**A.S.A Access Consultancy**

**Submission to the Australian Human Rights Commission’s**

**Willing to Work Inquiry**

**December 2015**

This submission has also been forwarded to the Disability Employment Framework Taskforce.

There may be sections of this submission that are more relevant to the Disability Employment Framework and other sections more relevant to the Willing to Work Inquiry. A.S.A Access Consultancy acknowledges that both consultations are linked in many ways, and that access to employment is not an issue that can be addressed by a single department and will require a whole of Government approach.

**1. Background**

A.S.A Access Consultancy would like to thank the Australian Human Rights Commission for the opportunity to provide feedback to the Willing to Work Inquiry.

A.S.A Access Consultancy is aware that there are many barriers to employment experienced by people with disability, and has chosen to focus on one form of employment that is often overlooked – access to self-employment.

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| **United Nations Convention on the Rights of Persons with Disabilities (CRPD)[[1]](#footnote-1)**  **Article 27: Work and Employment**  **1.** States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:  **f)** Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business. |

The figures presented in Table 2 from the Australian Bureau of Statistics 2012 report on Disability, Aging and Carers show that 4.1% of people who reported having a disability were receiving their main source of income from business income, compared with 5.9% of people who reported no disability.

**Table 1: Main Source of Personal Income (Aged 15-64)**

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| **Main Source** | **Reported Disability (%)** | **No Reported Disability (%)** |
| Wages or salary | 37.4 | 68.9 |
| Unincorporated Business Income | 4.1 | 5.9 |
| Government Pension or Allowance | 43.0 | 9.5 |
| Other | 8.5 | 5.1 |
| Not Stated | 7.1 | 10.6 |
| **Total** | 100 | 100 |

Interestingly, in 2009 the USA Bureau of Labor Statistics[[2]](#footnote-2) found that a much larger percentage of workers who reported having a disability were self-employed (11%) than people who reported no disability (7%). Similar findings have also been reported across Europe. Pagan-Rodriguez (2009)[[3]](#footnote-3) found that people with disability were more likely to be self-employed than people with no disability, based on data collected from 13 European Countries. However, in interpreting these findings it must be noted that different measures were used to assess the prevalence of self-employment; for instance the data from the USA was based on ‘workers’ with a disability rather than all people that reported a disability. Nevertheless, the research does highlight the significance of self-employment as an employment option for people with disability. One that has been echoed by international advocates like Mark Perriello, the president of the American Association of People with Disabilities, “If no one will hire you, start a business for yourself. Don’t let barriers get in the way.”

**2. Access to Self-employment Survey**

This submission has been informed by responses to a survey on access to self-employment for people with disability. A small group of 11 people were surveyed. The survey questions are presented in the Appendix.

The survey questions refer to people with disability or mental illness, recognising that although mental illness is a form of disability not all people with mental illness will necessarily refer to themselves as having a disability.

**Table 2: Survey Participant Demographics**

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| **Respondents** | **Number** |
| Person with disability or mental illness | 6 |
| Carer | 1 |
| Disability Employment Service Manager | 1 |
| NEIS Trainer / Mentor | 3 |
| Education Support Worker | 1 |
| Access Consultant | 1 |
| Advocate | 3 |

**3. Benefits of Self-employment**

Survey participants reported the following benefits of self-employment for a person with disability or mental illness:

* Independence and autonomy, choice and control.
* Sense of belonging - part of the workforce / community.
* Paid employment / more financial resources / financial independence.
* Accessibility.
* Flexibility (being able to work from home, choose work days and hours).
* Determine your own boundaries.
* Can employ staff to do parts of the work that may otherwise be difficult to do because of the disability (outsource / partnerships).
* Self-acceptance – not being dependent on being accepted into the workplace by an employer.
* Builds confidence, self-esteem, pride and self-worth.
* Promotes equality – can help raise awareness, people with disability running businesses outside of the disability sector.
* Networking – can lead to other opportunities.
* Chance to use skills, qualifications and experience.
* Gateway into employment and financial security for people who may not be eligible for other services
* Can move off Centrelink benefits.
* Gives the person a sense of purpose.
* Ability to plan.
* Improved quality of life, health and mental well-being.

**4. Barriers to Self-employment**

Survey participants reported the following barriers to self-employment for a person with disability or mental illness:

* Lack of confidence and empowerment.
* Business operations can be stressful and high pressured.
* Self-employment may not be suitable for everyone.
* Lack of small business training providers with staff trained in disability awareness.
* Training not tailored for the person.
* Access to training and supports.
* Access to good quality information.
* Limited assessment process.
* Lack of vocational guidance.
* Lack of networks.
* Access to business resources / capital (low cost finance).
* Access to mainstream business services (customer service, recruitment etc).
* Lack of ongoing funding for supports in their business.
* Responding to specific business needs in capital investments.
* Attitudes and cultural barriers.
* Competition.
* Not enough mentoring – one survey participant suggested a peer mentor program; where the self-employed person with disability could be matched with a business owner in their industry that they could network with or shadow.

**5. Self-employment Services and Supports**

Survey participants were asked if they were aware of any programs or services that support people who would like to start their own business. The results revealed that the majority of participants were aware of one available program, the New Enterprise Incentive Scheme (NEIS). One participant said that she wasn’t aware of specific programs for people with disability but she did know that Disability Employment Services (DES) providers were available to assist job seekers. An additional comment was made from another participant who referred to support being available from the Employment Assistance Fund.

Sections 6-8 of this submission consider the issues experienced by people with disability in using these services and supports when setting up their own businesses.

**6. Disability Employment Services (DES)**

When the survey participants were asked whether they thought employment services did enough to promote self-employment for people with disability, all participants responded ‘No’.

**Comments included:**

“If they did I would know about it, self-employment is not something that is commonly recognised as an option”. (Education Support Worker)

“My DES Provider tried to deter me from enrolling in the NEIS Program, even though I had the necessary skills and qualifications and had spent many years working in the industry”. (Person with Disability and Advocate)

“The disability climate does not support people who want to work or who are capable of being self-employed”. (Person with Disability, Carer and Advocate)

“Employment services in Australia are service orientated and have no resources to support self-employment or capacity to build access to self-employment”. (Person with Disability and Advocate)

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| **Recommendation 1:** For programs and services to be adequately funded to promote and provide access to self-employment for people with disability. |

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| **Recommendation 2:** That funding is also available to train employment service providers and provide information sessions on self-employment options for people with disability, carers and advocates. |

A former DES Manager explained that she would avoid discussing self-employment as an option as it was just too difficult to work around the system. She explained that the ESS Web system that DES Providers use did not support self-employment, where the focus was on job seekers and their interactions with employers.

In a similar vein, one survey respondent explained that her DES provider told her that often people with disability are put into the 'too hard basket' when they do not match the characteristics of a 'typical' DES client.

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| **Recommendation 3:** That DES Providers openly discuss self-employment options with DES Participants; thereby, empowering choice and control. |

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| **Recommendation 4:** That the ESS Web system is reviewed to ensure that it promotes self-employment as an employment option for people with disability. |

**7. NEIS Program**

**7.1 NEIS Program Overview[[4]](#footnote-4)**

NEIS is a jobactive program delivered by a network of 21 providers who provide individualised help for job seekers to become self-employed business owners. A total of 6,300 NEIS places are available nationally each year.

A job seeker can participate[[5]](#footnote-5) in NEIS if they:

* are fully eligible for jobactive or are a Disability Employment Services participant in the Employment Assistance Phase; and
* receiving an eligible income support payment such as Newstart Allowance, Parenting Payment, Carer Payment, Disability Support Pension or Youth Allowance (Other).

NEIS provides job seekers with:

* accredited small business training and business mentoring for up to 52 weeks (e.g., Cert III in Micro Business Operations).
* income support for up to 39 weeks (NEIS Allowance) and NEIS Rental Assistance[[6]](#footnote-6) for up to 26 weeks (if eligible)
* personalised mentoring and support from a NEIS provider in the first year of the new business to help a job seeker put their business idea into practice.

The NEIS Allowance is equivalent to the single, 22 or over, no children rate of Newstart Allowance, and is paid fortnightly in arrears, subject to a NEIS Participant meeting the obligations under their NEIS Participant Agreement. The amount of NEIS Allowance that a job seeker receives will not be affected by income from their NEIS Business. Job seekers can receive income from outside their business (such as from investments or other work) while participating in NEIS. However, NEIS providers will ensure that the NEIS business is their primary, full-time activity. If a job seeker’s external income is greater than twice the basic rate of NEIS Allowance in a given financial quarter, it may affect the amount of their NEIS Allowance.

**7.2 NEIS Pathways**

The NEIS Factsheet, states that:

"If a job seeker is interested in self-employment, they can contact their local jobactive or Disability Employment Services provider. If their provider considers NEIS to be an appropriate activity, they may be referred to a NEIS provider."[[7]](#footnote-7)

Choice between employment service providers should be acknowledged when pathways to the NEIS program are considered. There may be an assumption that people with disability would choose to register with, and be referred by, a DES Provider rather than jobactive. However, this is not always the case, especially when the person with disability may have had previous bad experiences with a DES Provider or where their DES Provider does not support their choices.

It cannot be stressed enough that it is the responsibility of DES Providers and jobactive to support a person's decision making rather than use substituted decision making practices. People wishing to start their own business and approach a NEIS Provider should not be dependent on jobactive or their DES Provider deciding whether it is an appropriate activity for them or not. Any decisions about suitability should be left to the NEIS Provider who uses a vetting process for this task.

Accordingly, it may be a more efficient and equitable process if the system allowed NEIS Providers to register participants directly, without the need for the person to have been referred by a DES Provider or jobactive.

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| **Recommendation 5:** That NEIS Providers have the authority to consider direct applications to the program, without the requirement that the applicant first be referred by a DES Provider or jobactive. |

**7.3 NEIS Allowance and Disability Support Pension (DSP)**

**Table 3: Payment Rates[[8]](#footnote-8) (20 September 2015)**

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| **Payment** | **Base Rate** | **Pension Supplement** | **Pharmaceutical Supplement** | **Energy Supplement** | **Total** |
| **Disability Support Pension** | $788.40 | $64.50 |  | $14.10 | $867.00 |
| **Newstart** | $523.40 |  | $6.20 | $8.80 | $538.40 |
| **NEIS Allowance** | $523.40 |  |  |  | $523.40 |

The NEIS Factsheet explains that “Recipients of Disability Support Pension, Carers Payment, Parenting Payment (Single) and some Department of Veterans’ Affairs pensions can choose to remain on these payments while participating in NEIS.”[[9]](#footnote-9) This implies that there is a ‘choice’ between moving from the DSP onto a lesser payment equivalent to the Newstart Allowance (not affected by income from the NEIS Business) or staying on the DSP (affected by income from the NEIS Business). This interpretation of the Factsheet is reflected in information provided by NEIS Providers who encourage NEIS Participants to stay on the DSP (at least until they start regularly earning income from their business).

One NEIS Provider said that they used to have people with disability, but it is complicated.

To illustrate the confusion among NEIS Providers and Participants, below is the information available from a NEIS Provider[[10]](#footnote-10) on the frequently asked question section of their website:

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| **If I’m on Parenting or Disability Allowance, do I have to swap over to the NEIS payment if accepted for the Program?** |
| No. Parenting and Disability receivers may choose to stay on their existing benefits, however these benefits will be income tested against how much you earn in your business. You have the opportunity, once on the Program, to switch to the NEIS allowance where your business income will not affect the allowance. It also works the other way should you have chosen to go onto the NEIS allowance initially but have now decided that it would be better to stay on your original benefit. It is very important that you discuss this option with a NEIS Managing Agent prior to being accepted onto NEIS |

The actual process is very different than implied by the NEIS Factsheet[[11]](#footnote-11) and NEIS Provider. In reality, when the NEIS Participant moves onto the NEIS Allowance they will receive the fortnightly NEIS Allowance plus a DSP top-up[[12]](#footnote-12) when they are not earning in their business ($523.40 + $343.60 = $867.00). The income they do earn will then only affect the DSP top-up and not the NEIS Allowance which they will continue to receive in full for the 39 weeks of the program.

There appears to be no reason for a person to 'choose' to stay on the DSP as the person who moves onto the NEIS payment will receive the DSP top-up if they are not earning enough. The guidelines provided by the Department of Employment and information from NEIS Providers is not only misleading but can result in the person with disability[[13]](#footnote-13) missing out on the financial incentives of the NEIS program, which may affect the future of their business. The stress and confusion around payments may also deter the person from starting their own business in the first place.

To add to the confusion, if a person is permanently blind and in receipt of the DSP, they may not be subject to the income and assets test, unless they are claiming rent assistance or their partner claims an income support payment[[14]](#footnote-14). Therefore, for a person who is blind and in receipt of the DSP, it may 'not' be suitable for them to move to the NEIS Allowance. Nevertheless, most Centrelink payments do appear to be subject to income and assets testing.

Note that the NEIS Allowance over the 39 weeks of the program = $10,206.30. This financial incentive is a central part of the program and intended to cover the NEIS participant’s living costs so they can focus their attention on developing their business. It also enables participants to use their earnings to further develop their business.

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| **Recommendation 6:** Centrelink Staff, NEIS Providers and DES Providers are fully trained in understanding the processes involved when a DSP recipient moves to the NEIS Program. |

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| **Recommendation 7:** Pre-NEIS Participants with a disability are provided with accurate information regarding the processes involved prior to the commencement of the program, in an accessible format. |

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| **Recommendation 8:** The Department of Employment revises the misleading 'Job Active Self Employment NEIS Information Sheet' which currently states that "Recipients of Disability Support Pension, Carers Payment, Parenting Payment (Single) and some Department of Veterans’ Affairs pensions can choose to remain on these payments while participating in NEIS". |

**7.4 Reporting**

Currently, a person receiving the DSP top-up is required to fill out a Business Details Form[[15]](#footnote-15) and report their income fortnightly for the first quarter, then quarterly after that, or until they have earned an amount that exceeds the income allowance, using a Profit and Loss Statement[[16]](#footnote-16). In reality, reporting income from self-employment to Centrelink appears to differ from one Centrelink office to another or from one person to another. One person receiving the DSP was told that they did not have to report fortnightly for the first quarter, while another person receiving the parenting payment was told that they did.

This reporting requirement can add stress and confusion to an already complicated process. Not only does the person receiving the DSP or DSP top-up need to report to Centrelink but they are also required to report to their NEIS Provider using a different set of forms, this in addition to their fortnightly meetings with their DES Provider can be overwhelming. One NEIS Participant chose to leave her DES Provider explaining that all these meetings and reporting requirements were not giving her enough time and mental capacity to devote her attention to the business. This added stress is not something that NEIS Participants who move from the Newstart Allowance go through as they do not need to complete profit and loss forms for Centrelink and will receive the equivalent to the benefits they received prior to starting NEIS with no questions asked.

**7.5 DSP Cancellation**

One other issue is how easy it is for the DSP to be cancelled. One NEIS participant had her DSP cancelled when she received a small payment from a job outside her NEIS business. Centrelink were unclear why this had happened and re-instated her DSP. After the second quarter, her DSP was cancelled again but this time it was because she has started earning from her NEIS business. The letter from Centrelink stated that ‘our records show that the value of your income is above the allowable amount and as a result a decision has been made to cancel your Disability Support Pension’. She agreed with the decision although, the letter included no financial statement outlining how this decision had been made and no information about what would happen if she did not earn in the next quarter and needed to go back onto the DSP, how hard would that be?

Being able to move off the DSP is empowering in so many ways, but it is often accompanied by the worry that if something goes wrong how hard will it be to return to the DSP.

**7.6 A New System**

There is a strong case for people moving from the DSP to the NEIS Program to receive a NEIS Allowance equivalent to the DSP rather than the Newstart Allowance[[17]](#footnote-17). If this were to happen, it would:

* Provide a more equitable system where the person moving from the DSP has access to the financial incentives of the NEIS Program ‘on the same basis’ as a person moving from Newstart who continues to receive the same allowance without it being affected by income from their business.
* Remove the need for the DSP top-up as this would be included in the NEIS Allowance.
* Reduce confusion and miscommunication as there would only be one payment.
* Remove the Centrelink profit and loss reporting requirements, and often long and stressful visits and telephone calls to Centrelink.
* Save the Department of Human Services time and resources as there will be no reporting.

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| **Recommendation 9:** The Federal Government increases the NEIS Allowance for people on the DSP so that it is equivalent to the DSP Payment and not the Newstart Allowance. |

**8. Employment Assistance Fund (EAF)**

The EAF is available for people registered with a DES Provider or NEIS Provider, though for people wishing to start their own business access to the EAF can be a long and complicated process. For instance, one NEIS Participant explained that her DES Provider ended up funding equipment for her out of their own funds as they were very doubtful that her particular requirements would meet the EAF eligibility criteria.

**Employment Assistance Fund Guidelines[[18]](#footnote-18)**

2.1 To be eligible for assistance a person with disability must:

f) be a Self-employed Worker who has been working at least 20 hours per week over the last 13 weeks and earning an hourly income that is at least equivalent to the National Minimum Wage.”

These requirements are clearly unreasonable as the person would require the equipment at the start of the business and not 13 weeks later. Furthermore, income for a business owner is often sporadic and a large proportion of unpaid work is devoted to setting up and managing a business. For a NEIS Participant, these requirements also do not take into account the equipment that the person may require during the 4 weeks of business training they receive prior to enrolling on the NEIS Program.

Sections 2.2 and 2.3 of the EAF eligibility requirements do go some way to address this problem, though it does make the whole process much more complicated. The former DES Manager surveyed explained that “as an employment services provider it is almost impossible to gather the correct evidence you need to put forward a claim for someone who is self-employed, or wishing to become self-employed, it is too hard”.

2.2 A person with disability who has periods of Employment of less than 13 weeks, or who is Employed in a position that may not be continuous (e.g. seasonal industries) may also be eligible for EAF assistance. Applications in these circumstances will be considered and approved by the JobAccess Provider on a case by case basis.

2.3 A person with disability who requires work related assistive technology, special work equipment or Auslan interpreting to look for or prepare for a job may be eligible for EAF and may be exempt from the eligibility requirements set out above in 2.1(b), 2.1(d), (e) and (f).

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| **Recommendation 10:** The Employment Assistance Fund eligibility criteria is reviewed and revised so that it gives self-employed workers with disability greater access to the work related modifications, equipment and supports they may require. |

**9. Conclusion**

This submission has considered some of the benefits and barriers to self-employment for people with disability, with attention given to the role of Disability Employment Service providers, New Enterprise Incentive Scheme providers and supports available through the Employment Assistance Fund. The submission also highlights the complexities of the system and the need for greater communication and consistency between the Department of Social Services, Department of Employment and Department of Human Services.

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| **Recommendation 11:** Systems are reviewed and modified to ensure better communication and consistency between departments. |

In concluding this submission, A.S.A Access Consultancy strongly recommends that the Willing to Work Inquiry report includes a separate section on self-employment, recognising that the systems experienced by a person with disability who wishes to set up their own business are very distinct from those experienced by a person working for an employer.

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| **Recommendation 12:** The Willing to Work Inquiry report includes a separate section on self-employment. |

## Appendix

**Access to Self-Employment Survey**

A.S.A Access Consultancy is preparing a submission for the Australian Human Rights Commission's [Willing to Work Inquiry](https://www.humanrights.gov.au/our-work/disability-rights/projects/willing-work-national-inquiry-employment-discrimination-against) and would like to know your views on access to self-employment for people with disability or mental illness.  
  
The feedback you provide may be included in the submission that will be sent to the Australian Human Rights Commission and published on this website in December 2015. No information that identifies you will be included in the submission.

**1. For the purpose of this survey, how would you describe yourself? (please tick all that apply)**

* Person with disability or mental illness
* Carer
* Advocate
* Disability / Mental Health Service Provider
* Employment Service Provider
* Other (please specify)

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**2. Do you think employment services in Australia do enough to promote and support self-employment options for people with disability or mental illness?**

* Yes
* No
* Unsure

Comment

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**3. Are you aware of any programs or services that support people who would like to become self-employed and set up their own business?**

* Yes
* No

If yes, what is the name of the program or service?

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**4. In your opinion, what are the 'main barriers' to self-employment for people with disability or mental illness?**

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**5. In your opinion, what are the 'main benefits' of self-employment for people with disability or mental illness?**

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1. [United Nations Convention on the Rights of Persons with Disabilities](http://www.un.org/disabilities/default.asp?id=150) [↑](#footnote-ref-1)
2. [USA Bureau of Labor Statistics](http://www.bls.gov/) [↑](#footnote-ref-2)
3. [Self‐employment among people with disabilities: evidence for Europe](http://www.tandfonline.com/doi/abs/10.1080/09687590802652504?journalCode=cdso20) [↑](#footnote-ref-3)
4. [NEIS Factsheet](https://docs.employment.gov.au/node/34953) [↑](#footnote-ref-4)
5. Refer to the Factsheet for additional eligibility requirements. [↑](#footnote-ref-5)
6. NEIS Rental Assistance is equivalent to the rate the person would otherwise receive through Centrelink but is not affected by income from the NEIS business. [↑](#footnote-ref-6)
7. [NEIS Factsheet](https://docs.employment.gov.au/node/34953) [↑](#footnote-ref-7)
8. Maximum fortnightly rates based on a single person, no children, over 21 years of age. [↑](#footnote-ref-8)
9. [NEIS Factsheet](https://docs.employment.gov.au/node/34953) [↑](#footnote-ref-9)
10. [ABS Network](http://www.absnetwork.com.au/services/neis-program/frequently-asked-questions/) [↑](#footnote-ref-10)
11. The Department of Employment were made aware of the misleading information in February 2015, nevertheless, this information remains on the new jobactive [Factsheet](https://docs.employment.gov.au/node/34953). [↑](#footnote-ref-11)
12. This top-up is the difference between the DSP and NEIS Allowance and Inclusive of supplements. [↑](#footnote-ref-12)
13. People on other payments may also be affected. For example, one NEIS participant who was on the Parenting Payment did not move to the NEIS Payment as she was worried her entire parenting payment would be cancelled once she signed up to the NEIS Allowance. The unclear guidance she received by Centrelink staff just added to her confusion. [↑](#footnote-ref-13)
14. [Disability Support Pension – Income and Assets Test](http://www.humanservices.gov.au/customer/services/centrelink/disability-support-pension) [↑](#footnote-ref-14)
15. [Business Details Form](http://www.humanservices.gov.au/customer/forms/modf) [↑](#footnote-ref-15)
16. [Profit and Loss Statement](http://www.humanservices.gov.au/customer/forms/su580) [↑](#footnote-ref-16)
17. Even though in the short-term extra funding may be required to increase the NEIS Allowance so that it is in line with the DSP, if a person is not earning from their business they would receive the DSP top-up anyway. In the long term, the financial security of the full payment and the opportunity to direct earnings back into the business may be the deciding factor in the business being viable, and the person moving off the DSP permanently. [↑](#footnote-ref-17)
18. [Employment Assistance Fund Guidelines (Dec 2014)](http://www.jobaccess.gov.au/government-services/employment-assistance-fund) [↑](#footnote-ref-18)