

## ADJ Consultancy Services®

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ABN: 62 275 253 029

REGISTERED TRADE MARK No: 1592249

### ADJ Consultancy Services

To: Human Rights Commission  
From: Adam Johnston, Proprietor, ADJ Consultancy Services  
CC:  
Date: 4 May 2015  
Re: Willing to work

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## Submission

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### Terms of Reference

Having regard to:

- the obstacles faced by older persons and persons with disabilities in actively participating in the workforce;
- discrimination against older persons and persons with disabilities as a systemic problem and a considerable barrier to their enjoyment of human rights;
- the economic and social costs, and the costs to productivity, that result from discrimination against older persons and persons with disabilities in employment; and
- the Australian Government's commitment to the promotion and protection of human rights of older Australians and Australians with a disability.

I, Senator the Hon George Brandis QC, Attorney-General of Australia  
REFER to the Australian Human Rights Commission for inquiry and report pursuant to sections 11(1)(d), 11(1)(e), 11(1)(j) and 11(1)(k) of the Australian Human Rights Commission Act 1986 (Cth):

- practices, attitudes and Commonwealth laws that deny or diminish equal participation in employment of older Australians and Australians with a disability; and
- the Commission's recommendations as to Commonwealth laws that should be made or amended, or action that should be taken, to address employment discrimination against older Australians and Australians with a disability.

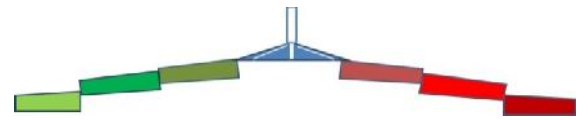
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As someone with cerebral palsy, confined to a wheelchair and, with a Master of Laws, plus various certificates, I can say that one now has more letters after my name than in my name. Three letters that have been missing for some time now are J-O-B. And, before this Commission gets too excited, unemployment and/or *under-employment* are not just "problems" for older workers or the disabled. They are problems for everyone.

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POST: 35 WOOLRYCH CRESCENT DAVIDSON N.S.W 2085 AUSTRALIA ABN: 62 275 253 029 NSW LOBBYIST NO.: 62 275 253 029 (ABN) COMMONWEALTH  
LOBBYIST NO.: LR2013000559 - REGISTERED TRADE MARK NO: 15292249

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Equally, if anti-discrimination laws or policies were going to solve that much, I would have thought the change in employment outcomes would have happened long before now. In my own case, the search for work started in my mid-to-late 20s; the ambitious young lawyer who thought the world lay ahead of him was soon to discover the reality was much tougher. Like many students (disabled or not) I wrote off to every major law firm in Sydney, weighing my father down with armfuls of envelopes he dutifully posted.

Whether he had misgivings about my chances, he never let on; just like he never queried the postage bill. However, all he or I received for our troubles were a growing collection of complementary pens, erasers and coffee table coasters, wrapped in polite form letters that thanked me for my application, which would be kept on file for six months, should any more (or indeed any) vacancies become available. The silence, as they say, was deafening.

When employment did come, it was through a disability employment agent who asked an associate in a government agency to have a look at my CV. The agent was trying to find me work which would satisfy the requirement for Practical Legal Training (PLT); a prerequisite for admission as a solicitor. Let's be clear; I was lucky; someone who knew someone else was prepared to endorse my capability and, the third party took an even bigger risk in asking a government agency to do the same. The same agency went on to employ me, on and off, for the next seven years, in a series of temporary contracts.

You should note several things from this; first, employment is increasingly "casualised" and temporary. Secondly, division, sector or middle managers in public and private sectors have increasingly been asked to run their "section" as a mini-business. You must minimise your cost centres, maximise outputs and return the stipulated efficiency dividend, otherwise you won't meet your key performance indicators. And, I myself have heard all these arguments and phraseology. Some in the Commission may want to argue that other values and more *humane* concerns should also be considered. However, these will not survive long if they increase costs, lead to a budget deficit or threaten shareholder value.

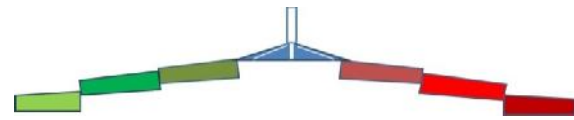
To step back from this highly competitive mentality would, in my view, be a mistake and, something the Australian economy could no longer do. We have taken down tariff barriers and consumers generally welcome the choice and price competitiveness of world markets. Whether some like it or not, my growing perception is that national employment or anti-discrimination laws are a sideshow in a world of mobile capital and tight margins. You will note that I write this submission in the name of my one-man microbusiness, ADJ Consultancy Services.

A disability employment agent<sup>i</sup> suggested I undertake a Small Business Course, possibly out of frustration thanks an inability to place me with any suitable employer and, a need to record me as "doing something" so the NGO agent retained their funding grant. Over the years, the ineffectual nature of the specialist disability agencies has become increasingly apparent to me. My first job is the only one an agent can take any direct credit for; all others are off the back of applications made by me, or where a previous supervisor has made contact, noted a

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number of applications received from me and advised of some spare money in a budget, coinciding with work piling up in the office. Meanwhile, for many disability employment agents, unless you are intellectually disabled and looking for factory work, they really don't know what to do with you. And yes, while one agent did manage to arrange me a new motorised wheelchair (arguing that it was an employment-related piece of equipment<sup>ii</sup>), this was the highpoint of effectiveness; another could be counted as the purchase of a plastic extendable claw, which allows me to pick up things I drop on the floor.

However, many taxpayers would rightly question the spending on various employment initiatives like the Job Network, Special Business Enterprises (SBEs) and disability employment agents. Certainly, I have concluded that the whole system, whether it claims to be trying to employ the disabled, older workers or the unemployed more generally, is populated by self-serving rent-seekers who shuffle a lot of paper while claiming they are helping the unemployed. The Commission itself is implicated in propping up SBEs, by granting these organisations an exemption from discrimination law.<sup>iii</sup> As such, I challenge your independence and objectivity in the carriage of this inquiry; by the Commission's action you have perpetuated the status quo and, the association of people with disabilities with a combination of charity, welfare dependence and "businesses" which could not exist but for indefinite taxpayer subsidy.

If the Commonwealth really wants to "do something" about employment access for people with disabilities and older workers, you need to ask some questions which verge on heretical policy. Firstly, government needs to consider whether the cost of maintaining the current employment services system is worth the outlay?<sup>iv</sup> Secondly, we need to ask honestly if the modern workforce really has a place for disabled or older workers. The Commonwealth and the Commission can extol the virtues of these workers all you like, but if business's perception is different and, they are disinterested in the alternative view, then spending more taxpayer dollars trying to "re-educate" people is wasteful. Perception is reality, just as your market determines your product; not the other way round. One of the best early lessons I learned from the business course mentioned earlier, was that as a prospective small business owner you could think you had the best product imaginable, but unless you identified and researched a market which believed likewise, you had nothing.

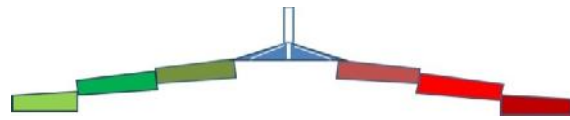
In conclusion, I believe there are systemic problems, but am highly reluctant to call for more official policy action. Having been subject to many governments' fixes, fiats and foul-ups (thanks to being disabled and unemployed), meeting the next case worker, social worker or the like, who wants to make me their special project is not something I relish. Equally, in my view, reform will only truly occur when employment services and SBEs are taken out of the social welfare portfolios and placed in the province of industrial law. This is the line of argument I have taken in a submission to the Productivity Commission's current review of Workplace Relations.<sup>v</sup> The Commission is welcome to this document, alongside my relate comments to the McClure Review of welfare.

Should you have any questions, feel free to contact me.

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<sup>i</sup> To retain a portion of the Commonwealth Mobility Allowance, an unemployed person with a disability must be registered with a Disability Employment Agent. I have had three, my turnover of agencies and their staff increasing as their inability to produce employment outcomes (i.e.: a job) became increasingly apparent. It amazes me that that the Commonwealth continues to subsidise this system and, one can only conclude success is judged on whether the system gives the relevant Minister sufficient political “cover” to advise Parliament that “the Government is doing *something* for the unemployed.”

<sup>ii</sup> Fortunately, I did not have to surrender the chair when the employment contract ended, as it remains my main means of getting around in public.

<sup>iii</sup> See Senator The Hon Mitch Fifield, Assistant Minister for Social Services, Manager of Government Business In the Senate, Senator for Victoria - Media Release: 30 April 2015, Human Rights Commission grants Disability Enterprises interim exemption,

<http://mitchfifield.dss.gov.au/media-releases/human-rights-commission-grants-disability-enterprises-interim-exemption> as at 3 May 2015

<sup>iv</sup> I am unaware of whether a cost-benefit analysis has been done on employment services, though one suspects if it had, funding would have ended. Personally, the closure of the Job Network and Disability Employment Agencies would save many millions in taxpayers' funds, which are currently very poorly spent

<sup>v</sup> Find my submission to the Productivity Commission attached, alongside a copy of my submission to the McClure Review of Welfare.