Submission to the inquiry into the purpose, intent and adequacy of the Disability Support Pension.

Advocacy Law Alliance Inc.

Disability Law NSW

Disability Advocacy NSW

Mid North Coast Legal Centre

Contents

The Mid North Coast Legal Centre (MNCLC), Disability Law NSW (DLNSW) and Disability Advocacy NSW (DA), welcome the opportunity to contribute a submission to the inquiry into the purpose, intent and adequacy of the Disability Support Pension (DSP).

This submission aims to address 3 key areas of the inquiry.

1. The DSP eligibility criteria, assessment and determination, including the need for health assessments and medical evidence and the right to review and appeal (Key Area B)
2. The impact of geography, age and other characteristics on the number of people receiving the DSP (Key Area C)
3. Discrimination within the labour market and its impact on employment, unemployment and underemployment of persons with disabilities and their support networks (Key Area F)

We have focused our commentary on critical areas of concern commonly raised by our clients and community members and direct experience of advocates from DA.

BACKGROUND

MNCLC, DL and DA are programs of Advocacy Law Alliance Inc. MNCLC provides civil law assistance to people living on the Mid North Coast of NSW (between the towns of Nabiac and Coffs Harbour). DA offers non-legal advocacy assistance for people with disabilities across regional of NSW, including Broken Hill, Bathurst, Western Sydney, Central Coast and Newcastle, the Northern Tablelands and the Mid North Coast. DA refers to DL for the provision of disability specific legal advice in relation to their clients.

The work of these three programs results in thousands of interactions with people with disabilities living in vulnerable circumstances across NSW and who require help to access, understand and exercise their rights. As a result, we can provide a unique perspective on the many systemic issues impacting upon people with a disability as they seek to access the DSP and engage with Social Security services.

DL and DA engage in community legal education sessions with the broader community and medical and allied health professionals. To date these education sessions have taken place in Gloucester, Liverpool and Coffs Harbour and have clearly shown that there is a lack of clarity and education about the process and requirements of applications for the DSP. We draw on these observations to inform this submission.

Our submission seeks to illustrate the experiences of people with disability living in rural, regional and remote NSW. We highlight the reported and observed issues that our clients face when trying to navigate access and engagement with the DSP income support system when they have a continuing inability to work.

The responses to the 3 key areas of the inquiry include de-identified case studies from DA, DL and MNCLC together with results of a recent client survey undertaken by DA. We have

also included direct examples from Advocates who regularly assist clients with disability with Social Security issues.

Summary

The DSP is a crucial "safety-net" for individuals with a continuing inability to work as a result of impairments arising from a disability.

The intent and purpose of the DSP is being undermined by processes that are unnecessarily complicated and opaque. Programs that were designed to empower individuals, through re-training and employment in appropriate roles re not fit for purpose and result in unnecessary distress and disempowerment.

Interaction with Centrelink is difficult and in itself is often a barrier for individuals with a disability and who lack support.

We would like to submit for the Committee's consideration the following recommendations which we believe would see a real improvement for people with disabilities.

Recommendations

1. That there be a review of the Ministerial Determination that only Clinical Psychologist and Psychiatrist reports be accepted as evidence of a diagnosed mental health condition.
2. That Centrelink consider a simplification of the process around obtaining medical information from medical and allied health professionals, with consideration given to the re-introduction of a form that addresses the criteria for access.
3. That the Department of Health establish a stand-alone Medicare payment mechanism to ensure proper reimbursement of GPs and treating professionals for assisting patients with the medical evidence requirements for DSP (and NDIS) Applications.
4. That Parliament consider the definition of a "severe" impairment (in s94 (3B)) Social Security Act 1991) be extended from 20 points in one table to allow for a cumulative score in excess of 20 points across a number of tables.
4. That proactive education programs for medical and allied health practitioners be funded to improve understanding of the medical evidence required to address specific DSP criteria.
6. That education and assistance be provided by Centrelink to Approved Program of Support providers as to how to exit a client whose capacity to engage in employment, training or study will not be increased. We recommend that this review occur 6 weeks into the program, or upon receipt of a medical certificate exempting an individual from participation.

7. That more clear information be provided by Centrelink to participants to explain the nature and effect of Approved Programs of Support and the consequences of medical exemptions from participation.

8. Review by Centrelink of the nature of the Approved Program of Support provided to participants to ensure it addresses the individuals' requirements and capacity.

9. That Centrelink provides information with improved clarity and transparency for participants as to the purpose of various assessments and rights of review.

10. That the number of Community Engagement Officers and Centrelink Social Workers increase, particularly to assist where there has been a previous unsuccessful application for the DSP.

11. That assessments be carried out by professionals with qualifications relating to the individuals' conditions and impairments.

12. That transcripts be recorded of all medical assessments.

13. That an email access point to Centrelink be provided to support workers and advocates to ensure effective and efficient communication on behalf of their clients.

14. That a full review be conducted of the contact methods for Centrelink. There should be an emphasis on ensuring the process does not cause distress to individuals, that the methods not just be technology based and that there is regard to issues such as literacy and capacity.

15. That Centrelink offer recipients of the DSP who have not been provided with an opportunity for further training or employment a referral to a Disability Employment Service.

16. That the Department of Social Services conduct a review of ADE's and consideration be given to providing a clear pathway to individuals who want to enter the open workforce.

17. That incentives be provided by Centrelink to individuals to re-skill and attempt work without risking removal of the DSP.

18. That Centrelink automatically do a warm referral to a Disability Advocacy Service and/or Social Worker when they have flagged a complex disability.

KEY AREA B: the DSP eligibility criteria, assessment and determination, including the need for health assessments and medical evidence and the right to review and appeal

Disability Criteria

The criteria for access, and subsequent reviews to ascertain eligibility for the continuation of the DSP, vary depending on the date of the original successful application and the date of review.[1]

There is extensive legislation, with associated guidelines, relating to the DSP eligibility criteria which includes medical (manifest & general) and non-medical criteria. To ensure our submission remains brief we will only address medical criteria and the requirement of a "continuing inability to work" as these are the areas consistently highlighted by advocates and clients as critical areas of concern.[2]

Medical criteria

Medical criteria are the main barrier to access to the DSP.

Access to the DSP requires substantiating medical evidence. Obtaining medical evidence requires access to (and a good relationship with) allied and medical health providers and in many cases, funds to obtain reports. [3]

This requirement brings with it a number of challenges:

i. The nature of the disability may mean that engaging with services is difficult and maintaining relationships with providers is challenging, particularly if you have limited supports.

ii. In regional, rural and remote (RRR) areas clients and advocates are reporting a shortage of General Practitioners and limited access to specialists, particularly Clinical Psychologists and Psychiatrists.

iii. Many of the specialists servicing RRR areas are based in large cities and they travel to regional towns on a regular but infrequent basis. It is our experience that they generally do not bulk bill.

iv. If an individual is required to travel significant distances to access a specialist, this "ability to travel" is often utilised in the assessments as evidence against an

[1] https://guides.dss.gov.au/guide-social-security-law/6/2/5/03

[2] (see s.94 Social Security Act 1991)

[3] https://www.servicesaustralia.gov.au/individuals/services/centrelink/disability-support-pension/how-we-assess-your-claim/medical-evidence

individual having a severe impairment, with little regard as to the necessity of travel, modifications to travel time and the toll on the individual.

v. Medical practitioners and allied health professionals appear to have varying levels of knowledge about the eligibility requirements for the DSP, in particular the impairment tables and the kinds of reports they need to write to substantiate their patients' claims for the DSP.

vi. Medical practitioners may be time poor and are often under significant strain. This is not only in terms of addressing their client's clinical needs but also in attempting to assist them to obtain supporting medical evidence required to support their applications for the DSP. They take on the significant responsibility of assisting individuals who are unwell and who may have complex conditions. They carry the consequences of claims being denied due to not addressing the access criteria specifically enough, despite writing a number of reports.

vii. Our client stories confirm that where they are recipients of other social security payments, (not designed to allow for the payment of medical expenses), they experience barriers in obtaining and collating sufficient evidence to substantiate claims for DSP.

DL and DA have conducted education sessions with medical practitioners and allied health professionals. In these sessions it became apparent that "functional assessments", in relation to impairments experienced by patients, has a specific medical meaning that goes beyond what is required by the DSP criteria. GPs indicated they could not carry out full functional assessments, explaining that they thought this was something only a Physiotherapist or Occupational Therapist could do. They did not understand that the meaning of functional assessment in the context of the DSP is something they are able to undertake.

We recommend consideration is given to a stand-alone Medicare payment mechanism for properly reimbursing GP's and treating professionals for assisting their patients with DSP (and NDIS) applications.

We also submit that there would be value in a program of training to educate medical professionals around the evidentiary requirements for their patient's applications for the DSP.

Mental Health Diagnosis and Support in Regional, Rural and Remote (RRR) Areas

People with a mental illness diagnosis often have challenges meeting the DSP criteria due to difficulties with obtaining evidence. Access to Psychiatrists and Clinical Psychologists in RRR areas can be extremely difficult. Many of our clients attend Registered Psychologists or Mental Health Counsellors/Social Workers/Nurses.

However, only a report from a psychiatrist or clinical psychologist will be accepted by Centrelink as evidence of a Diagnosed Mental Health Condition for the purpose of Table 5 of the Tables of Impairment.

There is normally a significant waiting list and a number of appointments will be required, at significant cost to the client if they attend a Clinical Psychologist or Psychiatrist to obtain a report. In our experience Clinical Psychologists and Psychiatrists rarely bulk bill and there are significant gaps after the Medicare rebate, if applicable. This means that some individuals are unable to obtain a report to confirm a diagnosis that a GP, registered Psychologist, Community Mental Health Nurse, Mental Health Social Worker or counsellor may consider appropriate. They often assume that a report from the individuals who have been providing them with support for their mental health conditions will be sufficient to address the requirements of the DSP.

An example of this occurs among individuals who have been referred for counselling through Victim's Services (NSW), where they are not accessing the services of a Clinical Psychologist or Psychiatrist.

A relationship of trust has been built between these individuals and the Counsellor / Psychologist. Therefore, they are well placed to provide a report on how an individual's impairment arises. However, the information provided by them will not be recognised by Centrelink as a "diagnosis" even though it may accord with information from the GP.

In RRR areas this adds additional barriers to the process. Here, accessing a public Psychiatrist or Clinical Psychologist for an assessment takes a considerable period of time, as a diagnosis will not be made until several appointments have taken place. Adding to this are barriers of waitlists among affordable and/or bulk billing practitioners.

Client Case Study: Mental Health and Access to the DSP

Our client in a regional area received the DSP for 20 years and submitted a Portability application. Their eligibility for DSP was reviewed and it was determined they did not meet the criteria that had been amended in the interim.

This process was detrimental to their mental health and resulted in increased suicidal ideation and blackouts due to stress.

Our client experienced challenges in gaining health assessments and evidence:

- Irregular GP as bulk billed GPs were rotating through different practices.
- Making, travelling to, and attending new specialist appoints some distance away.
- Inability to pay the gap fee for Specialists.
- Challenges with communicating needs and being understood due to mental ill-health. The client's new practice has missing records from their previous medical practice.

The client was eventually accepted for the DSP at Tribunal level, after 2 years of stress.

Continuing Inability to Work (CITW) and Assessments of stress

Another area where people commonly encounter barriers with the DSP is meeting the criteria around a continuing ability to work. The types of assessments commonly undertaken by our clients are:

a. Medical Assessments, to determine eligibility (SonicHealth).[4]
b. Employment Services Assessments (ESaT)[5].
c. Job Capacity Assessment (JCA).[6]

These assessments determine eligibility, referral to employment service providers, and a determination as to Continuing Inability to Work, with the allocation of points relating to impairments, barriers to employment and hour bandwidths relating to eligibility criteria.[7]

If an individual in an assessment fails to be allocated 20 points in one Table on the relevant Impairment Tables, but has 20 points across a number of Tables, their path to apply for the DSP adds another step. In this case, they are required to have engaged in an Approved Program of Supports, normally with a Disability Employment Service (DES), for 18 of the 36 months prior to lodging an Application for the DSP.[8]

[4] https://www.servicesaustralia.gov.au/organisations/health-professionals/services/centrelink/disability-support-pension-information-health-professionals/how-complete-disability-medical-assessment
[5] https://guides.dss.gov.au/guide-social-security-law/1/1/e/104
[6] https://guides.dss.gov.au/guide-social-security-law/1/1/j/10
[7] https://guides.dss.gov.au/guide-social-security-law/3/6/2/112 & https://guides.dss.gov.au/guide-social-security-law/1/1/c/330
[8] https://guides.dss.gov.au/guide-social-security-law/1/1/a/30

This requirement provides a significant barrier for many individuals with a disability, who are unwell or experience fluctuating conditions, to accessing the DSP.

In our experience, individuals with significant impairments often have a history of doctors providing a series of medical certificates which demonstrate their patient's inability to engage in a Program of Supports. Although this may reflect an individual's medical condition, in so doing the patient is not considered to be "actively participating" in a Program of Support. This in turn means the requirement of being an active participant in a Program of Support for 18 out of 36 months prior to lodging a claim for the Disability Support Pension is not met.

The frequent result is an individual with an impairment allocation in excess of 20 points across a number of tables, but who is unable to access the DSP. This individual with cumulative significant and severe impairments, despite being on the books of a Registered Provider of Supports (in some instances that we have seen, for a period of 5 years or more) is unable to access the DSP. The individual may not understand why, the doctor may not understand why, and the Program of Support Provider often does not understand why, or explain why. This is reflected in the case study below.

Client Case Study

In one regional area a client's GP experienced a medical event during the course of the client's Tier 2 Review in the Administrative Appeals Tribunal. This obviously had a tragic impact on the doctor and their family, but also meant that the client was trying to obtain evidence and reports from a series of locum GPs.

It also meant that the doctor who had provided most of the information and had the most significant clinical relationship with the client at the time that the DSP application was made was not be available to address questions from the Tribunal.

The client had over 20 points over a number of tables and gained access only when the Program of Support Provider provided a letter indicating that an Approved Program of Support would not alter or improve his continuing inability to work.

The Program of Support provider had tried to "exit" the client from the scheme but was discouraged from doing so by Centrelink and only succeeded upon being provided with references to the appropriate wording in the legislation and guidelines.

Determinations and Right to Review and Appeal

Significant barriers are in place for individuals to understand determination decisions, and to access the appropriate key decision makers within Centrelink in order to seek a review. This has been detailed in relation to Key Area C.

A continuing issue is the lack of clarity around processes and rights to review and appeal. In our experience, clients may not have understood how to access their review rights or know what stage of review they are up to, as the information they receive from Centrelink is not clear. The case study below represents these common issues.

Client Case Study - Reviews and Appeals

Our client first put on an application for DSP 4 years ago. They have not worked since that time.

They were living with diagnosed conditions of:

- Fibromyalgia
- Ehlers-Danlos.
- Regional Pain Syndrome.

Applied for the 3rd time in early 2020 and:

- assessed as having 20 points on Table 1.
- Determined she did not meet the asset test as partner was $27.00 over the amount on a fortnightly pay period.
- It was explained to Centrelink this resulted from overtime and contracted hours did not place the partners income over the threshold.
- Appeal was lodged.

In December 2020 we helped the client to the Call Centre. They were advised there was never a rejection letter for the DSP, so no appeal could be lodged, as the letter simply said the client could not be paid.

The Call Centre operator submitted a review on the phone and marked it as urgent. They indicated they would contact the engagement officer . At this point in time client was hospitalised for 3 months and was not allowed home until supports were in place.

The Centrelink Engagement Officer rang them while in hospital to challenge the client with words to the effect of "What is wrong with you – why can't you do this?"

The client was very upset and disengaged from the process to focus on their well-being.

In April 2021 the client was accepted onto the NDIS. They rang up the Centrelink call centre to check on progress of the review. They received acknowledgement that an Internal Review was still active and marked urgent but nothing had been done.

We helped the client to submit a new application for DSP over the phone with request the client would upload new financial evidence required. Centrelink was provided with the documents requested. At the time of writing, our client is still awaiting a decision, but in the meantime it is not clear (despite requests for information) whether the initial review was ever undertaken.

Advocate Story: Reviews and Appeals

Centrelink does not make it clear to people that they can/will perform Subject Matter Expert (SME) assessments prior to ARO (Authorised Review Officer) reviews. I have supported clients who have asked for their DSP decisions to be reviewed and Centrelink have responded by completing a SME review rather than an ARO review. It is the ARO review which then affords a client review right options at the AAT.

Disability Advocate, NSW

KEY AREA C: The impact of geography, age and other characteristics on the number of people receiving the DSP

Geography

MNCLC, DA and DL assist clients across a large part of rural, regional and remote NSW.

We regularly see the impacts of geography on the DSP system and the disparities of access experienced by clients with limited transport, poor communication coverage and little choice when it comes to service providers. These clients live in communities they call home, with societal and family ties which support them. However, there are not sufficient or appropriate allied health or medical supports available.

There are limited opportunities for employment because most potential employers are unable – and sometimes unwilling - to provide appropriately modified employment conditions.

> *A Client's Voice:*
>
> *"There seems to be nothing out here for someone with a mobility impairment who used to work full-time. There is nowhere to turn when encountering discrimination and harassment at work."*
>
> *Anonymous DA Survey Participant, Rural NSW*

Age

There have been instances where clients have reported being told by Centrelink that they must transfer from the DSP to the Aged Pension when they reach a particular age. In one instance, this was done as a matter of "policy" without the knowledge of the client, based on their Aboriginal / Torres Strait Islander identity. In some circumstances, it may be better for the client to remain on the DSP[9] and automatic transfer prevents them having this choice.

Other characteristics

Literacy

A number of applicants who have accessed our services have issues with literacy. They are often functionally illiterate and categorise this as "dyslexia", when asked about issues that may impact on their engagement with the services.

The DSP application includes a specific exclusion for people who have literacy issues or are long term unemployed. We propose that these factors should be a flag for closer consideration of a person's situation. In our experience, there are times where a client reports that they suffer dyslexia but in fact they are living with the impacts of complex PTSD stemming from childhood abuse. Due to trauma in their lives and the history

[9] https://www.wraswa.org.au/wp-content/uploads/2015/06/Age-Pension-08.06.2015.pdf

of shame around childhood abuse, they may need trauma-informed assistance to realise that they are in fact living with a disability which may make them eligible for DSP.

In one case DL assisted a client to inform Centrelink about their functional illiteracy. The aim was to ensure Centrelink was aware that important documents being sent to the client were not being read or would require someone else to read them. We specified that it would be preferable to phone the individual, with a support person present, and then provide confirmation of what was discussed in writing. Unfortunately, despite making this request, documents continue to be sent to the client resulting in confusion and distress.

Nature of conditions, in particular individuals with acquired brain injury and intellectual or psychosocial disabilities.

DA recently conducted a survey among people with disability and their families to explore how experiences among people living in metropolitan, regional and rural areas differ. A common theme that emerged from this was that the nature of the client's disability was, in itself, one of the barriers to accessing the DSP. This is reflected in the "Client's Voice" case study below.

In addition to the survey findings, in our work at ALA we often observe that individuals with impairments of memory, in many instances as a result of an Acquired Brain Injury, often will not recall what is said in appointments or what is required. his is concerning because at DA, DL and MNCLC, we are seeing an increase in women with Acquired Brain Injury often as a result of domestic violence. This, coupled with mental health issues relating to trauma and continuing fear, creates a significant barrier for these women to seek support and assistance in accessing any services, let alone the DSP.

The process for individuals attempting to access the DSP is not trauma informed and as a consequence individuals cannot engage with the process without significant support.

We would recommend that where a disability has been flagged as an issue during any engagement with Centrelink, a required referral to Disability Advocacy Services or a Social Worker through Centrelink would ensure that individuals whose disability has not been "recognised" by Centrelink employees are not penalised.

A Client's Voice:

It took me 2 years and a near death experience from a suicide attempt to even get support to apply for Disability Support Pension. Then it took another 8 months to have that application approved. I was placed with a Disability Employment Service and was forced to show up for regular appointments so they could tick a box and I didn't have my New Start Allowance stripped from me. The truth was I was too unwell to be attending such appointments. I was also forced to attend such appointments in a Public Library in a very public area with no privacy whilst I was extremely hyper vigilant, crying, and experiencing severe flashbacks. It is a very inhumane way of treating someone with severe Mental Health Issues.

Anonymous DA Survey Participant, Regional NSW

Difficulties for advocates and others assisting individuals to engage with Centrelink

As detailed in the stories shared in the Appendix (our Advocates' experiences) those assisting clients with disabilities to access Centrelink and the DSP are often faced with additional barriers of their own.

One of these barriers is the lack of a dedicated access point for advocates (an email or phone number) such as those provided by Revenue NSW. This allows registered advocates to contact Centrelink quickly and facilitate improved access for their clients. This would help Centrelink as advocates are often in the position of being able to help clients gather information, provide documents, attend appointments and thus cut down the burden of delay on the government's consideration of a client's application.

Another barrier in communication is the expectation that an advocate provide their personal private information (such as their own CRN) to Centrelink before their involvement in supporting their client is accepted. This could easily be overcome by an advocate providing an Authority on a proscribed Centrelink form, such as is done by Victims Services NSW.

Ongoing delays while trying to make phone contact with Centrelink are also a cause of concern for our services as they seek to support clients. It is common for lawyers and advocates to wait very lengthy periods of time while their clients with disabilities are with them, and in many cases our service's attempts to make communication easier for Centrelink staff are rebuffed due to "policy".

Advocate's Story

After an hour conversation with Centrelink call centre I was instructed that the participant did not have an active internal review as it was closed. She suggested the client phone to make a request for an internal review.

I suggested that I would link the client into the phone call now so he could request the review to which she instructed "No that is against our policy. He will need to be in the same room as you for the call." I was bewildered - what difference that would make? They would only ask the client (who lived isolated in the bush and did not like to leave his home) to travel for a phone call.

Disability Advocate, NSW

KEY AREA F: Discrimination within the labour market and its impact on employment, unemployment and underemployment of persons with disabilities and their support networks;

The programs of ALA see many clients with a disability who are employed, or seeking employment, supplementary to their DSP. We are aware of many instances where a person's employment is impacted by discriminatory or generally poor practices. In this submission we have focused on examples of systemic issues.

Discrimination

Australian Disability Enterprises (ADE) and Wage Assessment Tools

Disability Advocates review a large volume of matters and as such are in a unique position to recognise systematic issues, particularly in relation to Australian Disability Enterprises (ADE).

In many RRR areas there are limited ADEs servicing a wide geographic area. In some areas there may only be one option for a number of people. This limits the opportunity for people with a disability to explore supported employment opportunities.

Due to the limited number of ADEs, Disability Advocates in RRR areas are likely to have an intimate knowledge of how an ADE operates if they have assisted that ADE's participants. They are restricted by confidentiality requirements from revealing what they know as it relates to other individuals.

Case study: ADE in Regional NSW

Disability Advocate became aware that a number of participants of an ADE, despite having significantly different levels of physical impairment, working in the same role, were all receiving the same wage assessment under the Wage Assessment Tool (WAT).

The WAT was an "in-house" tool, utilised by supervisors, who were also often support workers funded through a participant's National Disability Insurance Scheme plans.

The WAT when examined often contained references to tasks that an individual was not being required to perform.

In some instances, individuals were proactively asking what they needed to do to gain a pay increase but not being given the opportunity to have a go at tasks that they were being assessed for under the WAT.

For some Individuals the actual tasks that the NDIS funded ADE staff member performed weren't being assessed in the WAT that determined the wage they receive.

Some individuals had been in roles for a number of years, and in some instances had increased their skills and capabilities. However, this was not reflected in the assessment. The wage remained the same.

Unemployment & Underemployment

Individuals who wish to work, or to increase their hours, experience barriers to being able to do so.

If a person with a disability is assessed as being able to work 7 hours or less a week without support, then they will generally only be provided with access to an Australian Disability Enterprise (not a Disability Employment Service).

If the person with a disability meets the Manifest Medical Eligibility criteria there is a presumption that they can only work 7 hours or less per week. They may not be referred for a Job Capacity Assessment and there is therefore no consideration as to what work they can undertake.

A person with a disability can self-refer to a Disability Employment Service, but they (or their support person) need knowledge of how to do this.

Appendix 1: Client Voices

At the beginning of 2021, DA surveyed their clients on a range of topics. Some provided responses which are relevant to share for this submission.

We asked clients "In your opinion, what do people with disabilities need to support their inclusion in social, economic, and political life?

> *"meaningful employment"*
>
> *Client with a disability, Regional NSW*

> *"There seems to be nothing out here for someone with a mobility impairment who used to work full-time. There is nowhere to turn when encountering discrimination and harassment at work."*
>
> *Client with a disability, Rural NSW*

> *More understanding from society, more support in jobs, so people can remain in the workforce if hours and workloads need to be adjusted."*
>
> *Client with a disability, Regional NSW*

> *"More funding so employers will have more time to teach skills, as they say time management is money."*
>
> *Client with a disability, Regional NSW*

> *It took me 2 years and a near death experience from a suicide attempt to even get support to apply for Disability Support Pension. Then it took another 8 months to have that application approved. I was placed with a Disability Employment Service and was forced to show up for regular appointments so they could tick a box and I didn't have my New Start Allowance stripped from me. The truth was I was too unwell to be attending such appointments. I was also forced to attend such appointments in a Public Library in a very public area with no privacy whilst I was extremely hyper vigilant, crying, and experiencing severe flashbacks. It is a very inhumane way of treating someone with severe Mental Health Issues.*
>
> *Client with a disability, Regional NSW*

> *Specific jobs for people with reduced capacity. For example I am highly skilled but can work say 4 hours max a day. I could work at Bunnings for 4 hour shifts but not every day. These opportunities don't exist. It is depressing. I can't look at one day buying a property as I cannot work full time, yet I pay rent but cannot access a loan. The cycle of poverty."*
>
> *Client with a disability, Regional NSW*

Appendix 2: Advocate Voices:

We sought the opinions and responses of advocates as they work to support clients with a disability access the DSP.

Advocate Feedback: Disability Support Pension and Access

> *"Multiple diagnosis – A participant can score 40 points across tables and still not be accepted onto the DSP because they do not get 20 points on one table, however, the combination of impairments together can be related as "severe" and prevent a person from gaining employment. For example, if a person with spinal pain, taking Schedule 8 medication (preventing him from driving or using heavy machinery), also has prostate cancer, moderate depression, anxiety, panic attacks, arthritis in the hands and hearing impairment can be rejected from DSP but unable to gain employment."*
>
> *Disability Advocate, NSW*

> *Recipients of other social security payments can be impeded from accessing sufficient evidence to substantiate claims for DSP. For example, Jobseeker recipients cannot afford to pay approx. $90 out of pocket per visit for 20 psychology sessions under a MHCPlan per year to see a psychologist. They can't afford to see a pain specialist etc. They may not be able to afford medications which may assist them. Generally, they don't even visit their GP very often (bulk billing GP's are becoming more and more rare). Poverty and inability to access support begets more poverty and further inability to access support.*
>
> *Disability Advocate, NSW*

> *Forms could better reflect the criteria, including the Tables of Impairment. Further consultation with medical practitioners appears to be possible by phone with the assessing officer, however, this appears to be at the discretion of the assessing officer and the availability of the practitioner.*
>
> *Disability Advocate, NSW*

> *"In relation to evidence in support of a client's application there is no avenue for a client's condition to be explained by a medical professional other than in the form proscribed or separate reports. Whilst we understand the need for a standardised approach, we submit that there would be value in providing a space for additional comments from a treating professional in order to capture issues experienced by clients."*
>
> *Disability Advocate, NSW*

Access to existing services who don't / won't help.
(a) I have one client who can't complete her DSP application because her GP refuses to provide evidence about function until the client has completed (and paid for) a full physiotherapy functional assessment. The GP is fixed on this position.
(b) I am working with another client who is applying for DSP at the same time as her workers compensation matter is progressing. Her medical professionals have provided DSP evidence saying that the client has not accessed reasonable treatment, but the treatment the professionals are speaking of is treatment the client's insurer has refused to approve funding for. These are examples of how one of the biggest impediments for some clients seeking access to DSP is their own treating professionals. If there was a stand-alone Medicare payment mechanism for properly reimbursing GP's etc for assisting with DSP (and NDIS) applications, perhaps medical professionals would put more focus and care into the reports they produce for DSP and other applications.

Disability Advocate, NSW

Advocate comments: Review of decisions and right of appeal

- *It is unclear whether JCAR findings can be disputed, or whether a new JCAR can be requested. In one matter, DA supported a client to request a new JCAR due to a change of circumstance and was told this was fine, but then the client was never contacted in relation to the request.*

Disability Advocate, NSW

- *It is unclear why a JCAR assessment - listing suitable interventions for a client to (possibly) increase baseline work capacity in the next 2 years – which **predates** DSP medical evidence about a person's capacity to work is given more weight than that provided in the current medical evidence.*

Disability Advocate, NSW

- *Inconsistency with procedures and terminology – The information given to a participant and Advocates will vary with who you talk to at Centrelink and the call centre. For example, "Bridging Claim" was advised to a participant by Call Centre when she was rejected for the DSP. The Call Centre instructed this would be her best option as she would not have to resubmit all the relevant paperwork, only update her details and financials if required. Depending on who you speak to at Centrelink will impact the information given for example some will use the terminology "appeal" versus "internal review" vs "reassessment" which apparently have different meanings, but they are often used interchangeably.*

Disability Advocate, NSW

Advocate Comments: Continuing Inability to work

- *Not having the conversations about supporting someone to apply for the DSP because of lack of understanding of the processes involved and no interest to find out. It would be easier to keep having someone come into the office and sit in a 'jobsearch room' in front of a computer with no clue as to what they were doing, and keep the funding coming in.*

Disability Advocate, NSW

- *It would seem there is no full record / transcript kept of discussions that take place between medical assessors and clients, so if an assessor makes a note saying that 'the client states they can do their shopping' etc, then it is not disputed that this record is accurate (or is not misleading, or a statement taken out of context).*

Disability Advocate, NSW

- *Complete lack of understanding of what a Program Of Support (POS) is by employment services staff. And no referral to relevant activities to enhance a person's employment opportunities.*

Disability Advocate, NSW

1. *I supported a client in a medical assessment by video last week and even then, the assessment only went for 10 minutes, and the client was only asked a handful of very basic questions. In reality, the medical assessments seem to be nothing more than a mechanism for essentially providing Centrelink with a 11th hour opportunity for disqualifying a person from access to DSP.*

Disability Advocate, NSW

- *Medical assessments by contracted professionals seem to be a formulaic and overall pointless exercise. Numerous clients have informed me their medical assessments lasted between 2-6 minutes by phone.*

Disability Advocate, NSW

- *Providers of Programs of Support appear to have a culture of not engaging people perceived to have a disability because they were 'too hard', so not making regular appointments for them to come into the office to speak with a consultant or making an appointment and speaking briefly on the phone, so the consultant could tick the box for mandatory mutual obligation requirements.*

Disability Advocate, NSW

- *A client in a regional area was applying for DSP. Their POS provider said the client could not engage with POS because they were unwell. Centrelink staff refused to assist, or review the denial of DSP, until the POS provider was able to find and write about the issues of the client specifically in relation to the guidelines about "continuing inability to work." The POS provider had not been aware this was expected, and Centrelink had given them no indication or guidance that this was required.*

Disability Advocate, NSW

- *Regular JCAs not being done for a person because staff just didn't think to do one and didn't understand the relevance to a person's potential referral to the DES network (as opposed to jobactive), and therefore the person not getting a reduced work capacity when desperately needed, or their disability flagged and recognised.*

Disability Advocate, NSW

- *The criteria relating to continued inability to work lacks clarity. It is not clear to clients (or advocates) that CITW is assessed not only on medical evidence provided, but also on any Job Capacity Assessment Report (JCAR) on file from the last 2 years.*

Disability Advocate, NSW

- *JCAs being carried out at Centrelink by completely unsuitable health care practitioners – the practitioner would, in most situations, have no relevant qualifications to be making decisions about work capacity. For example, you might have an Exercise Physiologist doing a JCA for someone with significantly complex mental health/pyschosocial issues.*

Disability Advocate, NSW

- *Program of Supports – As we know it is not common knowledge that this needs to be completed if you do not have an impairment rating of 20 points on the one table. It is also near impossible to get a DES provider to exit anyone from the POS.*

Disability Advocate, NSW

- *Regular JCAs not being done for a person because staff just didn't think to do one and didn't understand the relevance to a person's potential referral to the DES network (as opposed to jobactive), and therefore the person not getting a reduced work capacity when desperately needed, or their disability flagged and recognized.*

Disability Advocate, NSW

- *It seems that often a site manager will not give permission to exit someone to enable their DSP application to proceed with more ease, because the funding would stop.*

Disability Advocate, NSW

- *The POS Programs of Support providers deliver service as a commercial enterprise. There appear to be no incentives, nor understanding, for them to deliver tailored, appropriate support as intended by the legislation. Funding and accreditation within the POS system is POS to/of the service provider, not the program delivered. This does not encourage consideration of individual applicant's needs.*

Disability Advocate, NSW

- *Lack of transparency – nearly every participant I have worked with regarding DSP have never heard of the Program of Supports. This results in so many giving up as "it's too hard" for them to complete 18 months before completing a new application.*

Disability Advocate, NSW

Advocate Comments: Employment / Underemployment

- *People with a disability being bullied to accept roles that were completely unsuitable, so the service would pick up the substantial, ongoing funding for a Stream 4 (this stream was the most vulnerable/high needs etc). Next step after Stream 4 would be a referral to DES.*

Disability Advocate, NSW

- *My personal view is that the practice of employing / recruiting people with disability as long term 'volunteers,' without any scope for progression or skills building to encourage eventual payment for services is an example of 'new wave' discriminatory business practice.*

Disability Advocate, NSW

- *Interaction of DSP applicants with other systems generally where capacity building for individuals denied. In particular they aren't able to extend participation in work, as it is seen as risky and might jeopardise their DSP. Not supportive of people attempting to extend themselves. Criteria for DSP is difficult and discouraging.*

Disability Advocate, NSW

- *Concern about getting it "wrong" and losing the safety net of the DSP is a significant barrier to obtaining some form of employment. Most people want some form of employment.*

Disability Advocate, NSW

- *Concerns that the reason for a non-referral of Stream 4 assistance client to a Disability Employment Service network was because the Stream 4 funding would be lost.*

Disability Advocate, NSW

Advocate Comments: Communication for Individuals with a Disability with Centrelink

No direct contact for Advocates

Disability Advocates are often working with DSP matters (I currently have 8 cases) and it is extremely difficult for us to liaise with Centrelink on their behalf. Unlike Welfare Rights, Disability Advocates do not have a direct line of communication, which makes it extremely difficult, frustrating, and time consuming when enquiring on behalf of the participant.

Disability Advocate, NSW

Inadequate Phone Service

When phoning the Call Centre, you are often on hold for a lengthy period before someone answers. It is common for the line to disconnect once waiting 30 minutes without speaking to a customer service officer. The reason this occurs is the Call Centre is too busy with phone calls and they will be disconnected at a 30 min hold time. If you do get through to make an enquiry about where a participant's internal appeal is up to, again you are placed multiple times on hold for the service officer to check the computer files. On average this "hold" pattern can occur 4-5 times over the hour conversation to only end with "I'm sorry there has not been a decision made" or "it is progressing forward" or "I don't have access to that information".

Disability Advocate, NSW

Communication breakdown

Advocates report constant communication breakdowns between clients/Advocates and Centrelink Staff. There needs to be a clear policy and procedures which clients with disabilities can understand and follow.

Disability Advocate, NSW

No right to Privacy

on numerous occasions when going to Centrelink on behalf of a client to upload supporting evidence for their appeal, upon arrival I have been asked for my CRN. If I refuse to give my personal CRN number for a work purpose, they will then request Medicare details, DOB, Name. One of the staff even said, "well I can find that out anyway". I strongly feel it takes away my right to privacy. I am not there for personal reason but just to have one document uploaded for a client and to get the receipt number

Disability Advocate, NSW

Not Disability Friendly

The whole process and procedure is not disability friendly – for example, it is hard for most people who have a disability to understand, navigate and investigate how to gain access to the DSP. It needs to be made more user friendly, especially for people with disabilities. Many participants I have assisted do not have a positive experience with Centrelink, often leave applying for the DSP for too long, can have feelings of shame and inadequacy and do not need the difficulties of applying for the DSP when they finally ask for help.

Disability Advocate, NSW

Centrelink Engagement Officer – "

I am aware there is a Centrelink Engagement Officer in some offices however it can take a while for her to return calls. I understand the best procedure is to send an email however she will not assist with all matters. There needs to be an easier process for Advocates to liaise on behalf of participants we are assisting."

Disability Advocate, NSW

Lack of an e-mail address –

Centrelink can only be accessed by those who are not participants (such as advocates or lawyers) via phone, fax or mail. Contacting Centrelink via a phone call, is a fraught exercise, which requires you to provide a Customer Reference Number and will then often require voice recognition, which means advocates or Solicitors will find it difficult to ring on behalf of clients. There are significant wait times and often a client will not be well enough to maintain that wait time.

Disability Advocate, NSW

Request to become Nominee

I have been asked on multiple occasions to become a "Nominee" which I refuse. The "consent to exchange" form is signed and should be enough for me to have authority to find out why a case is not progressing in a timely manner, what else is required to assist or simply have a document upload". I have had participants who are happy for me to be a Nominee to which I explain to Centrelink and the client "No" this is not ethical and can place you in a vulnerable situation if you have others being a nominee unnecessarily. At one time I was instructed by the local Centrelink staff that they could not upload a document for me on behalf of the client as he was not present with me instead, I would have to post it to Centrelink's Canberra address. I questioned that anyone can complete and post a letter which how this is more secure than an Advocate entering Centrelink with the signed consent form from the participant. Also, no receipt number can be given when you post a document, and it may not make it to Canberra via post before the appeal deadlines.

Disability Advocate, NSW