs that are currently the responsibility of Department of Social Services (DSS), including the Disability Employment Program (DES)</p>	<p>Conditional Support</p>	<p>NESA is mindful of Government messaging received by members over last 18 months regarding ‘no further funding’ being available, and that ‘funding and resources’ are limited. Therefore, NESA conditionally supports the proposal for a new Department of Disability Inclusion, dependent upon:</p> <ul style="list-style-type: none"> - strong stewardship mechanisms being established within the Department to ensure Departmental accountability, coordination across government, and driving of innovation. In particular, ensuring a seamless connection between NDIS participants and DES - the proposed new Department being properly resourced; with no decrease in current funding available for program delivery, and sufficient funding being available to ensure long term viability of service provision - a planned transition to ensure no impact upon the continuity of services and systems, and - no increased administrative (and corresponding resourcing) burden upon providers due to the creation of a new department but rather delivering a decrease in red-tape and administrative burden. <p>There also needs to be greater clarity regarding how a new Department would fit within the broader employment services ecosystem and alongside concurrent employment sector reforms. One of the success factors for the new department will be that it is able to demonstrate strong collaborative, inter-agency working relationships both at the policy and operational levels.</p> <p>Greater clarity is also required to understand the proposed role of the new department; and how it would be empowered to drive disability equality and inclusion both at a Commonwealth, and state-based level, and how it will impact the disability worker sector, and disability employment providers. This includes understanding how it will be operationalised; and how it will impact/drive change in programs not directly under its portfolio. For example, it is not clear how it will drive leadership within other departments such as DEWR, given approximately half of the Workforce Australia (WFA) caseload includes people with a disability.</p>

<p>New statutory authority, the National Disability Commission</p> <p>Rec.5.5</p>	<p>Establish the National Disability Commission (NDC) as an independent statutory body under the proposed Disability Rights Act. The Commission's role should:</p> <ul style="list-style-type: none"> • Monitor, oversee and support the realisation of human rights under the Disability Rights Act • Monitor and report on outcomes for people with disability across Australia • Promote best practice and innovative approaches to improving outcomes for people with disability 	<p>Conditional Support</p>	<p>NESA supports independent monitoring, oversight, and reporting on outcomes for people with disability across Australia, and realisation of their rights. It also supports best practice and innovation for improving outcomes. However, it is not clear how the NDC will fit within the context of current proposed changes, such as the proposed establishment of a Disability Centre of Excellence. Further, it is not clear whether the NDC will have any 'teeth' or be empowered to hold either Government, or the sector accountable in its role. There should be transparent and public reporting of performance by the Department. For example, there should be mandated public reporting through the NDC on progress/learnings from pilots such as the NDIS to DES pilot.</p> <p>Further detail is required regarding the roles and responsibilities of the proposed NDC; and whether it will be appropriately empowered to enforce human rights under the new Disability Rights Act; or appropriately resourced to support and drive best practice (particularly given the current shortfalls in data/IT systems to capture/report on data in the employment services sector).</p>
			<p>NESA strongly recommends that there is one coherent, single strategy addressing governance in the disability sector. However, it is also not clear how the NDC would fit within broader governance structures and how it will operate within the broader system as a cohesive component. For example, it is not clear how overseeing the Disability Rights Act (implementing the UN CRPD) will align with the roles of the Human Rights Commission (including the Disability Discrimination Commissioner), and the Attorney-General's role in implementing international human rights commitments within Australia, or how it will align with other agencies such as the AIHW in relation to reporting and monitoring within the sector.</p> <p>Further, it is unclear as to how the NDC would operate alongside the proposed Employment Services Quality Commission. The Workforce Australia Inquiry report recommended a broad range of roles for the Quality Commission including those related to: quality framework and licensing standards; workforce standards, sector professional development; provider licensing and accreditation; • advising on pricing, high quality services, commissioning and payment models; complaints management; data collection, analysis, release, championing transparency, research, evaluation, continuous learning, and quality improvement.</p> <p>NESA is keen to work with the Government in the co-design of these bodies, as well as the development of best practice approaches to improving outcomes for people with disability. NESA strongly advocates for the building of a strong evidence base of 'what works' within the Australian context to inform best practice and innovation.</p>

<p>New Minister for Disability Inclusion</p> <p>Rec. 5.6</p>	<p>Establish a new ministerial position – the Minister for Disability Inclusion</p>	<p>Conditional Support</p>	<p>Given the significant current disconnect between DES and NDIS, and the lack of progress on resolving operational and policy issues between the two areas, NESAs strongly recommends that if a new ministerial position is to be established, then it should have responsibility for the whole Disability portfolio (including DES and NDIS). This would better support alignment of purpose, direction and integration of front-line services, and policy for people with disability. It would also need to be accompanied by strong inter-agency and inter-ministerial governance mechanisms, particularly in relation to, reducing administrative burden on providers, supporting achievement of outcomes, inter-agency service level agreements and overarching guidelines for employment services which put the best interests of participants as paramount.</p>
<p>Introduction of an Australian Disability Rights Act</p> <p>Recs 4.1 – 4.21</p>	<p>Introduce an Australian Disability Rights Act to strengthen the protection of the rights of people with disability and meet Australia’s obligations under the Convention on the Rights of Persons with Disabilities (CRPD)</p>	<p>Supported In Principle</p>	<p>NESA supports the basic principle of international law that Australia (as signatory to the CRPD) ensures that its own domestic laws and practices are consistent with the CRPD, particularly in ensuring that legislation implementing the CRPD is passed.</p> <p>NESA looks forward to further detail regarding how the CRPD rights will be recognised, implemented, and enforceable under the proposed Act.</p>
<p>Develop a Framework and National Principles for supported decision-making</p> <p>Recs 6.4 – 6.6</p>	<p>State and territory guardianship and administration legislation should be reformed to recognise and encourage supported-decision-making, as part of a new supported decision-making framework. Australian, state and territory governments should also adopt uniform national decision-making principles.</p>	<p>Supported In Principle</p>	<p>NESA supports the basic principle of international law that Australia (as signatory to the CRPD) ensures that its own domestic laws and practices are consistent with the CRPD, particularly in ensuring that legislation implementing Article 12 of the CRPD is passed, including in states and territories.</p> <p>NESA supports national uniformity for principles and frameworks regarding supported decision-making across states and territories; and recommends that this be extended to include mental health legislation, as well as in state and territory guardianship and administration laws.</p>

RECOMMENDATIONS SPECIFIC TO DISABILITY EMPLOYMENT SERVICES

Subject	Recommendations	Member Response	Comments
<p>Development of a National Inclusive Employment Roadmap</p> <p>Rec.7.32</p>	<p>Development of a National Inclusive Employment Roadmap (the Roadmap) to transform Australian Disability Enterprises (ADEs) and eliminate sub-minimum wages for people with disability by 2034.</p> <p>The National Inclusive Employment Roadmap should address:</p> <ul style="list-style-type: none"> the reform of ADEs to operate in accordance with the social firm model, providing open workplaces in which employees with disability can receive support in an integrated setting to undertake work tasks, develop skills and transition to further open employment the establishment of a grant-based Structural Adjustment Fund to support increases in the minimum wage and achieve transformation targets in ADEs support for people with disability to transition to open employment through programs such as the School Leaver Employment Supports program. 	<p>Conditional Support</p>	<p>NESA supports the elimination of sub-minimum wages for people with disability by 2034.</p> <p>However, the social firm model must be appropriately funded to deliver this, with a long-term focus to ensure long term viability of the model.</p> <p>Key components of the Roadmap should include:</p> <ul style="list-style-type: none"> participant choice, and appropriate funding of providers to build the capacity of clients who wish to move to ‘open, inclusive and accessible settings’ and to deliver transitional support to assist clients to secure open employment. <p>NESA also notes the dissenting observations of the Chair and Commissioner Ryan and their comments in relation to Rec.7.32, who did <i>‘not understand article 27 of the CRPD to preclude people with disability making a free and informed choice to be employed in workplaces exclusively for people with disability’</i>. NESA supports the position that the individual and informed choice of the participant should be central as to whether they remain with an ADE (or equivalent) or be transitioned to the open labour market. The individual’s choice should not be limited by government policy.</p> <p>Funding should be made immediately available for ADEs to support participants to transition to open employment. ADEs are not currently funded to provide transitional supports. NESA members delivering ADEs report they provide what support they can however to deliver effective outcomes for clients there needs to be formal recognition and resourcing for transitional support, even though many already provide this as part of their service.</p> <p>The Roadmap should also address how the support networks currently enjoyed by clients at ADEs will be maintained or grown under any new model. These reforms should guard against the unintended consequence of removing existing social supports without ensuring that the participant has equal or better supports available under the new model, and the participant is happy with that change.</p>

<p>Design of the new Disability Employment Services model</p> <p>Rec 7.16</p>	<p>Design the new Disability Employment Services model that is inclusive, co-designed, and customised.</p> <p>Design should be:</p> <ol style="list-style-type: none"> 1. Developed using inclusive design principles and co-designed by people with disability as paid members of the design team 2. Adopts customised employment models as a core component of service provision 3. Ensures funding arrangements facilitate flexible employment supports, such as customised employment, and support the progress of Disability Employment Services participants in achieving employment goals and long-term employment outcomes 4. Considers options to remove the requirement for a person to have a minimum future work capacity of eight hours a week to access the Disability Employment Services program, to facilitate access for all people with disability to the new model. 	<p>Conditional Support</p>	<p>NESA supports proposed design elements 1, 2 and 3. However, NESA is significantly concerned about the proposed timeframe for development and roll out of the new Disability Employment Services Model (new DES model). The Government has continued to express its intention to aim for a July 2025 implementation of the new DES model. However, this allows no time to do proper co-design with people with disability or with providers, particularly with people with complex disabilities, intellectual disability, or providers servicing these cohorts. The ‘consultation’ processes currently being undertaken are last minute, truncated and do not provide sufficient opportunity for any real or transparent engagement on development of the model. There is no evidence of true ‘co-design’ of this model, and NESA is deeply concerned about the resulting impact on the new DES model.</p> <p>Key components of the new DES model must include:</p> <ul style="list-style-type: none"> • Informed choice and control, • A quality service underpinned by a sustainable and financially viable service delivery model (for example, funding and performance frameworks appropriate to the market context, for example in thin markets using block funding and tailored performance measures to enable both choice and control, while also ensuring service provision can be maintained long-term). <p>This new DES model should also be independently evaluated, to help build an evidence base on effective stewardship of markets and how they should be operated, and the types of levers that could be used specific to the Australian context to address thin markets.</p> <p>NESA also supports a shift from a medical model of assessing disability, to a social model of disability that is more inclusive of people wanting to access DES. However, the model should also align with the cultural inclusivity requirements of First Nations people (as discussed in Volume 9 of the Final Report).</p> <p>NESA provides in principle support for design element 4 and the removal of the 8-hour week minimum threshold to facilitate the opportunity for all people to work in open employment regardless of their assessed hours of future work capacity. However, this needs to be appropriately resourced by Government to ensure the person can be supported according to their needs, and the work is right for the person.</p> <p>Further detail on accessibility requirements is required. It is not clear how the new DES model will facilitate ‘access for <i>all</i> people with disability’ given approximately half the WFA cohort (and not currently in DES) could in principle become eligible participants. It is also not clear whether <i>all</i> people having a disability would be</p>
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			<p>required to use the new DES program, noting that many may prefer to participate in a mainstream service due to stigma, potential barriers to employability; or the desire to be seen as 'able' rather than 'disabled'. NESAs notes that, in practice, this would also be a very costly model and should be well resourced; particularly where more intensive employment services support is required. NESAs supports that all people with disability should be provided with an informed choice about all program and service options, including DES (or Workforce Australia, if that is their expressed preference) based on their assessed need, with a clear, simple pathway onto the service.</p>
<p>DES staff education and training</p> <p>Rec 7.17</p>	<p>DSS to develop a suite of accessible education and training resources for DES providers to upskill their staff, co-designed by people with disability; and involving consultation with advocates, employers and providers.</p> <p>Resources should address gaps, including in:</p> <ul style="list-style-type: none"> • disability awareness • cultural competence • human rights • customised employment • employer engagement • DES guidelines and procedures 	<p>Supported In Part</p>	<p>NESA supports the development of education and training resources for front line staff that are co-designed by people with disability, in consultation with peaks, providers, advocates and employers.</p> <p>However, given the proposed development of a Disability Employment Centre of Excellence, the role of leadership in the development of these resources would better rest within the Centre. The expertise required to develop these resources rests outside of the Department and be developed by experts in the field and co-designed by people with disability and the sector. The role of DSS could be in ensuring that these resources are accessible, and providing a library of evidence-based resources specific to the Australian context of what works, and best practice.</p> <p>These resources should also be designed to support employment in the public sector under Rec. 7.18.</p>
<p>Increase public sector employment for people with disability</p> <p>Rec. 7.18</p>	<p>Establish specific and disaggregated targets for disability employment within the public sector (Australian, state and territory governments).</p> <p>The aim is to increase the proportion of employees:</p> <ul style="list-style-type: none"> • With disability at entry and graduate levels • With disability at executive levels, and • With cognitive disability 	<p>Supported In Principle</p>	<p>NESA supports increasing the employment for people with disability within the public sector and the establishment of and reporting on targets.</p> <p>NESA strongly suggests that the Government refer to lessons learned through the challenges with the Indigenous Procurement Policy (IPP), to learn what works, and what doesn't work in measuring targets; and ensuring public transparency on targets.</p> <p>To be successful, the targets must have clear indicators and measures and available data sources in place, and transparent reporting on those targets. Data should be captured not only in relation to short term targets or goals, but include long-term targets, to determine if the same people are being retained, and/or progressed throughout the public sector over time.</p>

	<p>Targets should be supported by:</p> <ul style="list-style-type: none"> • Clear employment pathways into relevant public services for each target cohort • Measures and programs to support recruitment and progression of each target cohort, and • Provision of appropriate supports. 		<p>There also needs to be a clear definition of 'disability' to ensure targets are measurable, and the reporting is accurate, clear, and consistent across the public sector.</p>
<p>Public reporting on progress against specific disability employment targets</p> <p>Rec.7.19</p>	<p>Establish processes and publicly report on progress against specific disability employment targets for new public service hires in Australian, state and territory government agencies and departments:</p> <ul style="list-style-type: none"> • At least 7% by 2025 • At least 9% by 2030 	<p>Supported In Principle</p>	<p>Reporting should model employer best practice. Given Rec.7.18's focus upon entry and progression, there should also be public reporting on retention and progression into senior leadership in keeping with the comments on Rec.7.18 above.</p> <p>Reporting should also include whether employees with disability are provided with supports appropriate to their needs to perform their work.</p>
<p>Accessibility through procurement policies</p> <p>Rec.7.23</p>	<p>Each jurisdiction (Australian, state and territory) to adopt procurement policies that favour businesses and entities able to demonstrate employment opportunities for people with disability, in open, inclusive, and accessible settings.</p>	<p>Supported In Principle</p>	<p>NESA also recommends the use of social procurement to advance the needs of people with disability. However, any practice should not result in infringement of the right of a person with disability to 'non-disclosure'.</p> <p>While NESA supports accessibility through procurement policies in principle, it is concerned about the ability of Government to deliver this recommendation, given the challenges in the IPP space, and learnings from other procurements practices. Government would need to provide procurement support and flexibility within the procurement process to enable delivery of these policies. In addition implementation of such a model would require clear benchmarks of what constitutes demonstration of employment opportunities for people with a disability at a satisfactory level to gain favourable treatment in procurement policies. NESA believes that if adopted measures should include indicators such as retention, progression and reasonable adjustments, not employment numbers in isolation.</p> <p>A potential option is for Government to adopt an equivalent scheme to the 'supply nation' approach, directed towards growing the Aboriginal and Torres Strait Islander business sector through the promotion of supplier diversity in Australia for those businesses that are able to demonstrate their commitment to disability employment.</p> <p>. NESA would like to engage further with Government to explore development and roll out of this proposal.</p>

<p>Improving the regulatory environment – Disability Employment Rights Council</p> <p>Rec.7.24</p>	<p>The Australian Government should convene a Disability Employment Rights Council (DERC) to improve coordination, consistency and clarity across regulatory bodies and frameworks, to improve outcomes for people with disability in employment.</p> <p>The Australian Government should also amend the <i>Fair Work Act 2009</i> and <i>Disability Discrimination Act 1992</i> to:</p> <ul style="list-style-type: none"> • ensure consistent wording; and • expand factors to be considered in determining whether a prospective or existing employee would be able to carry out the requirements of a role, including any adjustments made, and • consult with the person. 	<p>Supported in Part</p>	<p>NESA supports improved coordination, consistency and clarity across regulatory bodies and frameworks. However, more information is required as to how investment in establishing the DERC will drive improvements to close the gap between disability and non-disability employment and improve coordination within the regulatory environment. Further exploration should be given to whether resources directed towards establishment of the DERC would be better directed elsewhere (for example, in developing a supply chain to promote disability supplier diversity and build capacity in the sector).</p> <p>Given the suggestion by the DRC that the likely suitable Council Chair could be the Disability Discrimination Commissioner; it is not clear why this responsibility could not be undertaken by the proposed new National Disability Commission.</p>
<p>Supporting transitions to inclusive employment</p> <p>Recs. 7.28 – 7.30</p>	<ol style="list-style-type: none"> 1. Improve information about wages, and the Disability support pension by funding Disability Representative Organisations (DROs) for employees with disability in Australian Disability Enterprises 2. Take an ‘open employment first’ approach under the next iteration of the NDIS Participant Employment Strategy, with employment goals in participants’ NDIS plans, and consideration of employment in open and integrated employment settings as a first option. 	<ol style="list-style-type: none"> 1. Supported in Principle 2. Supported in Part 	<ol style="list-style-type: none"> 1. NESA notes that some DROs already provide some information in relation to wages; however, they are not adequately funded to do so. NESA supports the provision of general information about wages and the disability support pension where DROs are adequately funded to do so. However, greater clarity is required regarding how this would work in practice, given information regarding an individual’s support pension is highly confidential and personal information that would require specialist understanding to understand the wage structure and impact upon a disability support pension. There is a significant risk that this could blur the line between someone seeking ‘advice’ rather than provision of ‘information’. 2. NESA’s position aligns with its comments on Rec.7.32, and the position of the Chair and Commissioner Ryan that people with disability should have choice and control regarding where they seek to work. NESA supports the individual and informed choice of the participant should be central as to whether they remain with an ADE (or equivalent) or be transitioned to the open labour market. <p>The NDIS Participant Employment Strategy should take a person-centred approach. NESA supports prioritising employment goals in NDIS plans, with equal consideration given to the person for employment in settings of their informed choice, whether open and integrated employment settings, or a workplace exclusively for people</p>

			<p>with a disability. NESAs recommends an 'equal right' to employment no matter the setting as a preferred approach. Greater clarity is also required as to how this would operate, and whether there will be pathways to 'open employment', as well as right of return if the person finds that open employment is not a right fit for them.</p> <p>NESA strongly supports the inclusion of clear employment goals in individual plans, with access to information to support informed choice regarding employment options, and a clear pathway as to how this can be achieved. There should also be mechanisms to ensure that people aren't locked into unsuitable employment choices, and how they can move to/from open or disability focused employment. The employment strategy should also remove barriers within the NDIS that act as a disincentive to refer to a DES provider or employment expert because it is perceived to impact their funding. Getting employment goals into a person's plan is a significant need; however, this is only part of the picture – as the plan must also connect the person with specialist employment supports, such as DES. Employment should also not be identified as an 'outcome' of the plan; but rather employment as an educational or life goal.</p>
	<p>3. Set a target to increase the proportion of NDIS participants in open and integrated employment settings.</p>	<p>3. Supported in Part</p>	<p>3. NESAs supports increasing the number of NDIS participants in employment; however, targets should be focused upon the increased proportion of NDIS participants in 'employment settings of their choice', rather than upon 'open and integrated employment settings'. It is strongly recommended that data be captured on the nature of that choice, including whether it is open and integrated employment settings, or other disability focused employment settings. Data should also be captured on the awareness of, and access to information regarding choice of employment settings for NDIS participants.</p>
	<p>4. Build the knowledge and capacity of NDIS employment support providers to assist participants to transition from Australian Disability Enterprises (ADEs) to open and integrated employment settings, and provide ongoing and integrated support in those settings</p>	<p>4. Conditional Support</p>	<p>4. NESAs provides conditional support for this recommendation provided it is accompanied by appropriate resourcing for ADEs to provide transitional support. Many ADEs have knowledge and understanding regarding transitional support but lack adequate funding to deliver these supports.</p>
	<p>5. DSS to develop a plan to support people with disability working in ADEs to move to inclusive, open employment options in a range of settings, while maintaining an option for people with disability to continue</p>	<p>5. Conditional Support</p>	<p>5. NESAs provides conditional support for this recommendation provided it is accompanied by appropriate resourcing. Providing a plan alone will be insufficient if providers are not appropriately funded and resourced to transition people from ADEs. Greater clarity is also required in relation to the 'strong and appropriate safeguards' and an assessment of the cost/resourcing required by ADEs to meet these safeguards.</p>

	<p>working in ADEs, with strong and appropriate safeguards, if that is their free and informed choice</p> <p>6. Improved collaboration between NDIS and DES to ensure employment services work cohesively to deliver supports for people with intellectual disability and others</p>	<p>6. Supported in Principle</p>	<p>6. NESAs support aligns with its position at point 2 above, and on Rec.5.6, that there should be one Ministerial portfolio for disability to drive better collaboration, and cohesion between NDIS and DES to deliver supports, particularly for people with intellectual disability. However, more clarity is needed in relation to respective roles and responsibilities; and how the interface between the two agencies will be operationalised both in front line service delivery; as well as in policy settings. There also needs to be greater transparency on the learnings from current pilots trying to bridge the DES/NDIS gap.</p>
<p>Raising sub-minimum wages</p> <p>Rec. 7.31</p>	<p>The Australian Government should introduce a scheme to ensure employees with disability are paid at least half the minimum wage and feature:</p> <ul style="list-style-type: none"> • revision of productivity-based wages calculation to accommodate the move to a new minimum amount of 50 per cent of the current minimum wage • provision for the Australian Government to subsidise employers for the difference between the wages payable under the relevant award or enterprise agreement and the new minimum wage until 2034 and • a review of the scheme after five years of operation with results used to develop a model and pathway to lift minimum wages payable to employees with disability to 100 per cent of the minimum wage by 2034. 	<p>Supported</p>	

<p>First Nations people with Disability</p> <p>Recs. 9.1 – 9.11</p>	<p>(9.1 – 9.2) Child protection: State and territory governments should work with First Nations child protection services, peak bodies and First Nations people with disability to ensure parenting capability assessments for First Nations parents with disability are culturally appropriate; and provide standards, guidance, training and review processes.</p> <p>(9.3) Criminal justice: improve the cultural safety of First Nations people with disability in those systems with a review recommended by the end of 2024 with findings and recommendations made public.</p> <p>(9.4) Unmet potential of NDIS for First Nations people: expand the community connector programs in remote areas, with community-led and delivered long-term funding for implementation, and recruitment of local language staff where English is not the preferred language.</p> <p>(9.5) Block funding for ACCOs: NDIA to fund ACCOs to flexibly deliver supports and services to First Nations people with disability which could include funding for respite, accommodation, cultural supports to maintain or improve health and wellbeing, essentials, therapy, and translation services.</p> <p>(9.6) NDIA legislation amended requiring the NDIA Board to always have at least one First Nations person.</p> <p>(9.7 – 9.8) NDIA pricing: provide a new line item in the NDIA Pricing Arrangements recognising cultural supports and return to Country trips and ensure NDIS participants are aware of this.</p>	<p>9.1-9.11</p> <p>Supported in Principle</p>	<p>NESA notes the DRC’s own findings that First Nations’ cultural understandings of inclusion do not align with Western concepts of disability, nor the medical, or social models of disability. Rather that the focus should be on a cultural model centred on inclusive participation in culture and community for First Nations people; and for services delivered to them to be informed by First Nations cultural values and practices, with an emphasis on cultural safety, and social and emotional wellbeing.</p> <p>NESA provides in principle support for recommendations 9.1-9.9. It is noted that recommendations 9.1-9.3 will be operationalised at a state/territory level, and implementation may prove challenging. It is recommended that the Australian government commit the state and territory governments to meet these recommendations under a revised National Disability Agreement. It is also recommended that forensic mental health, and forensic disability systems be expressly captured within Recommendation 9.3.</p> <p>NESA strongly supports the recommendation for clarity on funding and supports available to First Nations family members who care for those with disability under 9.4; but also provision of appropriate funding to deliver these supports.</p> <p>While NESA supports block funding to ACCOs to develop supports under Rec. 9.5; block funding should also be available for other services in remote communities, particularly where there are limited-service options.</p> <p>NESA supports amending the legislation to include at least one First Nations person on the NDIA Board.</p> <p>NESA supports recognition of cultural supports and needs within the NDIA pricing arrangements.</p>
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(9.9) Guidelines on funding First Nations family members: co-design with First Nations Advisory Council and Community Controlled Organisations to develop guidelines on funding for First Nations family members to provide supports to participants in remote communities.

(9.10) First Nations Disability Forum: Australian, state and territory governments should support establishment of a First Nations Disability Forum to lead further development and implementation of the Disability Sector Strengthening Plan by the end of March 2024; the Plan should be revised in partnership with the First Nations Disability Forum by the end of September 2024. The forum should have a role in developing disability-inclusive cultural safety standards for the provision of services for First Nations people with disability.

(9.11) Building on the Disability Sector Strengthening Plan: The Forum and parties to the Plan should collaborate to develop a strategy with First Nations Community Controlled organisations accompanied by funding to develop First Nations local workforces in remote communities, that considers funding for community-level assessments to determine:

- Existing infrastructure and resources
- Capacity and willingness of the First Nations community-controlled sector to support local workforce development and
- The level of demand within the community

In keeping with Rec.9.4, NESAs support funding for, and delivery of disability support training for families caring for those with disability; and services to provide carer support.

NESA provides in principle support pending further information being provided in relation to the First Nations Disability Forum, and its role and responsibilities. In particular, how it will be appropriately empowered to improve policy responses for First Nations people with disability and enhance access to culturally safe services; and how it will operate within, and influence State, territory and Australian government policy and service delivery.

NESA provides in principle support for the development of a strategy to develop First Nations local workforces in remote communities. However, this needs to be properly resourced; with implementable actions.

Responses to the Disability Employment Services Reforms Consultation – 16 - 27 Feb 2024
(Disability Royal Commission; NDIS Review, and Select Committee on Workforce Australia)

<p>Eligibility - Part 1</p> <p>The Disability Royal Commission and public consultation on DES reform recommended removal of the minimum 8 hour work capacity requirement.</p> <p>If eligibility was extended to include those with an assessed work capacity with support of less than 8 hours a week:</p> <ol style="list-style-type: none"> 1. What would quality employment look like for this cohort? 2. What would be the key features of a service for this cohort? 3. What kind of expertise would be required in providers to deliver this service? 4. What type of employment incentives or support would be beneficial? 5. Is there the potential for unintended consequences that should be considered? 	<ol style="list-style-type: none"> 1. Quality employment should be person-centred, and be able to show: <ul style="list-style-type: none"> • the person with disability enjoying a strong support network of employer, provider, NDIS and family/kin or community supports, and • Employment aligned to the individual’s aspirations and goals (including clear entry points to the labour market offering a pathway to achievement of those goals). 2. A key feature of this service would be built upon a strengths-based model, where support is tailored to the individual person’s needs, flexible and responsive to their preferences as required. <p style="margin-left: 20px;">There would also need to be greater clarity regarding the interface between DES and NDIS to ensure optimum access, integration/complementarity of available supports to assist participants’ work preparation, and to achieve and sustain employment. Additionally, the performance and funding framework must appropriately recognise and value outcomes for this cohort.</p> 3. Disability support worker expertise would be required, particularly in providing intensive employment support. The person would be best supported through an individualised disability employment service including ongoing support in employment as long as required. Service prescription should be minimal to allow genuine individualisation. 4. Incentives should be directed towards the ‘supply side’ to encourage companies or organisations to create jobs that are accessible by people with disability. For example, using the Commonwealth lever of its taxation power to provide tax breaks or incentives, even with increasing rates dependent upon longevity of people with disability within the organisation, as well as percentage of people with disability. In addition, long term wage incentives could be considered. <p style="margin-left: 20px;">Incentives should not be short term but focused on long term gains to ensure sustained employment and retention of people with disability.</p> 5. Unintended consequences: <ul style="list-style-type: none"> • Supporting individuals with an assessed work capacity of less than 8 hours a week would require adequate funding; and tailored performance outcomes, to ensure that providers are appropriately resourced to support this cohort. • This model would be very costly and increase pressure on existing workloads, as well as require an expanded workforce. The inability to meet the demand and increased workload (for example, being unable to adequately support an individual or provide the level of service required) could have devastating impact on the participant, as well we employees, and providers. • It is imperative that in broadening the eligibility for DES that there is a strong focus on action research and evaluating impacts to ensure the program structure is fit for purpose – this will require close partnership between government and providers and openness to make iterative adjustment to the service model and underpinning frameworks.
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<p>Eligibility – Part 2</p> <p>The Disability Royal Commission considers that all people with disability should have the opportunity to work in open employment.</p> <ul style="list-style-type: none"> • If the 2 year limit on DES participation is removed and/or • If the requirement to be in receipt of an income support payment is removed? <p>1. What benefits would these arrangements bring to participant services and reduced administration?</p> <p>2. Are there any unintended consequences, for whom, and why is this important?</p>	<ol style="list-style-type: none"> 1. All people with a disability have the right to work and services should be available to support them to realise this right, regardless of their receipt of income support. The journey to employment is of varying lengths for all people and highly dependent on a range of factors, of which one is disability, injury or health conditions. The existing two-year limit on DES service can be arbitrary and inconsistent with individualised service model. Some potential benefits include: <ul style="list-style-type: none"> • removing the limit would be the provision of more time to achieve employment outcomes. • Given the current review and streaming mechanisms at service conclusion can be disruptive and inefficient with many participants returning to DES at a later stage (as they still require specialist disability assistance) removal could positively impact a participant’s service experience and provide marginal improvement to administration if not replaced with alternative review requirements. 2. For DES (ESS), participants with an assessed, permanent disability it makes sense for the 2-year limit to be removed as it provides stability in servicing for the participant given the permanency of the disability. For DES (DMS) participants with an assessed temporary disability, injury or health condition, it may be appropriate to replace the limit with a review to ensure that the person is engaged with the most appropriate service to meet their current needs with review outcome options to remain in DMS, move to ESS or other program such as Workforce Australia according to need and preferences. <ul style="list-style-type: none"> • Removal of the requirement to be in receipt of an income support payment to be eligible for DES would open the program back up to a larger part of the community living with a disability who do not have a network of supports or know how to access them having been excluded because of income support eligibility criteria. • Another unintended consequence in the ESS space concerns the workforce. There would be increased demand for more staff and greater pressures on the existing workforce. This would include ensuring existing and new staff are all equipped to work with the full range of permanent disabilities arising from the changes.
<p>Service Structure – Part 1</p> <p>The recent reviews included recommendations with themes of program simplification and less administration, while retaining customised, cohort specific services.</p> <p>If the Disability Management Service (DMS) and Employment Service Support (ESS) were combined into a single service with funding levels catered to differences in service and support needs:</p> <p>1. Would this simplify the program design and reduce administration?</p> <p>2. Would this have any unintended consequences, for whom and why is that important?</p>	<p>Conceptually, combining DMS and ESS services into a single program with funding levels catered to differences in service and support needs has potential to simplify the program and reduce the administration involved in managing two programs. However, this is highly dependent on the program structures and operational framework and may lead to other issues not yet foreseen. NESAs are of the view that the programs should remain separate until there is robust consultation on a specific proposed combined model and adequate informed consideration of potential strengths, weaknesses, and risks.</p> <ul style="list-style-type: none"> • In addition to funding, a combined program would need to reflect the different service needs of the DMS and ESS cohorts. The way a program is communicated would need to be highly nuanced to ensure ready identification of the service offer and eligibility – feedback is that there are some high-risk individuals with Injury and health conditions who may not have their needs identified or catered for in a single disability program. • DMS and ESS have different service delivery focus and require different expertise. Combining the programs into a single program increases the risk of the loss of expertise particularly in vocational rehabilitation which is the significant emphasis of DMS. • The DMS and ESS cohorts are different, and a combined model would also need a tailored performance framework, recognising both cohort differences and the caseload composition of each provider who is likely to have varying ratio of DMS/ESS with their caseload at site, ESA, or organisation level. • A potential risk is diminished funding for DMS/vocational rehabilitation services if they are combined. <p>A further concern is that the allocation of funding level and the overall funding model becomes too complex with potential adverse impacts for service quality.</p>

Service Structure – Part 2

The recent reviews have recommended that employment services be more flexible and tailored, with support differentiated according to individual need and circumstances.

If, in addition to the current full-service offer, a more flexible service option was proposed for some participants.

- 1. Which participants might be suitable for this type of service offer?**
 - **Volunteers with or without temporary exemptions?**
 - **Participants with circumstances limiting their capacity?**
 - **Participants engaged in partial work, non-vocational activities or education or who want to remain connected?**
- 2. What benefits would this bring to participant services and reduced administration?**
- 3. Are there any unintended consequences, for whom, and why is this important?**

1. All people with a disability have the right to work and services should be available to support them to realise this right. Flexible service options should be available to all people with a disability not otherwise eligible for or requiring the full-service offer. This type of service offer would particularly suit volunteers without temporary exemptions; and participants with circumstances limiting their capacity.
2. The key benefit of such an approach is maintaining connectedness for the participant and is consistent with overall objectives to encourage workforce participation of all working age people

NESA wishes to emphasise that a flexible alternative is positive, however, for clarity we stress that people in partial employment, education or the other circumstances outlined, should not be denied a full-service offer if they desire and need the service.

<p>Mutual Obligations</p> <p>The Select Committee on Workforce Australia called for greater flexibility and tailoring of mutual obligations, with a focus on participating meaningfully in services.</p> <ol style="list-style-type: none"> 1. If it was possible to simplify requirements so participants meet their obligations by engaging effectively with a provider in preparing for, seeking, and undertaking employment: <ul style="list-style-type: none"> • What benefits would this bring to participants and administration? • Are there any unintended consequences, for whom and why is that important? 2. Would the option to move to specific requirements – similar to current arrangements – be appropriate where a participant wasn't engaging effectively? 	<p>The primary feature of providing greater flexibility and tailoring of mutual obligations, is to provide participants with a more person-centred, relational, and open service. However, to achieve this <i>the responsibility for all suspension decisions, compliance and enforcement must be the responsibility of Government, and not of the service provider.</i> Requiring compliance and enforcement by service providers, erodes trust in the relationship and can negatively impact the meaningful provision of service.</p> <p>Currently, most suspensions related to mutual obligations are triggered by the Department's automated decision-making process. Providers are currently contractually obliged to enter factual information into the system, which may automatically trigger a default suspension. NESAs have long advocated that changes to the mutual obligation compliance framework must be prioritised to enable greater discretion in the suspension process, and a reduction in automated suspension decision-making by the Department. However, the best practice approach would be to remove the providers' role in the compliance process altogether; and replace the automated process within the system with human beings at Services Australia who can undertake a person-centred and relational approach to compliance management.</p> <p>The overarching objective of compliance and enforcement measures should be to facilitate engagement with employment and social supports that improve labour market attachment and earnings prospects. Responsibility for job seeker compliance should be returned to Services Australia. This should be accompanied by the restoration of operational connections between Services Australia and the provider network to enhance service users experience and positively strengthen participant engagement and compliance.</p> <p>To enable greater contribution to skills formation to apply mutual obligations the sector needs:</p> <ul style="list-style-type: none"> • Flexibility in service responses and job seeker mutual obligations without risk of micro quality assurance processes driving service standardisation, • Adequate time to allow strategies to mature to outcomes without threat to contract period, that being an acceptance that exit rates may initially decline, • Flexible use of internal and external services to achieve wrap around supports in relation to vocational (accredited and non-accredited, full qualifications or micro-credentials) and non-vocational barriers to support and enhance completion rates.
<p>Ongoing Support</p> <p>The Disability Royal Commission recommended that arrangements facilitate flexible employment supports, and support progress to long-term employment outcomes.</p> <p>If Work Assist focussed on immediate access to support service fees, and with less emphasis on outcome payments:</p> <ol style="list-style-type: none"> 1. What benefits would this bring to participant service and reduced administration? 2. Are there any unintended consequences, for whom, and why is this important? 	<p>Preventative intervention to support people with a disability to retain employment is an essential element of the support to bridge the divide in employment participation of those living with a disability and those without disability.</p> <p>Strengthening the Work Assist model and making it less reliant on outcome funding would be a positive step forward improving retention of people living with a disability in employment and engaging with employers. An improved Work Assist model has potential to contribute to increasing employer workforce diversity management to create opportunities for increased employment participation as well as retain current staff living with disability.</p> <p>More generally the supports to progress long-term employment outcomes need to be strengthened. The ongoing support model needs to be streamlined with greater emphasis on retention and progress and less on administration reporting, with appropriate integrity and service quality mechanisms.</p>