

28 July 2021

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600
community.affairs.sen@aph.gov.au

Dear Committee members,

Submission to the Senate Community Affairs References Committee inquiry into the purpose, intent and adequacy of the Disability Support Pension

The Brotherhood of St. Laurence (BSL) welcomes the opportunity to contribute to this inquiry, drawing on our work with people with disability as well as research conducted by our Research and Policy Centre.

While the terms of reference of the inquiry are limited to the Disability Support Pension, we argue that it must be seen in context of other policies that enable or undermine the employment and economic security of people with disability. It also must be understood in relation to other forms of income support, and to the NDIS.

This submission focuses on the impacts of the current eligibility criteria, assessment and determination processes (ToR 2) and on its capacity to support persons with disabilities and ill health, including their labour market participation (ToR 5).

Eligibility criteria restrict access to the Disability Support Pension (ToR 2)

We are concerned that there are many people living with a disability or chronic condition who cannot access the Disability Support Pension (DSP). This is a direct result of changes made to eligibility criteria over past 20 years that have gradually excluded people with a 'partial capacity to work' (currently those assessed as able to work at least 15 hours per week).

In addition, many applicants struggle with the numerous bureaucratic and financial hurdles they must overcome to access the DSP, including meeting the Program of Support requirements, undergoing a Job Capacity Assessment to show that their condition is fully diagnosed, treated and stabilised and prevents them from working and having a Disability Medical Assessment to assess whether their condition attracts the required points in the impairment tables.

People with disability have told us that information about the DSP application and assessment process is poor and they feel unsupported and confused by the process and the outcome (see Attachment A). For those with additional vulnerabilities, such as First Nations peoples in regional and remote Australia, the requirements can make the DSP inaccessible.

We believe that people should not be denied access to DSP based on their inability to pay for expensive medical consultations or transport to gather medical evidence. Nor should people be disadvantaged by their lack of networks, their limited proficiency in English or their location further away from medical and allied health services.

The result of the restricted eligibility is that a growing number of people with disability are excluded. Since 2006, the number of people accessing DSP has fallen from 815,251 in April 2011 to 752,274 in April 2021.¹ Importantly, the success rate of applications fell from 63% in 2011 to just 25.5% in 2015–16 before rising to 41% as at 30 April 2021).²

Capacity of DSP to support persons with disabilities and ill health, including their labour market participation (TOR 5)

The unfortunate and serious effect of strictly limited access to DSP is that many people with disability are consigned to a lower income (on JobSeeker Payment) that is inadequate and does not enable them to meet their living costs or find and retain work that suits their health situation.

[DSS demographic data](#) show that in March 2021, 374,367 people who were receiving JobSeeker Payment were assessed as having a ‘partial capacity to work’. This category grew from just 10% of JobSeeker recipients 2007 to 40% in 2019 ([Parliamentary Budget Office 2020, p.13](#)). In March 2021, 374,367 people on JobSeeker Payment were deemed to have a partial capacity to work. That accounted for 32% of all those on JobSeeker Payment.³

The JobSeeker Payment has been widely acknowledged as inadequate, especially for those with additional disability related costs. As of April 2021, the maximum rate per fortnight for a single person with no children on the JobSeeker Payment was \$620.80 ([Services Australia 2021b](#)), compared with \$868.30 on DSP ([Services Australia 2021a](#)). Furthermore, people receiving DSP are eligible for a range of allowances and concessions to assist with the cost of disability.

It is important to note that the determination that a person with disability has a partial capacity to work does not translate to an ability to secure work. They are disadvantaged in a labour market characterised by insecure work, discrimination against people with disability and, recently, volatility caused by the COVID-19 pandemic.

Moreover, the employment services system is too often preoccupied with compliance and under-resourced to provide the support, training and engagement with employers required to overcome multiple barriers (see, for example, [our research](#) on mature age jobseekers, many of whom have chronic illness or disability).

¹ Data provided by the Department of Social Services, July 2021, Table 1.

² Data provided by the Department of Social Services, July 2021, Table 2.

³ Although JobSeeker numbers have fallen somewhat since early 2021 they remain much higher than prior to the pandemic.

As a result, people with a partial capacity to work spend longer on the JobSeeker Payment than the general JobSeeker population (St Guillaume 2020).

Recommendations

To address these issues, we recommend that the federal government take immediate action to:

- **Review the DSP application and assessment process**, particularly as it relates to applicants having to demonstrate their condition is fully diagnosed, treated and stabilised. The process should be based in principles of equity, accessible information, transparency and timeliness. Our recommendations, which align with those made by Associate Professor Karen Soldatic et al. in their submission, are as follows:
 - Remove Fully Diagnosed, Treated and Stabilised Criteria as part of a comprehensive review of the eligibility requirements
 - Develop more extensive community outreach and information dissemination strategies about the DSP to ensure that service providers, medical practitioners and health care providers can support high-quality applications
 - Ensure that all applicants have timely, accessible information, and coordinate communication pathways and support during the application process for individual applicants and their support networks
 - Implement a timeframe of 3 months maximum to determine DSP eligibility
 - Offer comprehensive outcome information and support for applicants following an unsuccessful claim
 - Exempt individuals applying for the DSP from Jobseeker Payment reporting and work activities during the process and while awaiting determination.
- **Establish an independent body to regularly review the structure and rates of social security payments** to ensure all people can live with dignity and fully participate in community, social and economic life.
- **Ensure the employment services system** addresses the needs of jobseekers with complex needs, including those with a partial capacity to work. This new model should focus more on personalised support, skills development and employer engagement rather than on compliance.
- **Review and revise policy objectives across the income support, employment services and NDIS systems** to ensure they advance the economic and social empowerment of all people living with physical, intellectual or psychiatric impairment in line with Australia's obligations under the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of Persons with Disabilities.
- **Closely consult with people with lived experience of disability and their representative organisations** to actively involve them in reviewing the DSP.

We welcome the opportunity to discuss this submission with the committee.

Yours sincerely

Shelley Mallett

Director, Research and Policy Centre, Brotherhood of St Laurence

Professorial Fellow, Social Policy, University of Melbourne

Smallett@bsl.org.au

M: 0438 022 985

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Attachment A: Feedback from people with disability and families, and BSL NDIS staff

In preparation for this submission, BSL consulted with people with disability about their experiences of applying for the Disability Support Pension.

All the people we spoke with said that they had difficulties with the DSP application and assessment process, information was poor, they felt unsupported and they were confused by the process and the outcome.

Confusion and concern about the time consuming, expensive and uncertain process of assessment

The people with disability we spoke with said the application process was confusing and difficult, and that the response to them was uncaring:

It seems as though no one really understands the application or how to help.

I would get called and I never really understood what was going on or why I was being called. Maybe I was doing a test or an assessment, I am not really sure.

There was also concern that people making the assessments were unqualified or underqualified to understand the applicant's condition. Errors made by the assessors could not be addressed other than by resubmitting or appealing the decision, which took time and added to the frustration.

... clear errors by the assessors on my applications ... After finding these errors there was no clear way to correct them even after submitting a letter from my GP saying that they are blatantly wrong.

People with disability indicated that they often had to repeat the process without any guarantee of success.

One person reported they needed to hire an advocate to help them access the DPS, because the process was too difficult and confusing for them, and even for other the non-disabled people supporting them.

People with disability described the process as stressful and difficult, with one indicating it was 'demeaning, discriminatory and incredibly ableist'.

It was not necessarily hard to give evidence of a disability, but the difficulties were in proving *the extent* of the disability:

I was really scared that the information my health care providers provided might be irrelevant to the DSP or not understood by the people assessing me.

Others also reported that, as well as being slow, the process was expensive:

The process of getting reports is also quite expensive, especially when you are needing reports from multiple specialists.

BSL staff comments reinforced the experiences of people with disability, indicating that the process was difficult and long and many people needed support to complete it:

It's rare that people know about and understand "fully treated, fully diagnosed and fully stabilised" and therefore medical evidence is often lacking in the required information.

Increased access to information for people and clinicians to understand the criteria for the DSP and the evidence provided is very important to ensuring accessibility of the process and reduced stress and trauma for those going through the process.

Staff reported that they had worked with many people who had applied and been rejected, or were afraid to apply because they felt DSP is impossible to get.

They also said that the process is very complex and repetitive, duplicating data that Centrelink already has access to, such as information from people who were already on JobSeeker.

The process was more extensive than applications to the NDIS, which requires evidence of significant impairment.

One support worker suggested that eligibility for the NDIS should automatically establish a sufficient level of disability to qualify for the DSP.

Staff also told us that many people are disadvantaged in the process such as not understanding the medical evidence required and obtaining reports that do not provide all the relevant information, the financial barriers of getting reports from specialists, as well as long wait lists to see their treating specialist.

Participants who are homeless or have been unable to regularly engage with the same clinic are particularly disadvantaged as they are often unable to obtain the evidence they need.

The review process was similarly unclear with little clear information about appealing decisions

The people who had been rejected told us that they were given little information other than to ask for a review or resubmit – and very little information on how to do either of these:

..no information about why I was rejected until I asked for the paperwork, any time I did ask why it was simply I did not meet the criteria. No one told me why I didn't or if it was even correct if I didn't.

Being knocked back from DSP plunged people into poverty and this affected their health.

[She] had to approach various charities to 'beg' for food, clothes, assistance with paying bills etc. because she could not meet the activity requirements, long term, of Newstart so kept getting breached –and [her] health became worse with the stress etc. of all this.

BSL staff who work with people with disability told us that there are few options for the person apart from obtaining new reports and appealing the decision.

Outcomes of being rejected for DSP are often detrimental, including:

- accessing employment services and attempting to comply with obligations they were unable to fulfil, resulting in payment suspension or cancellation. Staff reported this has resulted in destitution and, in one instance, homelessness
- relying on lower income support payments that impacted on their ability to meet medical costs
- going on JobSeeker Payment and applying for multiple exemptions from engagement in employment services.