Research Insights

Improving access and inclusion in employment for people with disabilities
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Executive Summary

The inclusion of people with disabilities in the workforce is a social and economic imperative for Australia. However, barriers to employment and retention persist, as reflected in low workforce participation rates among people with disabilities. Key barriers to access and inclusion in the workplace include: (1) lack of access to education and training, (2) misconceptions and stigma, (3) non-inclusive workplace environments, and (4) discrimination. Some barriers may be addressed through various activities, including training and education programs for people with disabilities and for people without, the systematic provision of workplace adjustments, and the implementation of more inclusive organisational practices. The Centre for Workplace Leadership has established a research program to promote more inclusive workplaces for individuals with disabilities.

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Introduction

Rates of disability have increased steadily over the last three decades across developed countries. In Australia, approximately 18.5% of the population live with some form of disability. Despite comprising nearly a fifth of the population, people with disabilities remain poorly represented in the labour market in Australia. The 2012 Survey of Disability, Ageing and Carers conducted by the Australian Bureau of Statistics (the ABS) reported that working aged persons (aged 15-64 years) with disabilities have lower workforce participation rates (54.3%) and higher unemployment rates (9.4%) than people without disability (82.8% and 4.9%, respectively). Workforce participation rates for persons with disabilities remained stable from 2009 to 2012. However, unemployment rates jumped from 7.8% in 2009 to 9.4% in 2012. Increasing employment rates for people with disabilities will require significant policy reform in a wide range of areas, from workplace adjustments, to work health and safety and workers’ compensation and insurance, to social welfare and disability employment services. A key imperative will be to rapidly increase the participation of disabled employees in the paid workforce. Achieving this is not only important to ensure that people with a disability are included in the community but also has benefits for employers and the broader economy. This report provides an overview of the barriers often faced by people with disabilities in gaining and maintaining employment. It also examines the major challenges – both real and perceived – that employers experience when employing people with disabilities.

Defining Disability

Arriving at a single definition of ‘disability’ is difficult, given that it is defined differently according to the context.

In the international sphere, disability is believed to be an ‘evolving concept’. In the United Nations Convention on the Rights of Persons with Disabilities (the CRPD), disability is described as ‘the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others’. By defining disability as an interaction as opposed to an attribute of an individual, the CRPD adopts the social model of disability and encourages improving social participation by removing the barriers existing in society which negatively impact the lives of people with disabilities.

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As a signatory ratifying the treaty in 2008, Australia is legally bound by the CRPD and must take steps to abide by its articles, including the inclusive approach to disability. The expansive interpretation of disability is supported in the Australian context through the Disability Discrimination Act 1992 (Cth) (the DDA) where disability has been legislatively defined as:

(a) total or partial loss of the person’s bodily or mental functions; or
(b) total or partial loss of a part of the body; or
(c) the presence in the body of organisms causing disease or illness; or
(d) the presence in the body of organisms capable of causing disease or illness; or
(e) the malfunction, malformation or disfigurement of a part of the person’s body; or
(f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
(g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour;

and includes a disability that:

(h) presently exists; or
(i) previously existed but no longer exists; or
(j) may exist in the future (including because of a genetic predisposition to that disability); or
(k) is imputed to a person.

To avoid doubt, a disability that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability.6

Since 2009, the DDA has provided an express obligation on employers to support people with disabilities through reasonable workplace adjustments. Workplace adjustments are reasonable accommodations which reduce barriers to employment by modifying the job and/or work environment to allow qualified individuals with disabilities to apply for jobs and perform the essential duties of the job7.

Given the broad definition of disability in discrimination legislation, protection from discrimination in employment can be afforded not only to those with a visible disability, but to employees with hidden impairments that may not have been traditionally thought to be a ‘disability’. From breast cancer8 to menopause9 and Parkinson’s disease10 to multiple sclerosis,11 the literature suggests that ‘disability’ is best thought of as an umbrella term which includes any limitation, restriction or impairment which restricts everyday activities. While defining the term ‘disability’ is notoriously challenging, the Centre for Workplace Leadership adopts the broad definition as codified in Australian disability discrimination legislation.

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Why Increasing Participation is Important

Increasing workforce participation of people with disabilities has both economic and social incentives. From an economic perspective, by recruiting and retaining employees with disabilities, organisations:

- reduce the reliance on social welfare;
- reduce retraining costs through the retention of employees that acquire a disability;
- increase worker and workplace productivity; and
- create a positive, diverse workplace environment, which can lead to higher group performance.

In Australia, research has indicated that people with disabilities fare worse for every indicator (education, income, employment and housing) compared to people without a disability. Therefore, increasing workforce participation of people with disabilities has important social impacts which can be seen as the first step toward improving the quality of life of people with disabilities.

From a social perspective, research has shown that increasing labour force participation of people with disabilities:

- produces a better standard of living;
- increases mental and physical health; and
- creates a more inclusive and barrier-free society, where people with disabilities can achieve high rates of job satisfaction, resulting in fulfilling and happy lives.

Barriers to Inclusion in the Workplace

While contemporary organisations strive towards creating positive and inclusive workplaces, research indicates that people with disabilities are still experiencing barriers in gaining and maintaining employment. A recent Inquiry by the Australian Human Rights Commission (the AHRC) titled Willing to Work identified the barriers that often arise in workforce participation for people with disabilities.

In this section, we describe four barriers often faced by people with disabilities – lack of access to education and training, misconceptions and stigma, non-inclusive workplace environments and discrimination. Admittedly, these barriers are highly interrelated. Furthermore, this is not intended as an exhaustive list, but it is representative of a significant amount of existing research. These four barriers are discussed as a useful way to illustrate the potential ways to address barriers to the access and inclusion of people with disabilities.

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Barrier 1: Lack of access to education and training

The Willing to Work Inquiry illustrated that people with a disability have significantly lower rates of education than people without a disability. The Inquiry also highlighted that access to education and training has a significant and ongoing impact on workforce participation for people with disabilities.16 People with disabilities lack education and training access and opportunities which, as a result, harms employment prospects.

In 2015 the ABS reported on the low rates of education of people with disabilities compared to people without disabilities. The survey found that the proportion of Australians aged 15 to 64 with a disability who had completed Year 12 had increased from 35.6% in 2012 to 41% in 2015. However, these statistics are still low in comparison to people without a disability, which also increased slightly (59.8% in 2012 to 62.8% in 2015).17 While the proportion of Australians aged 15 to 64 with a disability who reported completing a Bachelor Degree or above also increased from 15% in 2012 to 17% in 2015, this proportion remains significantly lower than that of people without a disability (26% in 2012 to 30.1% in 2015).18

A 2015 Senate Inquiry into students with disabilities reported that 'under-education leads to unemployment, lower levels of health, social isolation and a lifetime of disadvantage'.19 Despite the drafting of Education Standards in 2005 under the Disability Discrimination Act, research indicates that the education system is failing to meet the needs of students with disabilities, leaving them ill-equipped for employment.20 A 2011 review of the Education Standards conducted by Children and Young People with Disability Australia (CYDA) – a national advocacy group for children and young people living with a disability – confirms this is still a prominent issue in Australia. The review stated that the ‘present education system is not adequately meeting the needs of many students with disability’.21

Contributing to a lack of access to education, people with disabilities also lack support transitioning from school to further education or employment. Despite the implementation of transition programs and related initiatives, there are inadequate post-school transition processes to help people with disabilities transition into the workplace, resulting in poor life outcomes for people with disabilities.22

Both the low rates of education and inadequate post-school transition processes are systemic issues that need to be addressed in order to improve workforce participation for people with disabilities.

Response to Barrier 1

Improving access to education and training for people with disability in Australia would improve employment prospects, enable people with disabilities to be confident in their skills and better prepare them for employment. Education also opens doors to social inclusion and independence for people with disabilities.23 The AHRC canvasses the barriers and difficulties that students with disabilities face when accessing

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19 Senate Standing Committee on Education and Employment, Parliament of Australia. (2016) Current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of support, 4.
education in Australia. The comprehensive list of 31 separate, yet equally pertinent, barriers and difficulties were raised in consultations with the Disability Discrimination Commission back in 1996.

Despite the list being 20 years old, some of the issues raised still remain for students with disabilities in Australia. Addressing some of these issues is a key priority in the National Disability Strategy 2010-2020. The strategy serves as a national policy framework to improve the lives of people with disabilities. It outlines areas for future action in the education context and proposes key policy directions that need to be addressed.

A report published by the Department of Social Services on the implementation of the Strategy was released in 2012. The report was addressed to the Council of Australian Governments, suggesting ways in which existing barriers in the current education system could be reduced and how access to a high-quality inclusive education system could be simplified for people with disabilities. The report makes practical suggestions on what needs to be improved in the education system to achieve the goals of the Strategy, explains why these actions are important, how it can be done and who should be responsible.

Some of the issues highlighted in the report were picked up by CYDA, who published a report on post school transition processes. The report made the following recommendations on how to improve post school transition processes in their report titled ‘Post School Transition’:

- Develop a system for recording reported breaches of the Disability Standards for Education 2005 and directly monitor particular schools or education authorities who are regular offenders.
- Establish an independent, public complaints mechanism which would allow for more expedient reviews, resolutions and sanctions for proven instances of disability discrimination.
- Begin collecting national data regarding post school outcomes for students with disability.
- Request the Australian Government Department of Education and Training and/or the Council of Australian Governments Education Council articulate a clear strategy on how disability loading is designed, implemented and the outcomes to be expected.
- Develop a national resource on post school transition for schools to help young people with disabilities, families, caregivers and schools prepare for transition.
- Introduce a mandatory professional development course for school staff which covers options available to students with disabilities who are about to make the transition for school to either further education or employment.
- Develop a national policy on post school transition for students with disability.

Barrier 2: Misconceptions and stigma

Stigmatisation and misconceptions about disability impede integration into the workforce. People with disabilities are often underestimated and perceived to be less capable and unreliable. This is not specific to the employment context, nor does it exclusively reflect corporate culture. These perceptions exist in

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Related to the negative stigma of disability is the daunting nature of disclosure. Disclosure can be particularly difficult for people with less visible disabilities, such as mental health, or with degenerative conditions, such as Parkinson’s disease, multiple sclerosis, osteoarthritis and inflammatory arthritis, or cancer. People with disabilities often avoid disclosure out of fear that they will be treated differently, not be offered challenging work, miss out on promotional opportunities, attract the label of ‘disabled’ or be perceived as incapable. Research also suggests that people with a history of mental health issues or intellectual disabilities are particularly stigmatised by employers.

Response to Barrier 2

Misconceptions about disability, negative attitudes and stereotypes can often drive discriminatory behaviour and disadvantage employees with disabilities.

Management and organisational studies have explored the concept of ableism and the organisational experiences of people with disabilities in employment. This research has exposed and challenged ableist assumptions in contemporary workplaces. Ableism in the modern workplace reinforces the stereotype of disabled employees being less capable, less willing, less productive, and therefore less valuable to employers.

Organisations should work towards providing awareness training for managers and human resources (HR) personnel, to enable them to identify and challenge stereotypical and biased behaviours in the workplace. The Willing to Work Inquiry included recommendations around having universities, TAFEs and vocational education providers promote the universal inclusion of diversity and inclusion training in all management and supervisory related courses.

Barrier 3: Non-Inclusive workplace environments

Despite efforts to make modern organisations accessible to people with disabilities, many workplaces are often inaccessible due to problematic building design, technological constraints, software issues and limited methods of communication. The Willing to Work Inquiry reported these barriers and suggested that employers and colleagues were often unwilling to overcome accessibility issues, even where this necessitated only small changes.

Research has shown that implementing workplace adjustments can have positive impacts on employment for people with disabilities. While many of the accessibility issues mentioned above could be overcome by implementing workplace adjustments, there is low uptake in the Australian workforce. For example, a research study on people with arthritis found that many employees with arthritis do not use adjustments until

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they need them. But once implemented (at a low cost), the adjustments produced positive outcomes for employees.37

Requesting a workplace adjustment requires disclosure, which an employee may find daunting in and of itself, as mentioned previously. Disclosure will typically be affected by the nature of the disability (visible, hidden, stigmatised or multiple), the severity of the disability and the perceived disability-friendliness of the organisation.38 In addition to the fear of disclosure, low uptake of workplace adjustments may be a result of the negative stigma of disability and the fear of being labelled unproductive in a market of downsized workplaces.39

Response to Barrier 3

Implementing flexibility in Australian workplaces should not be treated as a workplace adjustment, but rather as broader organisational change.40 Making workplaces more accessible and ensuring employers understand their obligations under legislation to provide reasonable adjustments will help organisations be more inclusive of employees with disabilities.

Due to the negative stigma often associated with having a disability, employees often do not disclose their disabilities to employers. Organisations need to present themselves as “disability-friendly” and ensure that employees feel comfortable to disclose by raising the level of confidence around the disability disclosure process.41 This will also help organisations to be aware of the prevalence of disability in their workforces and understand the needs of their employees.

A policy submission published by Mission Australia in 2013 outlined the benefits of introducing a formal disability disclosure process. Such a process:

- encourages employers to set targets for hiring people with disabilities;
- highlights the disability-friendliness of the organisation to potential employees;
- gives employers a better understanding of the prevalence of disability in their workplace;
- and gives employers a better indication of the demand for workplace adjustments.42

Establishing a committee for workplace adjustments may help employees feel more comfortable disclosing disabilities and aid in the process of requesting and receiving relevant adjustments to the workplace environment.43

Barrier 4: Discrimination

The DDA prohibits an employer from discriminating against someone on the grounds of disability and obliges them to offer the same employment opportunities to people with disabilities as people without

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disabilities. This legislation aims to protect people from discrimination because of their disability and ensure the equality of opportunity for people with disabilities. However, people with disabilities are still less likely to be working than other Australians. Discrimination against people with disabilities continues to be a major barrier to improving workforce participation.

Disability discrimination legislation prohibits discrimination in employment, and the Convention on the Rights of Persons with Disabilities articulates a right to work. Nonetheless, the AHRC receives a large number of employment-related disability discrimination complaints. In 2014-15, 34% of the disability discrimination complaints made to the Commission were related to employment. This is second only to complaints relating to goods, services and facilities, which made up 37% of the complaints in 2014-2015. However, a discrimination complaint made in relation to a facility may have been employment-related if the facility was an inaccessible workplace, or may come under the ‘access to premises’ category, which made up 7% of the complaints.

Education is listed as the third highest area where disability discrimination complaints are made. As discussed earlier, improving access to education and training for people with disability in Australia would improve employment prospects. However, if discrimination is still occurring in the education context, improving the experience for people with disabilities requires systemic change to ensure that the right to access both education and employment is recognised and respected.

It is important to note that these statistics only represent the complaints formally made to the AHRC, which is the federal discrimination complaints jurisdiction. They do not cover the complaints made under State and Territory discrimination laws.

People with disabilities may also avoid making complaints relating to discriminatory behaviour due to the inaccessibility of disability discrimination complaint procedures. The process is argued to be inaccessible due to the following factors:

- The process is too costly, especially if the complainant decides to take further action in the courts where legal representation may be required.
- The burden of proof for complainants is too onerous, particularly after the High Court decision in Purvis v New South Wales [2003] HCA 62; 217 CLR 92, which set a high threshold for establishing discrimination.
- The legislative requirement to attend a conciliation conference is too intimidating. While conciliation may offer complainants a cost-effective, flexible, informal and efficient means of resolving a complaint, it can also have negative impacts on people with disabilities. For example, complainants may feel pressure to drop the complaint due to a lack of power in a conciliation setting, especially if the other side has representation. This makes it difficult for discrimination legislation to achieve its wider public policy goals of ensuring equal access and opportunity for people with disabilities and broader social change.

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44 Disability Discrimination Act 1992 (Cth) s 5, 6.
45 Disability Discrimination Act 1992 (Cth) s 15.

48 Craig Wallace (2014) 'Disability reform in Australia: unfinished business.' Precedent (Sydney NSW), Issue 125.
Response to Barrier 4

To improve workforce participation of people with disabilities and address discrimination against people with disabilities in the employment context, employer practices must change to support and include people with a disability.

There has been little to no improvement in disability employment rates over the past decade, despite the Australian Government’s implementation of targeted strategies and initiatives, including awareness raising, wage subsidies and welfare reform. Workplace adjustments are often thought by employers to be too difficult and too costly. As a result, employers often feel they do not have the required support to implement workplace adjustments, despite a willingness to do so. Furthermore, while organisations acknowledge the benefits of workplace adjustments, the adjustments are often poorly planned or executed.52

To increase employment levels of people with disabilities, legislation needs to tackle access to employment, rather than wage differentials.53 Such legislation needs to relate to targets for hiring people with disabilities and mandatory reporting on rates of employees with disabilities.

Improving the experience of people with disabilities in both the education and employment contexts will require deep systematic change in Australia, which will require a deeper understanding of the mechanisms underlying and driving access and inclusion.

Conclusion and Future Directions

The Centre for Workplace Leadership has established a research program around improving employment outcomes for people with disabilities. In 2016, the Centre for Workplace Leadership partnered with the Australian Network on Disability (AND) and has to date supported the AND’s development of the Access and Inclusion Index – an educational tool to help employers be more inclusive of employees with disabilities. This index was launched in August 2016.

This partnership with AND has extended to a research project on the adoption of workplace adjustments within organisations. The overarching purpose of this research project is to investigate the workplace barriers for people with disabilities by examining the effects of workplace adjustment characteristics on people with disabilities in Australian organisations.

The Centre for Workplace Leadership plans to continue working with AND and other like-minded partners to develop a better approach to creating more opportunities for people with disabilities to step into employment, as well as to being more inclusive. The results of such research will improve access and inclusion for people with disabilities in organisations by reporting on best practices and identifying ways in which organisations can improve in this domain.

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