



Queensland Advocacy Incorporated

Systems and individual advocacy for vulnerable people with disability.

Institutional Economic Neglect

**Submission by
Queensland Advocacy Incorporated**

Disability Royal Commission

December 2021

About Queensland Advocacy Incorporated

Queensland Advocacy Incorporated (**QAI**) is an independent, community-based advocacy organisation and community legal service that provides individual and systems advocacy for people with disability. Our mission is to advocate for the protection and advancement of the fundamental needs, rights and lives of the most vulnerable people with disability in Queensland. QAI's Management Committee is comprised of a majority of persons with disability, whose wisdom and lived experience is our foundation and guide.

QAI has been engaged in systems advocacy for over thirty years, advocating for change through campaigns directed at attitudinal, law and policy reform. QAI has also supported the development of a range of advocacy initiatives in this state. For over a decade, QAI has provided highly in-demand individual advocacy services. These services are currently provided through our three advocacy practices: the Human Rights Advocacy Practice (which provides legal advocacy in the areas of guardianship and administration, disability discrimination and human rights law, non-legal advocacy support with the Disability Royal Commission, the justice interface and the education system and social work services), the Mental Health Advocacy Practice (which supports people receiving involuntary treatment for mental illness) and our NDIS Advocacy Practice (which provides support for people challenging decisions of the National Disability Insurance Agency and decision support to access the NDIS). Our individual advocacy experience informs our understanding and prioritisation of systemic advocacy issues.

QAI's recommendations

QAI recommends:

1. QAI considers that the Disability Support Pension in its current form has lost its purpose, is unreasonable in its eligibility criteria, fails to account for discrimination within the labour market, is inadequate in monetary value and fails to acknowledge the economic benefits of improved income support payments for people with disability. QAI therefore recommends an overhaul of the Disability Support Pension for these reasons.
2. To achieve its true purpose and genuinely financially support individuals unable to earn sufficient income from the labour market, Australia's social security system must accept greater responsibility for ensuring that all members of society, including people living with disability, have access to an acceptable standard of living. Increasing the accessibility of the Disability Support Pension and its monetary value will allow the federal government to exemplify the collective responsibility required to ensure that everyone can enjoy the same basic human rights. Societies develop best when altruism is allowed to flourish, and this must be reflected in our social security system.
3. The eradication of Australian Disability Enterprises (ADEs) and the abolition of productivity-based wage assessment tools, together with an expansion of meaningful employment roles in open employment, as a means to help to reduce discrimination in the labour market.
4. The Disability Support Pension must remain a constant safety net rather than operating as one that is taken away when recipients are trying to participate in employment to the best of their abilities.
5. The broader economic benefits of improving the financial security of people living with disability and its associated impacts on health, wellbeing, capacity to engage in employment and consequences for families and carers, must be considered when contemplating an increase to the DSP.

Introduction

QAI recently provided the following submission to the Senate Community Affairs Reference Committee inquiry into the Purpose, Intent and Adequacy of the Disability Support Pension (DSP). QAI wishes to provide this submission to the Disability Royal Commission as evidence of the institutional economic neglect that people with disability in Australia experience due to the operation of the DSP in its current form.

Whilst QAI does not provide advocacy support specifically in relation to DSP matters, our extensive experience supporting Queenslanders with disability over the years has highlighted to us its many inadequacies. The systemic economic neglect of people with disability was recently demonstrated by the federal government's exclusion of DSP recipients from the emergency Coronavirus supplements, supposedly introduced to mitigate against the economic impacts of the Covid-19 pandemic, yet unavailable to society's most vulnerable citizens.

Everyone has a right to an adequate standard of living, regardless of their disability status. This includes being able to earn a minimum wage or for those who cannot work due to their disability, being able to rely upon income security payments that do not equate to living a life in poverty. Article 28 of the Convention on the Rights of Persons with Disabilities (CRPD) confers an obligation on States Parties to ensure people with disability can access adequate food, clothing, housing, and social protection measures. The realisation of this right is also connected to the enjoyment of other basic human rights, such as the right to health, the right to work and the right to live independently in the community. It is critical to Australia's obligations under the CRPD and to its international human rights obligations more broadly and must be prioritised accordingly.

QAI considers that the DSP in its current form has lost its purpose, is unreasonable in its eligibility criteria, fails to account for discrimination within the labour market, is inadequate in monetary value and fails to acknowledge the economic benefits of improved income support payments for people with disability. This is a form of institutional economic neglect that denies people with disability access to social security and as a result, culminates in a denial of their most basic human needs, including food, water, medicine and housing.

The purpose of the DSP

Financial resources are critical to maintaining a basic standard of living and coping with life's unexpected emergencies. Ordinarily, individuals meet their basic needs by participating in the market through employment. For people with a permanent physical, intellectual, or psychiatric condition that stops them from working, financial support is available via the DSP.¹ According to liberal ideology however, welfare is only available as a limited safety net to individuals who cannot meet their own needs via the market. Individual autonomy and personal responsibility for meeting one's own needs, are the dominant values.² The extent to which this approach successfully addresses social inequality is highly contested. For example, it can be challenged by rising unemployment levels and a widening gap between the rich and the poor.

Increasingly onerous mutual obligation requirements compel individuals to continually prove they are deserving of income support. Essential financial assistance is not available simply by virtue of one's citizenship status. Instead of incentivising individuals to participate in the market and increasing the number of people with disability in employment, this merit-based model imposes unreasonable requirements onto individuals living with the consequences of disability. It decreases social solidarity by perpetuating negative attitudes

¹ Department of Social Services (May 2021) 'Disability Support Pension',
<https://www.servicesaustralia.gov.au/individuals/services/centrelink/disability-support-pension>

² Titmuss 1974, as cited in Dalton et al (1996) *Making social policy in Australia: an introduction*, St Leonards, NSW Allen & Unwin

about welfare recipients that entrench their marginalisation within the labour market.³ And it increases the number of individuals reliant upon the (inferior) JobSeeker Allowance (JSA), thus forcing many people into a life of poverty.⁴

To achieve its true purpose and genuinely financially support individuals unable to earn sufficient income from the labour market, Australia's social security system must accept greater responsibility for ensuring that all members of society, including people living with disability, have access to an acceptable standard of living. Increasing the accessibility of the DSP and its monetary value will allow the federal government to exemplify the collective responsibility required to ensure that everyone can enjoy the same basic human rights. Societies develop best when altruism is allowed to flourish,⁵ and this must be reflected in our social security system.

The DSP eligibility criteria

Many people encounter significant challenges trying to satisfy the DSP eligibility criteria which have been progressively narrowed over the years. To qualify for the DSP, a person must prove that they:

- 1) Have a physical, intellectual or psychiatric condition that is permanent i.e. fully diagnosed, fully treated and fully stabilised;
- 2) Achieve 20 points on the impairment tables:
 - a. 20 points under one table and thus classify as having a 'severe impairment'; or
 - b. 20 points across more than one table AND complete a program of support (i.e. they must actively participate in a program of support for at least 18 months during the 3-year period prior to applying for the DSP); and
- 3) Have a continuing inability to work (that is, they will not be able to work in the next 2 years for at least 15 hours a week or more).

Whilst the eligibility criteria may appear straightforward at first glance, its application in practice is far from simple. Understanding and applying terms such as 'fully treated' and 'fully stabilised' can cause much debate (for example, whether an individual is expected to comply with psychotropic medication when it is against their wishes and personal choices). Confusion also stems from the different way in which the DSP defines 'permanent impairment' in comparison to the National Disability Insurance Scheme (NDIS). Many clients have expressed frustration at proving the permanency of their disability in one system, in circumstances where permanency is not recognised by the other. The invitation to provide a CRN on an NDIS Access Request Form sets an expectation (whether intentional or not) that a connection between the two schemes exists. Greater clarity and education regarding their differences, as well as the meaning behind the eligibility criteria, would help to avoid such frustration.

Obtaining evidence that a condition is permanent can also be extremely expensive. Given that the maximum JSA for a single adult is currently \$620.80 per fortnight,⁶ DSP applicants who receive the JSA have barely enough money to pay for rent and food, let alone pay for specialist reports from a psychologist or psychiatrist. Even if such evidence is obtained, assessments can later be negated by alternative reports provided through

³ Dalton, T. et al (1996) *Making social policy in Australia: an introduction*, St Leonard's, NSW Allen & Unwin

⁴ Li, J. et al. (2019) *Inequalities in Standards of Living: Evidence for Improved Income Support for People with Disability*. NATSEM, Institute for Governance and Policy Analysis, University of Canberra.

⁵ Dalton, T. et al (1996) *Making social policy in Australia: an introduction*, St Leonard's, NSW Allen & Unwin

⁶ <https://www.servicesaustralia.gov.au/individuals/services/centrelink/jobseeker-payment/how-much-you-can-get>.

Job Capacity Assessments by Centrelink-employed medical professionals. Collating evidence that a person needs assistance is also difficult if the person is not currently receiving any help or does not have the informal support around them to verify their need for assistance.

Applicants are also subject to an income and assets test. This means that individuals with significant disability who are unable to work, can be denied access to an independent source of income due to money earned by their partner. Whilst this ensures government resources are not needlessly going to wealthy households, the threshold of income earned by a partner that subsequently disqualifies a person with disability from receiving the DSP is too low. As a result, many couples grappling with the increased costs of living associated with disability are forced to do so on only one (often average) wage. This is particularly problematic if there are power differentials within the relationship that are unhealthy or abusive, and the person with disability is forced to remain in the relationship due to having no independent source of income with which to leave.

Discrimination within the labour market and its impact upon employment

Despite the plethora of benefits associated with employing people with disability, including higher productivity levels, better retention rates, increased diversity in skills and attributes and fewer workplace injuries, people with disability experience significant levels of discrimination within the labour market. QAI considers Australian Disability Enterprises (ADEs) and productivity-based wage assessment tools as two major forms of such discrimination. These archaic institutional approaches perpetuate low expectations of and for people with disability and ignore their capacity to positively contribute to the workplace. While ADEs may have had benevolent origins, in reality ADEs function as day centres for people with disability in areas where there are limited other supports or services. Theoretically, ADEs operate as training centres that move employees with disability into open employment. However, this theory is not reflected in practice.⁷ In some instances, ADEs are highly productive and compete on the open market against other businesses yet continue to pay inadequate wages to their employees with disabilities. Rather than incentivising people with disability into the workforce, ADEs and the supported wage system demean the contribution of employees with disability through grossly insufficient remuneration and the confinement of workers to a small and undervalued sector of the labour market.

QAI considers that segregated employment settings such as ADEs sustain harmful stereotypes about people with disability and preconceived notions of their capabilities. Research consistently demonstrates that a lack of familiarity with people with disability causes prejudicial attitudes regarding their skills and abilities.⁸ Maintaining separate places of employment for people with and without disability will therefore hinder the success of efforts to improve community attitudes. The operation of ADEs and supported wage schemes also violate a person with disability's right to work on an equal basis with others, as enshrined under Article 27 of the CRPD. The psychological hurt inflicted on people with disability by schemes that openly discriminate and literally undervalue their contribution through inferior remuneration, must be addressed.

Furthermore, many people with disability undertake volunteer roles in the community and yet their contribution is rarely measured or acknowledged in workforce statistics. Some people undertake this work with the assistance of support workers whilst others volunteer independently. Some people with disability have told us they would rather volunteer in open employment and community settings than work in ADEs.

⁷ Australian Human Rights Commission (2016) 'Willing to Work: National Inquiry into Employment Discrimination against Older Australians and Australians with Disability', p242

⁸ Kantar Public (February 2017) 'Building Employer Demand: Literature Review'

Unfortunately, opportunities for paid employment are rarely forthcoming in such circumstances and prolonged volunteer roles can lead to the exploitation of people with disability.⁹ In rare situations where paid employment does eventuate from volunteer opportunities or outside of ADEs, DSP recipients are then penalised by having their payment reduced. The complex and diverse working arrangements of people living with disability must therefore be better understood and incorporated into social security schemes that seek to financially support people with disability.

The inadequacy of the DSP

QAI continues to hear from clients that the DSP is completely inadequate and insufficient to maintain an acceptable standard of living. With a current maximum rate for a single adult of \$952.70 (including maximum supplements) per fortnight,¹⁰ it is unsurprising that DSP recipients live in poverty, forced to make untenable decisions between paying for accommodation, food, bills, or medicines as the payment amount is insufficient to meet all of a person's most basic needs. Not all medicines are covered by the Pharmaceutical Benefits Scheme (PBS) and can cost a person living with disability up to \$100 a month. This is further compounded when a recipient is also a parent who is forced to choose between paying for essential food and medicines or purchasing new clothes or school materials for their child. The stress and anxiety caused by living on the poverty line can negatively impact a person's mental health and contribute to a decline in overall health and wellbeing for both the individual and their family. The nominal payment amount can also operate punitively for people living in residential facilities that charge rent as a percentage of a person's pension. For example, people living in supported accommodation are typically charged 85% of their pension amount, leaving a mere 15% (approximately \$60 a week) to spend on items such as medicines, clothes, transport, car registration, car insurance, health and/or funeral insurance, dental care etc, let alone life's unexpected costs such as when a car breaks down and needs repairing. The amount is so low that people with disability receiving the DSP are prevented from saving or spending money on leisure or recreational activities that many people without disability would consider to be vital to their health and wellbeing. That there has been no substantive increase in the payment amount over the years despite rising costs of living, is an indictment on the attitudes of successive governments towards the worth of people with disability and must be redressed as a response to this inquiry.

Inadequacies in the DSP are also apparent in the rules and bureaucracy that surround it. Onerous fortnightly reporting requirements are expected despite being futile if a person has earned as little as \$50 a month. Reporting income can be difficult when a person's payment cycle does not match Centrelink's reporting cycle period and can lead to reporting mistakes that end up leaving a person in debt. Contacting Centrelink for assistance is also notoriously challenging, with long periods spent waiting on the phone typically followed by the receipt of inconsistent information. The result is that people with disability feel like they are being 'churned' through the system and ostracised for their impairment. The psychological costs of complying with bureaucratic processes can be significant.¹¹

Clients also report challenges with the rules that govern how many hours a week a person can work before their pension amount is reduced. Different rules exist for people depending upon their type of impairment. For example, a person who is blind can earn income without having their payment reduced, whereas recipients

⁹ Disability Royal Commission (March 2021) 'Overview of responses to the Employment Issues paper', p3

¹⁰ <https://www.servicesaustralia.gov.au/individuals/services/centrelink/disability-support-pension/how-much-you-can-get/payment-rates>.

¹¹ Collie, A. et al (2019) *The Health of Disability Support Pension and Newstart Allowance Recipients*, Monash University

with other types of impairments are subject to the income test. Many clients report that the 15 hours a week threshold is too low and acts as a disincentive to work for recipients who able to engage in the workforce in a limited capacity. A person may try and stagger their hours of employment in order to avoid reaching the threshold, however this may not suit the employer and can create difficulties with their work arrangements. People receiving the DSP who are engaging in the workforce in a limited capacity are often doing so in casual roles, where stable income and regular hours of employment are not guaranteed. Reducing an already inferior payment in these circumstances discourages people with disability from contributing to the economy in any way that they can. The DSP must therefore remain a constant safety net rather than operating as one that is constantly taken away when recipients are trying to participate in employment to the best of their abilities. People with disability trying to build their skills and participate in employment in a way that suits their capabilities must not be forced to live in fear that their (already insufficient) income will be removed.

Case study

John* is a 55-year-old man who has been in receipt of the DSP his whole life. When asked about his experiences as a DSP recipient, John stated the following:

“Outside of paying bills, there is nothing left. I am forced to make impossible choices as it is not physically possible to live off the amount of money you get. I cannot go anywhere as I don’t have enough money, so I am socially isolated.”

John said that the name of the DSP is a source of stigma and discrimination in the community:

“Despite it being a stable payment, people view it negatively and banks turn you away, yet they give loans to people with jobs that could end at any moment.”

John also expressed the impact of receiving the DSP on his mental health:

“The stress and indignity of reporting to Centrelink, the lack of self-worth and dignity you feel – I am already in a wheelchair and not earning \$70,000 a year like most people, so to then have to watch what I buy at the grocery store, and not have a social life because I can’t afford to go out. It’s really hard.”

“To not be able to support my family, my wife, this hurts. Do I give the money to my wife or keep it for myself?”

In relation to working whilst being on the pension:

“How can people be expected to be in good enough shape to apply for and sustain work, if you can’t meet your basic needs and are living below the breadline? What are we meant to prioritise?”

“If I do try and work, I have to keep proving myself and my disability, over and over again.”

And finally, in relation to the purpose of the DSP:

“If we are wanting to make people feel valued members of society, we need to increase the amount. This is about helping the most vulnerable people have a better quality of life.”

*Name has been changed

The economic benefits of improved income support payments

In addition to the human rights incentives underpinning calls to improve income support payments for people with disability, the economic benefits are equally compelling. A study examining the economic implications of

increasing the DSP found that a government investment of \$3.1 billion a year would close the gap in income and standard of living for the 715,000 households with a member receiving the DSP by nearly 50%.¹² This investment and a subsequent reduction in poverty levels will reduce costs in other systems, such as the health care system, as poverty and financial distress are both linked to poor health outcomes and an increased utilisation of health care services.¹³ Improved health will also have subsequent impacts on employment levels, with a reduction in health issues meaning that more people will be able to participate in employment and thus contribute back into the economy.¹⁴ Improving the economic and social participation of people with disability is the essence of Australia's obligations under the CRPD and National Disability Strategy.¹⁵ For people to live independently in the community, they must be able to maintain a basic standard of living and require sufficient income support in order to do this. Inadequate income support and the associated consequences of ill-health also has implications for carers and family members, whose own health and capacity to participate in the workforce will be affected due to an increase in carer responsibilities.

We therefore need an approach that considers the broader economic benefits of improving the financial security of people living with disability and its associated impacts on health, wellbeing, capacity to engage in employment and consequences for families and carers. Our social security system must adequately support all people with disability to enjoy a standard of living that we would all consider reasonable. For those who can participate in the workforce, it must support them in a way that upholds their dignity whilst preserving and encouraging their opportunities for employment.

Conclusion

QAI thanks the Disability Royal Commission for the opportunity to provide this submission. QAI consents to the publication of this submission and is happy to provide further information or clarification upon request.

¹² Li, J. et al. (2019) *Inequalities in Standards of Living: Evidence for Improved Income Support for People with Disability*. NATSEM, Institute for Governance and Policy Analysis, University of Canberra.

¹³ Collie, A. et al (2019) *The Health of Disability Support Pension and Newstart Allowance Recipients*, Monash University

¹⁴ Ibid

¹⁵ Li, J. et al. (2019) *Inequalities in Standards of Living: Evidence for Improved Income Support for People with Disability*. NATSEM, Institute for Governance and Policy Analysis, University of Canberra.