**Willing to Work: National Inquiry into Employment Discrimination against Older Australians and Australians with Disability**

# Submission No 100

**Name** Michele Nealon

**Submission made by**

[x]  Australian with disability in work

[x]  Australian with disability looking for work

☒ Australian with disability who would like to work

# Submission regarding Australians with Disability

### **Your experience**

**Have you (or the person you are submitting on behalf of) experienced employment discrimination?**

[x]  Yes

[ ]  No

[ ]  Not sure

**Did you take any action in relation to the employment discrimination you experienced?**

[x]  Yes

[ ]  No

**Please tell us more, for example, what action you took and how effective you felt it was; or why you chose not to take any action.**

I approached the then NSW Disability Discrimination Legal Centre (now know as the Australian Centre for Disability Law) and advised of my situation. They encouraged me to make a complaint which I did but subsequently resigned as a result of the treatment I received at the hand of my then employer.

**Did your experience of employment discrimination impact on your participation in the workforce? (For example, did you have to stop work, change jobs or take sick leave?)**

[x] Yes

[ ] No

**Please tell us more**

As a result of my resignation, I was unemployed for another 18 months prior to being able to secure full-time employment.

### **Barriers**

**Do you think older Australians/Australians with disability face barriers when they look for work or are in a job?**

[x] Yes

[x] No

[ ] Not sure

**If yes, or not sure, what do you think these barriers might be?**

Indirect discrimination is alive and well. I recall a couple of years ago being offered a position through a recruitment agency. I had not previously advised of my congenital severe hearing impairment but decided I needed to make that fact clear. On doing so the recruitment agency advised the offer of employment had been withdrawn without any further discussion. I was of the opinion that there were no inherent requirements of the role, as had been described to me, that I would not be able to complete without some small modifications. No further discussion, the offer was removed from the table.

**Does employment discrimination have an impact on gaining and keeping employment for older Australians/Australians with disability?**

[x] Yes

[ ] No

[ ] Not sure

**Are there any practices, attitudes or laws which discourage or prevent equal participation in employment of older Australians/Australians with disability?**

[x] Yes

[ ] No

[ ] Not sure

**Please tell us more**

The most obvious one for me, as a person with a hearing impairment is the requirement to start any and all recruitment searches with phone calls either to recruitment agencies or employers. There is little opportunity to collect information in any other format and so the discrimination begins long before employment is possible.

**What are the incentives and disincentives for older Australians/Australians with disability to work?**

**Incentives:**

Financial considerations / Social Inclusion.......

The same incentives as for all other people in the society.

**Disincentives:**

Daily experience of discrimination at the hands of an organisation that is supposed to value your contribution.

### **Good practice**

**Are there examples of good practice and workplace policies in employing and retaining older Australians/ Australians with disability?**

[x] Yes

[ ] No

[ ] Not sure

**Please tell us of examples of good practice in employing and retaining older Australians/ Australians with disability in work that you are aware of.**

Please see the attachment.

### **Solutions**

**What action should be taken to address employment discrimination against older Australians/Australians with disability?**

Positive and a very active awareness public campaign about the contributions people with disability can make to the workforce.

**What outcomes or recommendations would you like to see from this National Inquiry?**

Survey of public awareness of Disability Discrimination Legislation and the like.

# Willing to Work Submission

*What policies, workplace practices, programs or incentives assist with increasing participation of people with disability? How adequate are these policies, practices and incentives? What is the role of Governments, peak business and employee groups, and individual employers?*

My response to this point of discussion with cover a number of areas:

Firstly and importantly, in regards to the Disability Discrimination Act (1992) (DDA) like any legal framework it is only as effective as the level of awareness of the Act and its implications. To my knowledge, there has never been a survey of the general public’s awareness of the DDA either before or since its inception. A study that is long overdue. Potentially, if the study shows what I expect to be a very low level of awareness then the involvement in a public education campaign by the Human Rights Commission would be most appropriate.

The Employment Assistance Fund (EAF) provides vital support to employees in the workplace in obtaining the appropriate modifications required. The EAF has a number of limitations which could be easily and quickly rectified and those would, in my opinion, make a significant difference to the outcomes for people with disability.

First amongst those would be an extension of the EAF to include support for people wishing to volunteer. Volunteering is often an important opportunity for people to not only develop skills in new areas of employment but is a means by which people often find social inclusion. At the current time, the EAF will only provide support for those activities directly related to paid employment. Let me provide you with my own example. As a part of my current employment responsibilities, I am required to deliver training presentations on a regular basis. While I consider myself marginally competent in that regard I determined that attending and participating in **[redacted - leadership and communication training club]** would be beneficial. And there I strike a problem. To participate in **[redacted - leadership and communication training club]** in a way that was effective I would need the accommodation of a hearing loop. Having made contact with half a dozen **[redacted – branches of the club]** I was told that the accommodation was not available, could not be organised and I was unwelcome. Here is a group that says it welcomes all, just as long as you don’t have a severe hearing impairment as I do. I’m denied the opportunity offered to others to develop my public speaking skills and must continue on without that opportunity for skill development.

Secondly, successful workplace integration often includes attendance and participation in social events. Networking and building relationships are critical parts of the employment experience. Unfortunately again the EAF falls short. The support on offer does not include any accommodations required to fully participate in those social events even if they are critical to one’s employment.

And thirdly, I would comment that the EAF consultants that come to the workplace to interview, discuss and understand what is required in the way of accommodation by the employee have no specific expertise in the type of disability being discussed. As a result, in my own casse, and despite the fact that I am articulate, I was denied the accommodation being sought until I requested the intervention of a technical support representative from one of the commercial organisations from whom the equipment would be eventually purchased. I don’t believe it should be my job to educate the EAF consultant and invest considerable time into describing my situation and the accommodations required. I’m also concerned that if I was unable to successfully describe my need, how others who are less articulate get on.

Question: Has anyone ever done any follow up work to enquire how the person with a disability views the process and whether or not they believe the process was fair?

The government funded National Relay Service (NRS) provides a vital service for those of us with communication access difficulties. And I will say, the increased acceptance in recent years by many of the large call centres has been a welcome change.

While we are speaking of things positive, in regards to transport services clearly much work still needs to be done, however, for those of us with hearing impairment one of the most positive changes in recent years was not put in place for our benefit but has benefited us just the same. The activity to which I refer is the installation in NSW of visual signals on many of the suburban train stations. These visual signals allow us to use one of our other senses to access the critical information of where the train is headed. No more guessing - a great benefit indeed.

*Are there distinct challenges faced by different sized businesses and organisations, sectors and industries in employing Australians with disability?*

The challenges faced by different sized business and organisations are many. First, the knowledge and awareness of the legal frameworks relevant to employing people with disability. Given the general lack of public awareness, it’s not surprising that the lack of awareness that I have encountered from employers who are after all, members of the general public, is often an uneducated and ill-informed view.

Secondly, the requirement of the EAF for employers to pay for the accommodations upfront and later be reimbursed is one that is more easily met by larger and/or commercial organisations. The smaller the organisation (and in the sector in which I choose to work, ‘not for profit’) the more likely they are to claim ‘unjustifiable hardship’ when responding to a claim for a workplace modification. Having said that, large commercial companies might be able to meet the cost requirements of the modifications for a person with a disability but they obviously don’t work in all sectors or industries that might be of interest to people with a disability.

The Government sponsored Australian Network on Disability (AND) appears to be effective work in raising the awareness of the top 100 employers in Australia in regards to employing people with disability. While that awareness and improvement is welcomed, a similar approach needs to be directed to smaller organisations and in a broader range of sectors. To date, the majority of the AND’s focus seems to have been on financial and/or technology organisations. Again, not everyone with a disability wishes to work in those sectors or very large organisations.

*What other data or information is available on employment discrimination against Australians with disability?*

In regards to people who are Deaf or have a hearing impairment, I refer you to Listen Hear!, a report by Access Economics (2006).

More generally I would comment that ***attitude*** is everything when it comes to employment discrimination or inclusion in the workplace. And so to tell a positive story…. I’m currently employed by a large and national not for profit organisation in the health field. As it so happens my manager grew up with a father who also had a congenital hearing impairment, my colleagues include a General Practitioner who has plenty of empathy for people with different abilities and another who has worked for a long stint in the disability sector. All of this means that for me as a person with a severe congenital hearing impairment, my requests for accommodations have been accepted as part and parcel of everyday business. When a team meeting is held where a hearing loop is in use, it is often my colleagues who insist that the loop is used rather than finding myself always needing to advocate for myself.

The accommodations I have requested, have cost the organisation little. The loyalty I feel towards the organisation as a result of the positive response to my requests is unmeasurable. The statistics in various studies which discuss how people with disabilities stay with the same employer (when it’s a good one) for longer are certainly supported by my personal experience.

Awareness, knowledge and breaking down the barriers is required if people with disability are to ever achieve equal employment rates as those without disabilities.

*How adequately do existing laws protect Australians with disability from employment discrimination? How effective are the legal remedies for Australians with disability who have experienced employment discrimination? How could existing laws be amended or supplemented?*

The existing laws around employment discrimination, like other laws, place the burden of proof on the aggrieved person. This situation results in a great deal of pressure and stress placed on the person with disability. The law also requires ‘evidence’ of what can often be experienced as verbal communications that result in discrimination, direct or indirect.

My own experience may provide you with some context. Employed by a state based disability service provider, as a person with a disability I requested accommodations. I was told these were unreasonable and outside the scope of the organisations knowledge and ability to provide them. I was excluded from management meetings and at times singled out in staff meetings as the “odd bod”. I approached what was then, the NSW Disability Discrimination Legal Centre (now known as the Australian Centre for Disability Law) and made them aware of my situation. They encouraged me to lodge a complaint and were very clear that they believed that discrimination had indeed taken place. As a result of my lodging a complaint, the situation in the workplace became even more unpleasant, my team of staff were advised not to communicate with me, my colleagues excluded me from additional activities and I decided to terminate my employment, effective immediately. The legal avenues open to me resulted in additional pressure and it was clear that it was highly unlikely I would ever have a positive working relationship with the people in the organisation again. I was seen as a betrayer rather than someone with a legitimate complaint.

In regards to amendments to laws, I’d like to see a requirement for the employer to prove that they have not acted in a manner that is discriminatory on receipt of the complaint. Let the onus be on the employer straight up to work towards positively resolving the issue rather than setting up a situation where the employee feels the need to leave the toxic environment, where everyone loses. The requirement for the person with disability to be a self-advocate falls across many areas that are being discussed and this appears to be an endless journey for those with disability.

*Other comments*

I currently live and work in Sydney. Throughout my career, I’ve entered many spaces for meetings; conferences, training sessions etc. and few have working hearing loops, which I require. Some of those places lacking hearing loops would surprise you, such as high profile deaf and disability organisations. There appears to be limited or no signs of improved access for the one in six Australians with a hearing impairment.

Perhaps the most challenging current situation for me as a person with hearing impairment is in accessing medical services. Whether in hospital or medical waiting rooms, people’s names are called out and if you happen not to hear well you simply go to the bottom of the queue. I dread attending any such premises knowing that a negative experience and sky high blood pressure is likely to be the end result. Is it not possible to have some kind of numbering system or visual clue to indicate who is being called, and while I’m at it, how about also addressing this very real issue in the Centrelink offices.

I attended the ‘Willing to Work’ consultation in Newcastle on Monday September 7, 2015. For a person with a communication challenge, as I am, the setup of the consultation did not allow for my participation. Questions were thrown out into the room and those who were able and capable of answering fast were those who were heard. The sum effect, the people in the room with disability were in the main a silent voice as those who work in the sector but without disability, assumed they knew more about what needed to be communicated. It’s very frustrating to see that the Human Rights Commission in its efforts to collect information has indeed, effectively excluded the very people it seeks to hear from.

I’m aware that some are pushing for quotas or targets for employment of people with disability. Can I just comment on that issue by suggesting that any enforcement of targets will likely result in people being asked to disclose that which they may choose not to disclose and as a result increase the level of current discrimination in the workplace.