STATEMENT OF PROFESSOR KAREN FISHER

Name: Karen Fisher

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1. This statement made by me accurately sets out the evidence that I am prepared to give to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. This statement is true and correct to the best of my knowledge and belief.

2. The views I express in this statement are my own based on my education, training and experience. They are not intended to represent any views of my employer or in any representative capacity in which I act.

Professional background

3. I am a Professor at the Social Policy Research Centre (SPRC) at the University of New South Wales Sydney. My qualifications are BA/LLB(hons), MEconomics, PhD Social Policy and Fellow of the Academy of Social Sciences in Australia (FASSA).

4. I lead the Disability Policy Research Program at the SPRC, responsible for research and evaluation of disability and mental health policy in Australia and China. I have held NSW Ministerial appointments as Official Visitor for mental health services and disability accommodation services.

5. My curriculum vitae is annexed to this statement and marked D20/43162

Importance of employment and its multidirectional effects

6. Meaningful employment is important for all citizens, whether it is paid or unpaid, in the public or private realm. An inclusive term to describe these activities is work. The

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importance of work is due to the impact of work on a person's economic security, social connections, status and contribution. The impact of work or lack of work on health and wellbeing is multidirectional, that is health and wellbeing also affect how someone works. Our research on the work experiences of people with intellectual disability illustrates this multidirectional effect of work and wellbeing:

The importance of work is profound due to its multidirectional effects on social, emotional, health, and economic rights. Research highlights, for example, that the opportunity to work in stable employment of one's choice under just and favourable conditions is intricately linked with health, well-being, and social, economic, and financial inclusion. For these reasons, the right to employment is recognised by the Universal Declaration of Human Rights (Article 23), with the declaration recognising the link between employment and attaining and holding human dignity.1

7. Our research with people with disability reinforces the value of work to them. Their experiences are from two perspectives, either from their experience of being in work or their aspiration to be in work. For example, our national action research project to promote community inclusion found:

Employment was a common aspiration for many participants in all 11 sites. A broad range of types of employment was achieved by participants, including paid employment in the open market, social enterprises, supported employment, work experience, and volunteering. For most people, employment was geared towards voluntary, internships and supported employment, at least initially. For some people this was with a view to obtaining the skills and experience to continue to open employment without support in the future. For others employment was another means of social inclusion, connection and contribution, irrespective of

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whether it was paid. Only a handful of participants were in open employment and most of these had worked in open employment prior to the [program].

Barriers to employment of people with disability

Attitudes

8. Attitudes are a barrier to employment because they prevent people entering work and staying in work. At the least, negative attitudes lower expectations about the right to work, at worse they result in abuse in the workplace. Community expectations about low or no capacity to work prevent people from considering work or entering the labour market. Negative attitudes that affect people’s right to work encompass people’s life course and life domains. People with disability face these attitudes from early childhood, such as access to educational and social opportunities equal to other children. Equally, in the community and workplaces, they face negative attitudes about their capacity to work from employers, workmates, colleagues, customers and community members. The Commonwealth commissioned us to research about community attitudes and effective policy interventions. A copy of the article I co-authored titled ‘Policies to change attitudes to people with disabilities’ is annexed to this statement and marked D20/43163.

We found the following:

Negative attitudes are a major barrier to the equality of people with disabilities. Governments and other organizations have implemented numerous programmes to change attitudes towards people with disabilities. We analyse[d] published evidence about the effectiveness of such programmes using a framework of the interrelationship among three levels of policy intervention to change attitudes: personal level – directed at changing the attitudes of individuals; organizational level – concerning attitudinal barriers in domains such as employment, education and health; and government level – legally mandating behaviour change. The analysis [found] that the following policy types can be effective if used together: policies that involve direct contact with people with disability; information and

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awareness campaigns; education and training about disability; and antidiscrimination enforcement. Policy characteristics that contribute to effectiveness include a positive programme experience for participants; multifaceted and prolonged interventions; and adequate programme resources. Policy effectiveness to change attitudes relies on corresponding reinforcement at all three policy levels.  

9. The impact of these negative attitudes to employment of people with disability are lower self-expectations, lower participation rates and lower work conditions. The part of the community attitudes research about employment found the following impact and possible policy interventions:

People with disabilities have much lower employment rates than people without disabilities, and negative attitudes of employers and workmates have been identified as an important reason for this. Studies from Australia, the UK, Canada and other countries show that many employers are reluctant to employ people with disabilities, especially those with mental health issues, learning disabilities or blindness. Reasons for their reluctance include negative employer attitudes, and these are often due to misconceptions about the capabilities of people with disabilities, the cost of workplace modifications, stereotyping and fear of workplace disruption. To address attitudinal barriers in the workplace, numerous training and support programmes for employers have been created. In the USA, for example, the Tilting at Windmills programme was first developed in 1980 and has been widely used in most states. It is designed to increase awareness of attitudes through activities and discussions. The Australian Government provides information, training and links to government financial support via its JobAccess website (http://jobaccess.gov.au), not dissimilar to the Australian Network on Disability www.and.org.au, which includes business, government and not-for-profit organizations. Approaches to changing employers' attitudes include: leadership from the top; government support to employers in the form of information, resources and recognition; credible and reliable sources of information and awareness training to share best practice; and networks for

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recruitment and support. Workplaces where managers have personal experience of disabilities are the most accommodating towards recruiting people with disabilities. Initiatives to change co-workers' attitudes include information, contact and training.5

10. Under the National Disability Strategy 2010-2020, governments applied the above three level framework to attempt to improve attitudes. An example of policy to change personal level attitudes to employment is using arts and media, such as Employable Me, ABC TV. Our review of the NDS showed a positive impact from this type of policy:

Stakeholders in one roundtable described the 2018 ABC TV program Employable Me as a positive example of public awareness raising around the employment of people with disability. Jointly funded by the ABC, Screen Australia and the NSW Department of Family and Community Services, and produced by Northern Pictures, Employable Me was a three-part documentary that followed nine neurodiverse Australians as they tried to find a job. The program was funded through the NSW Disability Inclusion Plan with the hope that it would help change employers' attitudes about extending opportunities to people with disability. Stakeholders commented that it had wide reach for a small investment, with 400,000 viewers of the final episode in the series. Another season of the program [was] release[d] in 2019. Comparison was also made to the success of the You Can't Ask That series.6

Employment experiences of people with intellectual disability

11. Barriers to finding and maintaining open employment for people with intellectual disability are structural, organisational, attitudinal and insufficient adjustment and support for capacity. The Commonwealth commissioned us to research the employment experiences of people with intellectual disability in open employment, social enterprises and Australian Disability Enterprises (ADE). Copies of an article I co-authored titled 'Barriers to finding and maintaining open employment for people with intellectual

disability in Australia’, a report I co-authored titled ‘What do people with intellectual
disability think about their jobs and the support they receive at work? A comparative
study of three employment support models: Final report’ and an article based on the
report titled ‘Perspectives of people with intellectual disability about open, sheltered and
social enterprise employment: Implications for expanding employment choice through
social enterprises’ are annexed to this statement and marked D20/43164, D20/43165, and D20/43166, respectively. In summary the findings about barriers were:

Everyone has the right to employment. Work is important for health, well-being,
and social, economic, and financial inclusion. However, it is often difficult for
people with intellectual disability to find and maintain work, especially in the open
labour market. Policy challenges remain about who can access open
employment (also sometimes called competitive or supported employment) and
how often people with intellectual disability do so. Greater understanding about
the barriers that people with intellectual disability encounter when they try to find
and keep work in open employment is needed. Drawing on research with 51
people with intellectual disability in Australia, the paper examine[d] the systemic
barriers they report to finding and maintaining work in open employment. The
findings highlight that the barriers they experience stem from narrow, dismissive,
and discouraging attitudes to their work in open employment and from a
spectrum of experiences of stigma and discrimination in open workplaces. The
paper thus provide[d] new knowledge about reasons that people with intellectual
disability may either reject or not continue in open employment and take up less
inclusive work options. The paper discuss[e] the implications of the findings,
including the need for policy development for attitudinal change, designing more

7 Meltzer et al 2020, D20/43164
people with intellectual disability think about their jobs and the support they receive at work? A
Sydney: Social Policy Research Centre, UNSW Australia, D20/43165
disability about open, sheltered and social enterprise employment: Implications for expanding
225-244. https://doi.org/10.1108/SEJ-06-2017-0034, D20/43166
varied roles for employees with intellectual disability, ensuring access to industrial relations protections, and increasing and better regulating and funding requirements on support to people with intellectual disability who are seeking work in open employment.\textsuperscript{10}

Some people with intellectual disability felt that they had not had the opportunity to make their own choices about where they would work or they felt they had made constrained choices. It was uncommon that people felt they had no choice at all. However, in the few cases where they felt this was the case, the barriers to personal decision-making included others making choices on their behalf (often parents and teachers), lack of available options, or ending up remaining in the first job they did work experience in, regardless of whether they liked it.\textsuperscript{11}

It was mainly people who had sought, but not successfully found, open employment who spoke about barriers. While several people in the study had successfully found work in open employment and were happy there, there was also a substantive number of people who had initially sought open employment, been unable to find a position, and had then entered another employment type as a consequence – usually supported employment in an ADE. For this group, there was a clear set of reasons to which they attributed their unsuccessful search for open employment: ineffective or constrained DES assistance, challenges in the application or waiting process, and poor attitudes from employers.\textsuperscript{12}

People working in open employment mentioned a more extensive range of barriers to maintaining their work. Some of the barriers were not receiving continuing work from employers because of administrative circumstances, such as because the place where they worked went out of business, because there had been a change of management, because they had taken a short-term contract which ended and could not be renewed, or because their workplace had

\textsuperscript{10} Meltzer et al 2020, D20/43164, at p88-89.
\textsuperscript{11} Meltzer et al 2016, D20/43165, at p18.
\textsuperscript{12} Meltzer et al 2016, D20/43165, at p21.
had a large-scale round of redundancies. In these cases, the people concerned seemed to accept the cessation of their work as inevitable.\textsuperscript{13}

In other cases, deeper issues of disrespect, under-valuing or overt discrimination had meant that people could not continue their jobs in open employment. One person mentioned that she had not felt respected by her colleagues, which led to her having conflict with them and eventually leaving her job. In another example, a woman felt that her jobs had not extended her to her full potential and she felt under-valued, so she tried to act in supervisory roles above her level, which led to her being dismissed from a number of jobs: "I've had about five or six jobs but they haven't lasted, they haven't been a right match and people used to say to me I'm going over and above ... putting myself in [a supervisor's] shoes. And then they'd force me out of work and tell me I would have to find something else. We'd find something else and that wouldn't last. Most of my jobs managed to last only about three months" (30-year-old woman, urban, working in open employment doing advocacy work).\textsuperscript{14}

12. Policy implications for open employment are that education and advocacy is needed at all levels about open employment and working with people with intellectual disability, from colleagues to managers to policy-makers.\textsuperscript{15} More accessible information (easy read and other) is needed, such as industrial relations, joining and accessing unions, how to make a complaint against an employer and accessible pay slips.

13. The comparative advantages and disadvantages of open employment, social enterprises and ADEs are summarised in D20/43166.\textsuperscript{16} The findings about the comparison between employment types were that none of the three models provide all the outcomes that people with intellectual disability want from their employment. It means that people are required to make difficult trade offs about what outcomes they want to achieve.

\textsuperscript{13} Meltzer et al 2016, D20/43165 at p26.
\textsuperscript{14} Meltzer et al 2016, D20/43165 at p27.
\textsuperscript{15} Meltzer et al 2020, D20/43164
\textsuperscript{16} Meltzer et al 2018, D20/43166
14. More people with intellectual disability want to work in social enterprises than the number of opportunities the businesses themselves can currently offer. The social enterprise sector therefore needs policy/structural support to expand the number of paid positions for people with intellectual disability.17

15. The findings included the following:

Those who chose open employment experienced the most barriers to both finding and maintaining a job. Barriers to finding a job in open employment included ineffective support from specialist disability employment services, challenges in applying and poor attitudes from employers. Barriers to maintaining work included only short-term and/or unstable jobs being available, as well as disrespect, stereotyping and discrimination from colleagues and employers on the basis of disability. People with intellectual disability also often found entry-level positions in open employment, with few opportunities to change tasks or progress in their role over time, which limited the time that some people wanted to stay there, although others were content to remain in the same role over time. Because of these types of barriers, a substantial portion of participants had first sought work in open employment but had eventually entered sheltered or social enterprise employment instead.18

When participants sought work in sheltered employment, they experienced fewer barriers to finding and maintaining a job. Jobs were almost always available when people wanted them, although not always for the number of days that some people wanted over time. For example, employees were sometimes asked to reduce their work days if there was concern that their wages might threaten their welfare payments or a concern about their health or well-being. On the whole, however, once people found a job in sheltered employment, they could usually remain working there for as long as they wanted. They were also often able to swap tasks, and sometimes to take on more responsibilities, to maintain

17 Meltzer et al 2018, D20/43166
their interest in their role over time. In this respect, sheltered employment offered greater job stability, flexibility and, sometimes, role progression.\textsuperscript{19}

In social enterprises, finding and maintaining a job was complex. Many people easily found a role in a social enterprise, but often it was a training, work experience, unpaid or only partially paid position. This was because social enterprises were popular employment choices that many people were interested in pursuing, yet because many of the social enterprises were relatively new and the businesses were still building up their contracts and/or available workload. Several social enterprises therefore offered training or work experience positions in anticipation of increased future work, but could not yet offer enough paid positions to fill demand.\textsuperscript{20}

**National Disability Strategy 2010-2020**

16. The National Disability Strategy (Strategy) is a ten-year national plan where the "shared vision is for an inclusive Australian society that enables people with disability to fulfil their potential as equal citizens".\textsuperscript{21} The Strategy’s goals include improving the accessibility and inclusiveness of society and the participation of people with disability as well as changing community attitudes towards disability. It seeks to promote and guide action and reform across all Australian governments, private enterprises, disability sector organisations and the broader community.

17. One of the six priorities is economic security, including the policy direction: Increase access to employment opportunities as a key to improving economic security and personal wellbeing for people with disability, their families and carers. The areas for future action included:

- Improve employer awareness of the benefits of employing people with disability.
- Reduce barriers and disincentives for the employment of people with disability.

\textsuperscript{19} Meltzer et al 2018, D20/43166, at p233.
\textsuperscript{20} Meltzer et al 2018, D20/43166, at p233.
\textsuperscript{21} Commonwealth of Australia 2011, at p8.
• Encourage innovative approaches to employment of people with disability such as social enterprises, or initiatives to assist people with disability establish their own small business.

• Improve employment, recruitment and retention of people with disability in all levels of public sector employment, and in funded organisations.

18. The Department of Social Services (DSS) commissioned the SPRC to conduct a review of the implementation of the Strategy. The aim was to examine effective implementation processes and measures of the Strategy to inform the reform that will develop a new national disability framework for beyond 2020. A copy of the report titled 'Review of implementation of the National Disability Strategy 2010-2020: Final report' is annexed to this statement and marked D20/43167.

19. Stakeholders felt that the Strategy, as a national statement and national policy framework, was a good response to Australia’s obligations under the United Nations Convention on the Rights of Persons with Disabilities (CRPD). They agreed the principles and goals of the Strategy were important and valuable, but the implementation of the Strategy had been uneven, and a consistent, systematic approach to implementation across Australia had been absent. Overwhelmingly, stakeholders were critical of NDS implementation processes and outcomes.

20. The review identified positive examples of implementation in key outcome areas, particularly on the local level. The identified implementation shortcomings and numerous suggestions from stakeholders indicate that an integrated, whole of government approach to implementation in the future is likely to be facilitated by central leadership of the Strategy, funding allocations to support the governance and coordination of the Strategy, and a stronger evidence base for measuring and reporting implementation progress.


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In relation to employment, the review findings included Implementation gaps and future priorities. In general participants did not think the policy areas of the Strategy needed to be revised – they preferred a holistic, broad, principled and ambitious policy framework. Cross-cutting gaps they highlighted were gender equality and participation. They emphasised the policy areas were integral to each other and could not be prioritised above each other. Instead they spoke about prioritising progressive implementation within each policy area. Gathering evidence through measurement and analysis for accountability and transparency was seen as critical to inform the priorities. An example referred to was the Fair Go report on disability inequality. Consultation participants identified some implementation gaps that could be prioritised in the Strategy reform process, including Economic security, specifically employment and education.

Despite the introduction of new employment strategies in many jurisdictions, stakeholders commented that economic security of people with disability had deteriorated in recent years. In particular, employment of people with high support needs had declined. Labour force participation of women with disability has not improved over the last two decades. Stakeholders wanted disability discrimination at work to be a priority focus, stating that it is the most frequent type of disability complaint to the Australian Human Rights Commission. Education was highlighted as a policy area that had received increased attention over the life of the Strategy. Further reform to build on inclusive education initiatives was suggested.

Challenges around employment as a policy focus

The research referred to in paragraphs [11]-[14] above (D20/43165, D20/43166 and D20/43164) identified policy barriers to reform, including current funding commitments to ADE, DES and Job Access. The historic allocations to ADEs are gradually reducing over time as people with disability retire and...
ADEs take on more contemporary models of employment such as social enterprises and supporting people into open employment.\textsuperscript{25}

24. An implication from the NDS review was the need to facilitate cooperation and collaboration.\textsuperscript{26} The Strategy cannot be implemented through the actions of government disability policy officials alone. Rather, successful implementation requires more cooperation and collaboration a) with community organisations, disability representative organisations, business and services and b) between government portfolios and levels of government.

25. The leadership of people with disability and of community organisations was key to many of the positive examples in the review. Active participation of people with disability and their representative organisations in the development and implementation of legislation and policies and other decision-making processes concerning them is also an obligation under the CRPD (Article 4 – General Obligations).

26. Facilitating better cooperation and collaboration could include Government leading by example, such as through procurement policies, accessible information and employment targets across portfolios.

**A national employment strategy**

27. In 2019 the NDIS Participant Employment Strategy was launched.\textsuperscript{27} It is a good summary of the barriers to employment and strategies to address them. It sets targets for NDIS participant employment (30%) and how it will integrate with market change and other government policies such as Job Access.

28. The NDIS Participant Employment Strategy potentially applies to the 10% of people with disability who receive a NDIS plan. The other 90% who also face structural, social, attitudinal and support barriers would also benefit from a National Disability Employment Strategy. Either the NDIS Strategy needs to be extended to encompass targets and policy change for the 90% or a National Disability Employment Strategy is required.


\textsuperscript{26} Davy et al 2019, D20/43167, p36-37.

National consultations, such as for the new National Disability Strategy from 2021 emphasised the disability community's view that employment should be prioritised. Disabled Persons Organisations have called for a National Jobs Plan\textsuperscript{28} and implementation of recommendations from the AHRC Willing To Work Inquiry\textsuperscript{29}.

29. Additional aspects that a National Disability Employment Strategy could encompass include an inclusive definition of work and contemporary opportunities (employment, income, enterprise, gig-economy, care economy, green economy and digital economy).\textsuperscript{30}

**Quotas and targets**

30. Nearly half of all countries have a target or quota for disability employment, and most of these are also combined with anti-discrimination policies\textsuperscript{31}. Disability quotas were originally introduced as a welfare policy, which carried stigma of paternalism. Lessons for disability employment are now drawn from the effectiveness of the more recent policies of gender and Aboriginal and Torres Strait Islander targets and quotas, in combination with anti-discrimination laws.\textsuperscript{32}

31. Contemporary quota policies sometimes have related tax incentives, such as for enterprises owned or managed by people with disability or exceeding the quota. Compulsory disability quotas are often accompanied by a levy or tax penalty for employers that do not comply. Some countries with these levies apply the fund to promote the employment of people with disability, which also contributes to higher employment rates. Our research in China demonstrates an interesting example of this, where the levy fund is controlled by local Disabled Persons Federations, which have

\textsuperscript{30} Li et al 2020.
discretion on its spending. This discretion has led to local innovation about new work related opportunities, such as hubs and incubators for digital economy start-ups.

When the [Chinese Disabled Persons’ Federation (CDPF)] started in the 1980s, responsibility for funding and providing disability employment services was almost entirely with the government. In contrast, the recent [Law on the Protection of Disabled People] and five-year plans purport to shift that responsibility to all government agencies, the community and citizens, to provide skill training to disabled people and financial support to their employers. The CDPF’s exclusive access to the Disabled Persons Employment Security Fund generated from the levies of employers who choose not to meet the employment quota, means that it has opportunities to invest in disability employment support. The levy is collected and spent locally on DPF programs, grants and subsidies.33

32. Preferential tax treatment for employers and social insurance subsidies for disabled employees is also provided, if certain requirements are met or exceeded. A copy of a paper I co-authored titled ‘Disability employment in China: Empowerment through digital solutions’ is annexed to this statement and marked D20/43168.34

Signed: 

Date: 23.10.2020

Witness: Karen Fisher

Date: 23.10.2020

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