

**INQUIRY INTO VOCATIONAL EDUCATION AND
TRAINING IN NEW SOUTH WALES**

Organisation: People with Disability Australia Incorporated
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NGO in Special Consultative Status with the
Economic and Social Council of the United Nations

General Purpose Standing Committee No. 6
NSW Legislative Council
Parliament House
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21 August 2015

Dear Committee

Re: Vocational and Educational Training (VET) in NSW

1. People with Disability Australia (PWDA) welcomes the current Inquiry, and the opportunity to consider how the introduction of the Smart and Skilled reforms are impacting people with disability. This letter addresses concerns drawn from information received from our members and associates.
2. PWDA is a leading disability rights, advocacy and representative organisation of and for all people with disability. We are a national, cross-disability peak representative organisation and member of the Australian Cross-Disability Alliance. We represent the interests of people with all kinds of disability. We are a non-profit, non-government organisation. PWDA's primary membership is made up of people with disability and organisations primarily constituted by people with disability.
3. Article 24(5) of the UN Convention on the Rights of Persons with Disabilities (CRPD) obliges state parties to: "ensure access on an equal basis to general tertiary education, vocational training, adult education and lifelong learning without discrimination. To this end, reasonable accommodation should be provided to persons with disabilities". However, available statistics from 2003 show that post-secondary education is failing students with disability. Only 12.7% of people aged 15-64 years with a reported disability attained a Bachelor degree or above compared to 19.7% of people with no reported disability.¹ Only 14% of people with a 'profound or severe' core-activity limitation had completed a diploma or post-secondary education as compared to 28% of persons without disability.²
4. The Smart and Skilled reforms do not encourage participation of people with disability in the VET sector and thus far their impact has been to create uncertainty, reduce accessibility and limit social and

¹ Australian Bureau of Statistics, 'Survey of Disability Ageing and Carers: Summary of Findings' (Report No 4430.0, 2003) <www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4430.0Main+Features12003?OpenDocument>.

² Ibid 5.

economic opportunity for students with disability. Our primary recommendations are for the Committee to strongly support the role and resourcing of TAFE as a provider of VET, to recommend regulatory mechanisms for course fees and course quality, and to advocate for a flexible, NDIS style disability support funding model based on person centred approaches to learning as opposed to the provision of generic supports. Failures by the government and VET provider to address these recommendations will result in uncertain and unsustainable learning environments for students with disability and their continued segregation from our economy.

5. Job prospects for people with disability are dramatically lower than for other people in Australia. According to the ABS 4102.0 Australian Social Trends, March Quarter 2012 Report, the labour force participation rate for those aged 15-64 years with disability in 2009 was 54%, much lower than that for those without disability (83%), and the most recent OECD ranking placed Australia 21st out of 29 OECD countries for employment participation of people with disability. "Employment rates for people with disability are significantly lower than those without disability across all sectors. The employment rate of women with disability is also lower than their male counterparts, mirroring the gender gap that exists between men and women without disability."³
6. Australia's accumulated short comings mean that 45% of people with disability in Australia live near or below the poverty line with Australia currently ranking 26 out of 27 OECD countries for the percentage of people with disability living in poverty. Quality, affordable and accessible vocational and educational training has a central role to play for people with disability by facilitating their pathway from education into employment, providing qualifications in key industry required skill areas, and contributing to ending the cycle of disadvantage experienced by many people with disability.

The Benefits of VET and TAFE

7. PWDA supports the notion that vocational education is a public good; the purpose of the VET sector being to provide an affordable path towards employment by providing industry relevant education and skills training which is accessible to the whole community regardless of socio-economic background, culture, geographic location or disability. VET has traditionally been a socially inclusive system, "well placed to engage with those who are alienated from academic curricula, yet may wish to acquire practically orientated education/training."⁴
8. By providing skills to the economy VET has been estimated to provide a strong return on investment, and substantial benefits to individuals, the economy and society. A recent report by the Centre for Policy Development presented evidence of individual financial benefits such as a \$324k increase in lifetime earnings, and personal development benefits, with 94% of people seeking this as a goal of their studies being satisfied that this was achieved. It also found that vocational education facilitates the development of coherent vocations and efficient occupational labour markets which in turn contributes to the productivity of state and national economies.⁵
9. Moreover, the social benefits of VET must not be underestimated. "Education is central to nurturing citizens' capability to flourish in all spheres of life,"⁶ and TAFEs in particular tend to provide the greater share of these benefits by serving a disproportionate share of students with disability (7.2% as

³ WWDA (2008) *Submission to the Parliamentary Inquiry into pay equity and associated issues related to increasing female participation in the workforce* www.wwda.org.au/papers/subs/subs2006/

⁴ John Buchanan et al, 'Putting the vocational back in VET' (2009) 43 *Australian TAFE Teacher*.

⁵ Christopher Stone, *Valuing Skills: Why vocational training matters*, (November 2012) Centre for Policy Development <<http://cpd.org.au/2012/11/valuing-skills/>

⁶ John Buchanan et al, 'Putting the vocational back in VET' (2009) 43 *Australian TAFE Teacher*.

opposed to 4.2% in private sector⁷), being the main training provider outside metropolitan areas, providing more training for skills in shortage, and providing costly training such as mining and construction skills.⁸

10. For people with disability in particular, TAFE has been a significant provider of vocational training and education and thus facilitator of community inclusion and participation because its mandate has explicitly been to provide fair, equal and affordable access to education to “educationally or vocationally disadvantaged groups”⁹ for the public good. As such, funding for TAFE should be protected in order to ensure access to students with disability.

Smart and Skilled Reforms

11. The way VET is funded in NSW changed at the beginning of 2015 with the implementation of Smart and Skilled.¹⁰ The Smart and Skilled policy stems from the 2012 National Partnership Agreement on Skills Reform¹¹ in which States and Territories agreed to a set of shared objectives including:
 - increasing the accessibility and affordability of VET;
 - improving the responsiveness of the education sector to the employment market;
 - improving training participation and qualification completions by those who may be experiencing disengagement or disadvantage; and
 - enhancing quality, transparency and accountability in the sector so that students can make informed choices about their education pathways.¹²
12. The primary policy mechanism devised for achieving these objectives has been deregulation of the market, leaving TAFEs to compete for government funding against private for-profit providers. This creates an immediate tension as the role of TAFE has historically been to provide VET as a public good, whereas the business model of a private provider is to prioritize profit.¹³
13. The Smart and Skilled funding model deprioritizes investing in education as a public good and the lack of mechanisms to regulate the price and quality of private sector VET courses threatens to devalue the worth of qualifications and makes it increasingly difficult for prospective students to choose the course and provider most suitable for them. The continued existence of TAFE is also under threat as funding is now dependent on the number of student enrollments and they must compete with the marketing strategies of commercial providers.¹⁴
14. For people with disability the Smart and Skilled reforms are having a number of detrimental effects resulting in the creation of barriers to education and employment as opposed to encouraging and increasing accessibility, affordability, diversity and opportunity. As a result, the reforms do not achieve the aims of the National Partnership Agreement on Skills Reform and must be revised if they are to

⁷ <http://theconversation.com/tafe-helps-skills-shortage-more-than-private-providers-10906>

⁸ Christopher Stone, *Valuing Skills: Why vocational training matters*, (November 2012) Centre for Policy Development <http://cpd.org.au/2012/11/valuing-skills/>

⁹ Technical and Further Education Commission Act (NSW) s 6(e); NSW Office of Education, Students with Disabilities Policy www.det.nsw.edu.au/policies/student_serv/equity/tafe_disab/PD20050194.shtml

¹⁰ <https://smartandskilled.nsw.gov.au/>

¹¹ Council of Australian Governments, *National Partnership Agreement on Skills Reform* www.federalfinancialrelations.gov.au/content/npa/skills/skills-reform/national_partnership.pdf

¹² Ibid

¹³ Serena Yu and Damian Oliver, The University of Sydney Business School, *The Capture of Public Wealth by the For-profit VET Sector* (January 2015) www.stoptafecuts.com.au/files/3014/2672/1577/2015_02_25_The_Capture_of_Public_Wealth_by_the_For-Profit_VET_Sector_finalv4.pdf

¹⁴ Ibid

deliver an affordable and accessible system which delivers choice and control in education and employment pathways for people with disability.

The Smart and Skilled reforms disadvantage people with disability with discriminatory consequences

15. Article 24 of the UN Convention on the Rights of Persons with Disability (CRPD), the Disability Standards for Education 2005, and Section 22 of the Disability Discrimination Act 1992, require education providers to make reasonable adjustments for students with disability in order to implement their right to education. However, under Smart and Skilled, the funding for learning supports for students with disability has been capped at 15% of the base price of delivering a qualification¹⁵. This is both inflexible and impractical resulting in reduced access for people with disability.
16. For some students the 15% cap on loading may be enough to provide the reasonable adjustments required for their learning environment to be accessible. However, for others the costs of providing the support they need will exceed the allocated 15%. As a result, the limited loading will exclude many students with disability from accessing vocational education because providers will not be able to afford to make the adjustments that the student needs or will provide inadequate and ineffective adjustments. This leaves VET providers open to discrimination complaints due to failures to provide reasonable adjustments.

Sophia's story¹⁶

Sophia is a photography student at TAFE who is hearing impaired. She was being provided with an Auslan interpreter to assist her during classes and this had been working well for her. However at the beginning of 2015, following the Smart and Skilled reforms, she was told that she would no longer have access to an Auslan interpreter and instead would have to rely on a note taker even though this would only provide her with a record of what had been taught rather than allowing her to understand what was being taught or to participate effectively during class. Consequently, Sophia lodged a complaint with the Australian Human Rights Commission against the TAFE where she is studying and has since regained her Auslan support. However, the lack of support, temporary decrease in educational outcomes, uncertainty, and additional work involved in this process would have been avoided if TAFE had been able to continue to meet Sophia's individual needs.

17. Moreover, there is a distinct lack of transparency regarding how the 15% loading is allocated by VET providers, with students and teachers unaware of how much funding is available, what amount of funding has been allocated to whom and for which adjustments, and uncertainty whether the full 15% loading has been quarantined to meet the needs of each individual student with disability or spent elsewhere.¹⁷
18. This uncertainty is compounded by the wide discretion given to VET providers to decide what kind of adjustments will be reasonable for students with disability based on the type of impairment they identify with. Students with disability have different needs so again this discretion can result in students with disability receiving inadequate or inappropriate support which detrimentally affects their learning outcomes. Alternatively, it provides an opportunity for unscrupulous VET providers to claim the 15% loading and then fail to provide anything but the lowest form of generic support required in order to profit from the increased funding allocation available.

¹⁵ The base price is the cost of delivering the qualification to a student who does not have a disability.

¹⁶ Not her real name. Case example drawn from the Australian Centre for Disability Law.

¹⁷ Prior to Smart and Skilled teacher consultants were aware of how much funding was allocated to their TAFE by STS for different types of disability and therefore how much funding they had to provide reasonable support for their students.

Damian's story¹⁸

Damian, who is Deaf, is undertaking a 3 year trade course and will be eligible to receive a disability support loading of \$880. The average fee for an Auslan interpreter is \$66 per hour, meaning that Damian will have access to a total of 13.3 hours of support over the 3 year duration of the course, equating to 4.4 hours per year for approximately 960 hours of face to face teaching time. It may become unfeasible for Damian to complete his course without the support he needs, leaving him with student debt and no greater job prospects than when he started.

19. Furthermore, funding for adjustments has now become contingent on students identifying as people with disability at the time of course registration with funding unavailable for students who do not identify at this time. As a result, people who acquire disability during their studies or who have a change in their support needs may not be able to access the support required to continue the courses that they have invested in. In addition, students are not provided with information as to why they must disclose information about their disability upon registration. Aside from the implicit privacy concerns, students are not aware that non-disclosure of this information may affect the institutions ability to deliver their chosen course. Lack of information about how funding for disability support now works is a barrier to entry in itself, with students assuming that their needs will be met when they are accepted on to and pay for courses.
20. Community Service Obligation (CSO) Funding is an additional funding stream available to VET providers intended for use where the base price and disability loading is not sufficient to compensate providers for the cost of delivering training to students with needs that go beyond the allocated loading. However, in practice it offers more of a band-aid solution for the underlying problem of inadequate and inflexible funding for disability support. It also has many associated problems including a lack of clear information about what it is for, who is eligible, and on what basis allocations are made. In addition, CSO funding is only made in 12 month blocks making it difficult for Teacher Consultants who work with students with disability to plan and fund their complete pathway of study over the duration of their course.
21. In short, the Smart and Skilled disability support funding policies are reducing the flexibility required to ensure that students with disability are provided with the support and adjustments they need to have an equal opportunity to participate and succeed. There must be an element of flexibility within the system so that students are able to access support above the 15% loading. Course providers should consult people with disability about their individual requirements with a joint plan created to detail how their participation will be supported. A move towards a "one size fits all" model of generic support merely sets students up to fail, resulting in poor outcomes, wasted resources and disappointment for students with disability.
22. An alternative person centred and flexible NDIS style approach to funding would be preferable, with students being entitled to draw from a pool of funding based on an individual assessment of their needs and a plan to support their learning objectives. As it stands, the Smart and Skilled reforms are a retrograde step in the provision of disability inclusion as they prioritise simplicity of funding allocation over supporting participation requirements. Not only does this have discriminatory effects as laid out in the DDA, but it is inefficient over the longer term and leads to the perpetuation of social and economic barriers which isolate and segregate people with disability from the economy and our communities.

¹⁸ Not his real name. Case example drawn from Redfern Legal Centre.

The Smart and Skilled reforms threaten to reduce quality and affordability of education and leave students with disability open to exploitation

23. It is questionable whether deregulation has made studying more affordable for students, particularly students with disability who already experience a higher cost of living and in some cases may be forced to subsidise their own supports due to a lack of reasonable adjustment.
24. In contrast, deregulation is profitable for private providers who can price courses which are not on the Skills list at inflated rates¹⁹, for example a Double Diploma of Business & Management from Careers Australia costs \$23,250 in most States whereas the same course at TAFE Queensland South West costs \$6,800.²⁰ Fee regulation of all courses must be a component of a deregulated VET sector to ensure that reasonable prices are being charged for qualifications consistently across the sector and that penalties are imposed where prices exceed reasonable amounts.
25. The introduction of VET FEE HELP theoretically makes the sector more accessible by deferring the payment of course fees until a later date. However, this accessibility is only fruitful if it is supporting people to invest in courses which are suitable for them and which institutions are able to provide to the required standard. If the provider cannot deliver then students with disability will simply accrue student debt.
26. Moreover, the Australian Competition and Consumer Commission (ACCC) is currently investigating private providers in NSW who have been accused of luring people from vulnerable and disadvantaged groups in the community to sign up for courses without informing them of the financial consequences of the student debt they will acquire or considering the ability of those individuals to complete the courses on offer.²¹ Redfern Legal Centre estimates that up to 10,000 individuals may have been approached by marketers in the last two years.²²

Tom and Delilah's stories²³

Tom, who has an acquired brain injury, was door-knocked at his Waterloo public housing unit and signed up to a diploma of business management which was "entirely unsuitable for someone in his circumstances."²⁴ Delilah, a single parent with dyslexia, was sold a diploma in salon management. She did not undertake the course but "was completely traumatised...the thought of having a \$38,000 debt was overwhelming."²⁵

27. Some private VET providers have the financial capacity to invest significant resources in marketing and media reports suggest that they succeed in attracting many students who subsequently feel let down when they learn that the course content and delivery methods are unsatisfactory or of poor quality.²⁶ With some private providers refusing to waive fees for dissatisfied students who do not want to complete their courses, or cooling off periods as short as 7 days, this leaves people with debts they are

¹⁹ Course on the Skills list are subsidised and the costs of these courses regulated whereas course not on the Skill list are not.

²⁰ Gerard Brody and Katherine Temple, *Dodgy private colleges: failing students and taxpayers* (20 June 2015)

<<http://stoptafecuts.com.au/blog/dodgy-private-colleges-failing-students-and-taxpayers/>

²¹ Anna Patty, 'NSW Joint taskforce to investigate unscrupulous training providers', *Sydney Morning Herald* (online), 22 March 2015 www.smh.com.au/nsw/nsw-joint-taskforce-to-investigate-unscrupulous-training-providers-20150322-1m4pid.html

²² Redfern Legal Centre, *RLC in the Media: Push to stop door-to-door diploma marketers targeting the vulnerable* (17 July 2015)

<<http://rlc.org.au/rlc-media-diploma-marketers-targeting-vulnerable>>.

²³ Not their real names. Case examples drawn from Redfern Legal Centre.

²⁴ Redfern Legal Centre, *RLC in the Media: Push to stop door-to-door diploma marketers targeting the vulnerable* (17 July 2015)

<<http://rlc.org.au/rlc-media-diploma-marketers-targeting-vulnerable>>.

²⁵ Ibid

²⁶ Timna Jacks, 'Kinder Wages Breakthrough', *The Age* (online), 19 May 2009 www.theage.com.au/victoria/serious-misconduct-in-training-sector-prompts-9-million-crackdown-20150628-ghzebl.html

unable to repay.²⁷ Meanwhile, the private provider would have received public funding from the government to subsidise course delivery and disability support at the time of the student's enrolment, and this will be retained despite the education or disability supports no longer being provided.²⁸

28. People with disability are not only being exploited by unethical VET providers but are additionally disadvantaged because they cannot be certain that the supports they need will be made available for them to complete the course they have paid for, leaving them in debt and without the qualifications required to pursue their career. The quality of education provided by VET providers must be regulated to ensure that students receive value for money and gain relevant qualifications that will bolster their economic opportunities.
29. Moreover, the means used to advertise, promote and sell educational training products requires regulation to ensure that potential students can make fully informed decisions about their educational choices. Information about the Smart and Skilled reforms, VET FEE HELP, disability support, course content, delivery methods, fees, terms and conditions, should all be provided in accessible formats for people with disability. Providers who target vulnerable members of the community in order to entice them to sign up for VET qualifications that they will unlikely complete should be penalised.

The Smart and Skilled reforms weaken the ease of transition to TAFE for people with disability

30. The Smart and Skilled reforms are creating barriers to VET access for students with disability who require additional training before starting VET courses. Under the Technical and Further Education Commission Act 1990 TAFEs have a responsibility to "provide basic and pre-vocational education as well as vocational education and training."²⁹ However, PWDA has been informed that Smart and Skilled funding is not adequate for sustaining the critical pre-vocational programs provided at high school through TAFE delivered Vocational Education and Training (TVET), and at TAFE for students who need support in developing basic skills prior to entering mainstream VET programs.
31. Students with disability are now being required to undertake pre-vocational programs alongside mainstream qualifications which goes against the purpose of the course being preparatory in nature and designed to support the transition into vocational learning and work skills. Moreover, these courses are no longer fee exempt and students are charged a minimum of \$80 if they need support to complete this course - which also may not be enough to meet their needs. Funding is only approved on a course by course basis following the submission of a proposal to run a course from an individual provider.

People with Disability Australia thanks the Committee for the opportunity to make this submission and would welcome further engagement on any of the issues raised.

Yours faithfully

Therese Sands
Co-Chief Executive Officer

²⁷ Ibid

²⁸ Ibid

²⁹ Technical and Further Education Commission Act (NSW) s 6(a); NSW Office of Education, Students with Disabilities Policy <https://www.det.nsw.edu.au/policies/student_serv/equity/tafe_disab/PD20050194.shtml>.