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Monday 13 March 2023

Hon Amanda Rishworth MP  
Minister for Families and Social Services  
PO Box 6100  
Senate  
Parliament House  
CANBERRA ACT 2600

**RE: Physical Disability Australia's (PDA's) Response to the *DES Quality Framework Discussion Paper***

Dear Minister

Thank you for the opportunity to provide a response to the Disability Employment Services (DES) Quality Framework Discussion Paper (the Paper). Following a reiteration of our views on the DES program generally and the apparent lack of codesign in the development of the proposed quality framework, are answers to many of the questions posed in the Paper.

**On the Appropriateness of a DES Program**

In a response to an earlier consultation on Disability Employment Support Programs<sup>1</sup>, PDA argued that the time had come to for the siloed approach to employment services for people with disability to end. We would have liked to see people with disability being offered employment support by mainstream Workforce Australia employment services providers in the first instance. Just as it is generally accepted that students with disability should be able to access mainstream schools with the expectation that **all** publicly funded schools will have the expertise to help **all** students to achieve their educational goals, **all** government funded employment support services should have the skills and capacity to help **all** jobseekers to gain open employment that meets their financial, confirmational and professional needs regardless of their disabilities and/or other defining attributes.

Moreover, it is obvious that the current siloed approach to employment services for jobseekers with disability is a dismal failure. As the Australian Bureau of Statistics reports, in 2018 "53.4% of people with disability were in the labour force, compared with 84.1% of people without disability"<sup>2</sup>.

These are appalling statistics that are rendered worse when it is understood that "employment" means both 'open' employment where employees with disability have the same minimum wage and working conditions entitlements as employees without disability, and 'supported' employment with Australian Disability Enterprises (ADEs) where employees with disability may be receiving a fraction of the minimum wage and exposed to poor working conditions.

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<sup>1</sup> <https://engage.dss.gov.au/national-disability-employment-strategy/>

<sup>2</sup> <https://www.abs.gov.au/articles/disability-and-labour-force>

The dismal record of DES providers is not helped by their positioning in the employment services market. Many of our members are all too aware of the unspoken prejudice of potential employers reluctant to even consider candidates with disability. This means that approaches to them from DES providers regarding potential candidate employees are not even considered because they represent jobseekers with disability exclusively.

Again, it is high time the siloed approach to employment services was ended, and consequently we generally feel that the National Standards for Disability Services (NSDS) should not be benchmarks for employment services that have jobseekers with disability as their clients and that the quality standards that operate in the mainstream Workforce Australia employment services apply with the additional requirement of NDIS provider registration.

PDA argues strongly for jobseekers with disability to have a guaranteed entitlement to the same effective and high-performance employment services as every other Australian just as they should have a guaranteed entitlement to the minimum wage and other baseline working conditions.

### **On the Lack of Commitment to Codesign in the Proposed Quality Framework**

While PDA appreciates that the Paper seeks the feedback of people with disability, their families, providers and representative organisations on a draft DES Quality Framework, we are disappointed that the Department of Social Services did not include these same people at the centre of the Framework's development in the first place. As such, a significant opportunity to engage in codesign was missed.

To remedy this PDA supports the Australian Federation of Disability Organisations' (AFDO's) proposal incorporate a sixth Quality Element – *Partnering with people with disability, their families, carers, and representative organisations*<sup>3</sup> in genuine co-design processes. Such a Quality Element would compel DES providers (if the Program *must* be sustained) to engage these people in the shaping their work practices.

### **Answers to the Paper's Questions**

Bearing in mind PDA's preference for there not to be siloed employment services for jobseekers with disability:

#### *On Risk Based Earned Autonomy*

- ***What are your views on an application based model for demonstrating quality (and potentially as a means of attaining a higher quality ratings)?***

PDA is not in favour of an application based model for quality assessments of DES providers as it sets up a conflict of interest where providers are able to pick and choose the data they present in order to "expedite their earned autonomy status". Rather, we advocate that all quality ratings be founded on each provider's effectiveness in finding favourable open employment for the jobseekers with disability assigned to them and the time it takes to achieve this. This is data available to the government and its consultants and is free from any gloss a provider might apply to it. We argue that DES quality can be determined by a simple equation: clients happily holding open employment (within a certain timeframe) divided by

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<sup>3</sup> Including all members of the Disability Australia Consortium.

number of clients assigned: no other metrics are really applicable in determining quality.

- ***What are your views on the concept of earned autonomy within the DES program?***

Earned autonomy is not sufficiently defined in the Discussion Paper except that it is a reward for demonstration of “sustained high quality service over time”. Freedom from reporting obligations is not something PDA believes should ever be granted to providers and diversification of services should only be permitted with adequate planning and a codesign process that includes DES clients, Disability Representative Organisations (DROs), and employer peak bodies.

- ***How can quality be demonstrated before additional flexibility is granted?***

As above, quality should primarily be assessed on DES providers’ track record in securing sustained open employment that meets their clients’ financial, confirmational and professional needs. Flexibility allowances should be limited to evidence-based practices with genuine prospects of improving this metric.

### On the Quality Elements

#### Participant Rights

- ***What other indicators or measures could be used to monitor and assess the practical application of DES participants’ human rights?***

This is a difficult question to answer as without an Australian Bill of Rights (the United Nations Convention on the Rights of People with Disability notwithstanding), the question of whether human rights are being respected by DES providers is largely a subjective matter.

The Paper suggests the rights of DES clients should be focused on:

- The prevention of abuse and discrimination;
- Ensuring participants are treated with respect and dignity; and
- Ensuring that they are receiving individualised supports.

The problem with the first dot point above is that there is no comparator group of clients within the DES program with regards to discrimination. The client base is exclusively jobseekers with disability so clients would not be able to say they are treated less favourably than jobseekers without disability.

With regard to the second dot point we feel the Paper (and the DES program as a whole) fails to treat jobseekers with disability with respect and dignity in referring to them as ‘participants’ instead of ‘clients’. Participants do not necessarily expect an outcome, clients do. PDA recommends the architects of the DES program change their terminology here.

The third dot point is also problematic because it doesn’t matter how individualised each client’s supports are if they are ineffectual in securing sustained open employment that meets their financial, confirmational and professional needs.

Beyond the foci listed in the Paper, PDA would like to see the ‘Participant’ Rights specifically include:

- The right to set your own goals; and
- The right to seek support from a different DES or mainstream Workforce Australia employment services provider.
- ***What information products would be most useful in contextualising this Quality Element and bringing it to life?***

PDA doesn’t think too much work needs to be done and that DES providers can use existing Australian Human Rights Commission<sup>4</sup> and Australian Competition and Consumer Commission<sup>5</sup> information products.

- ***What are the key things the department should consider when developing participant surveys and considering changes to the conduct of site visits?***

PDA advises that the key considerations for client surveys are for them to be designed, administered and analysed by researchers independent of both the department and DES providers to avoid conflict of interest issues. We recommend university researchers in collaboration with DROs be engaged in this work rather than the usual consultants to further boost the quality of the research and confidence in their findings.

With regard to site visits, PDA sees little utility in these given the rise in work-from-home-arrangements used by Australian employers since the COVID-19 pandemic. Site visits may be useful if DES providers are conducting training activities at their premises to ensure premises meet the *Disability (Access to Premises - Buildings) Standards 2010* and that the training activities are accredited, of high quality, and appropriately matched to clients’ capacity and employment goals.

#### Quality of Service

The Paper suggests that the DES Quality Framework borrow standards from a range of existing standards, but it fails to elucidate the actual service quality benchmarks it is considering setting at the moment beyond basing assessments on surveys of user (client and employer) satisfaction with regard to a provider’s quality of service.

We approve of the stated intention of gathering details about “the direct experiences of both DES [clients] and employers ... [and that surveys of these stakeholders] could inform a new set of service quality benchmarks or quality expectations.” We also appreciate the intention to use codesign processes (that we trust will include DROs) to settle on a set of quality benchmarks.

- ***What other indicators or measures could be used to monitor and assess quality of service from the perspective of participants and employers?***

In our experience surveys that ask, “Do you think [DES provider] provides a high quality service?” will be skewed by the outcome of the users’ engagement with the provider. If a client secures sustained open employment that meets their financial, confirmational and professional needs, or an employer acquires a competent employee who works hard and is committed to their enterprise, then they are likely to

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<sup>4</sup> [https://humanrights.gov.au/sites/default/files/content/pdf/disability\\_rights/dda\\_brochure.pdf](https://humanrights.gov.au/sites/default/files/content/pdf/disability_rights/dda_brochure.pdf)

<sup>5</sup> <https://www.accc.gov.au/publications/your-consumer-rights-a-guide-for-consumers-with-disability>

agree that the quality was high. If these outcomes were not achieved, then the assessment of the provider's service quality is likely to be low.

To avoid this, benchmarks of each component of a provider's service need to be set in terms that allow a quantitative measurement, and to avoid the outcome based skew, surveys would need to be administered at the end of each service component, not after all services have been provided.

For example, with regard to client induction by the DES provider, a suitable quality benchmark could be:

- 80% of new clients agree that the provider appropriately:*
- *Welcomed them to the service;*
  - *Described the supports that were available;*
  - *Ascertained your employment goals; and*
  - *Outlined the next steps towards securing employment.*

Such a survey would be quick for clients and employers to complete and allow an instant assessment of whether or not a DES provider is meeting its quality benchmarks.

- ***What information products would be most useful in contextualising this Quality Element and bringing it to life?***

With regard to DES provider clients, to successfully implement our suggested quality measuring system, it would be necessary to have a range of accessible (plain language, community languages other than English, Braille, Auslan, Easy Read, etc) information resources explaining:

- Who is conducting the research and why;
- What the quality benchmarks are;
- The sequential nature of survey distribution;
- Client roles in determining if their provider is meeting its benchmarks; and
- Where clients can find more information and where they can raise any concerns they may have (e.g. vilification).

Similar resources could be developed for employers accessing using DES to source employees.

- ***What other support measures could be put in place to assist providers to implement and demonstrate quality practices in alignment with this element?***

PDA is opposed to DES providers having any role in demonstrating quality practices as there is an obvious conflict of interest here. Quality assessment, as suggested in the Paper should be entrusted a third party researcher. With regard to quality implementation, this could be driven by having DES providers subject themselves to independent audits based on the quality framework's benchmarks, in a similar fashion to how National Disability Insurance Scheme (NDIS) providers are audited.

- ***It is envisaged that new service quality ‘benchmarks’ (or a set of participant expectations) would be developed via a co-design process.***
  - ***What kind of organisations could/should lead such a process?***

PDA’s preference would be for this work to be undertaken by the organisations that are part of the department’s DRO Program<sup>6</sup>, with the work of each organisation overseen by Disability Advocacy Network Australia (DANA) who have recently been assigned a national coordination function role within the program. The national peak bodies that are part of the Program have the reputation and reach within the disability community to get high response rates to the client surveys. An analogous employer peak body should be considered to survey an report on employer users of DES providers. The contract with DANA to administer this work, of course, should provide appropriate remuneration for the Program organisations who assist in the data collection and analysis in recognition of their expertise and standing in the disability community.

PDA recommends strongly against the use of prominent consultants such as KPMG and Ernst and Young. This is because these organisations frequently seek the assistance of DROs in work that involves consultation with people with disability without appropriate remuneration that recognises our (and their) expertise and standing in the disability community.

#### *Provider Capability and Governance*

With regard to DES provider capability, as with other Quality Elements described in the Paper, any assessment of this can be reduced to whether or not the provider’s clients secure sustained open employment that meets their financial, confirmational and professional needs.

The section of the Paper covering this Quality Element seems to imply that capability stems from DES providers’ governance arrangements and lists a set of business aspects:

- Human Resources frameworks:
  - Recruitment policies.
    - Criminal record Checks
    - Working with children and vulnerable people checks.
- Training requirements).
- Financial management.
- Risk and contingency planning.
- Work Health and Safety.
- Continuous improvement mechanisms

... and suggests that these be measured against existing NSDS standards. In keeping with our position the mainstream Workforce Australia employment services should be skilled in assisting jobseekers with disability. PDA does not feel there is a need for any more onerous requirements than are necessary apply to DES providers.

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<sup>6</sup> <https://www.dss.gov.au/our-responsibilities/disability-and-carers/program-services/consultation-and-advocacy/national-disability-peak-bodies>

- ***What information products would be most useful for providers in describing and contextualising obligations?***

PDA does not feel the need for any additional resources for jobseekers with disability beyond the Workforce Australia Service Guarantee<sup>7</sup> and the consumer rights information resources mentioned above.

- ***Would providers likely opt-in to using a voluntary self-assessment tool?***

As noted above in our comments on earned autonomy, we do not think any government funded provider, in any industry, should be afforded the right to self assess their capability and governance quality. Like grant recipients, providers should be reporting on their contracted deliverables and key performance metrics. This information can then be checked by government officials as required.

- ***What would you like to see in a staff training tool kit?***

Our Disability Australia Consortium partner, the Australian Federation of Disability Organisations (AFDO), have a range of training products and access to suitable training staff (all with lived experience of disability) and would make an ideal partner in delivering appropriate training to all DES providers. We would like to see this, and other disability community resources included in all staff training tool kits.

#### *Feedback and Complaints*

Our advice with regard to this Quality Element is very similar to that provided above for Quality Elements 1 & 2 (Participant Rights and Quality of Service). In addition to existing arrangements for providing feedback and complaints through the Complaint Resolution and Referral Service (CRRS), the NDIS Quality and Safeguards Commission and the Australian Human Rights Commission as appropriate.

#### *Formal Assurance*

The discussion of this Quality Element in the Paper refers to elements of existing DES provider arrangements that we are unfamiliar with. That being said, we recommend a transparent formal assurance process that is focused on what should be the key metric for any employment services provider: Percentage achievements of sustained open employment that meets their clients' financial, confirmational and professional needs, and for employers, the acquisition of competent employees who work hard and are committed to their enterprises.

#### *On Quality Scorecards and Quality Assessment Ratings*

Quality ratings are a difficult thing to get right in the world today. Many service providers, in a wide variety of industries, seem to think that anything less than a '5 Star' rating is a dreadful slander. This leads to numeric (and even descriptive quality rating scales) subject to a great deal of suspicion. A good example of this is the Aged Care Quality and Safety Commission's much-discussed 'Star Ratings for Residential Services' system that awarded 9 in 10 providers with a 3 star ('acceptable quality of care') rating or higher<sup>8</sup> despite the Royal Commission into Aged Care's finding that:

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<sup>7</sup> <https://www.workforceaustralia.gov.au/content/documents/service-guarantee/workforce-australia-employment-services-service-guarantee.pdf>

<sup>8</sup> <https://www.australianageingagenda.com.au/executive/nine-in-10-services-receive-a-positive-score-in-new-rating-system/>

*no measures [are] available to quantify the extent of substandard aged care. However, the combined impact of the evidence, submissions and stories provided to the Royal Commission leads us to conclude that substandard care is much more widespread and more serious than we had anticipated.<sup>9</sup>*

This jarring discrepancy needs to be avoided at all costs with DES providers.

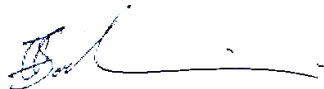
- ***What is the appropriate number of rating levels and how could they be phrased/described?***

Taking into account what is said immediately above. PDA recommends that scale based rating systems should be avoided altogether and that the statistical performance of providers be allowed to speak for itself: Publish the percentage of clients (that can be separated into disability-type cohorts as appropriate) who secured sustained open employment that met their financial, confirmational and professional needs within 3 months, 6 months and 1 year; and the percentage of employers who approached the provider that secured competent employees who work hard and are committed to their enterprises.

### **Concluding Remarks**

We hope the Minister, her advisors and the DSS staff working on the DES Quality Framework appreciate and seriously consider the overarching advice of this submission – **That it is high time the siloed approach to employment services for jobseekers with disability was ended** – and consider carefully the option of tasking all Workforce Australia providers with catering to the needs of jobseekers with disability.

Failing that, we trust our answers to many of the questions in the Paper are worthy of adoption in the final version of the Framework



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### **About Us:**

Physical Disability Australia (PDA) is a national peak membership-based representative organisation run by people with physical disability for people with physical disability. PDA was founded 25 years ago and we have over 1,000 members from all Australian States and Territories. Our purpose is to:

- Remove barriers through systematic advocacy to all levels of government to enable every Australian living with a physical disability opportunities to realise their full potential;
- Proactively embrace and promote difference and diversity for an inclusive society; and
- Actively promote of the rights, responsibilities, issues and participation of Australians with physical disability.

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<sup>9</sup> <https://agedcare.royalcommission.gov.au/sites/default/files/2019-12/interim-report-foreword.pdf>