

**NATIONAL DISABILITY AUTHORITY**

**POLICY ADVICE PAPER**

**From Sheltered to Open Employment for  
People with Disabilities in Ireland**

**TO THE**

**DEPT OF ENTERPRISE, TRADE AND EMPLOYMENT**

**NOVEMBER 2009**

## Introduction

NDA has previously recommended the development of a Comprehensive Employment Strategy for People with Disabilities to ensure people with disabilities are engaged in meaningful employment in integrated, mainstream settings where at all possible. The Department of Enterprise Trade and Employment has committed itself to the development of such a strategy within its Sectoral Plan under the National Disability Act. The aim of this paper is to set out proposals regarding the configuration of HSE funded work options to ensure that provision of supports for those currently engaged in sheltered work settings align with this aim while meeting the diverse needs and rights of people with disabilities.

## Key Considerations

1) The Department of Enterprise Trade and Employment is developing a comprehensive employment strategy for people with disabilities. A Policy Framework should be developed which spans the spectrum of ability, from those with mild functional impairments to those with more severe support needs, and which extends to everyone with a disability who wishes to work. The range of activities and supports should be identified to include (but not limited to) the following: participation in open employment; extended community employment schemes<sup>1</sup>; supported employment; non-facility based day programmes<sup>2</sup> and day activation supports for those with the most severe needs. The Office for Disability and Mental Health has an important role in overseeing the development and articulation of a common vision which supports people with higher support needs, including those currently in day services, to participate in meaningful purposeful employment in integrated settings.

2) The Policy Framework should identify a clear timeframe and target for the transition from sheltered work to open and/or supported employment for each individual as appropriate. In line with this as a first step a commitment is necessary that no new placements would be made to sheltered work settings.

3) The Policy Framework should address the following issues:

- The manner in which people across the full spectrum of disability can be supported to engage in work or employment as part of a meaningful adult life

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<sup>1</sup> The primary purpose of CE is as a transitional programme to reintegrate the long term unemployed into open labour market jobs. Employment is provided on a wide range of projects, which are sponsored by communities, and funded by FÁS. People with disabilities aged 35 to 54 may remain on CE for up to four years, while for people with disabilities aged over 55 the time limit on CE is 7 years.

<sup>2</sup> Community based non-work are defined by the Institute for Community Inclusion as “non-job-related supports focusing on community involvement such as access to public recreational, educational resources, or volunteer activities”

- Providing such work as far as practicable, within an integrated and mainstream environment
- The level and duration of support required for those with medium or short-term support needs
- The level and duration of support required for those with enduring and those with high support needs
- The alternative options which will be available to those currently in sheltered work as part of a person-centred planning process
- The arrangements that will be made for any transition from existing sheltered work to alternative arrangements for those currently in such services
- The programmes to be put in place to provide long-term work opportunities for those who would have enduring difficulty in a marketplace environment
- The arrangements which will be put in place to share information between the health and employment sectors in relation to supports to individuals and monitoring delivery of linked elements of support

5) The time limit on participation in the Community Employment Scheme should be removed for those individuals with disabilities for whom the progression focus of CE is unrealistic and for whom the rigours of the modern open market workplace may be difficult to sustain, for example people with some mental health conditions, or people with intellectual disabilities who exhibit challenging behaviour.

6) A comprehensive needs assessment should be undertaken for all those currently engaged in segregated work and day activities to ensure that person-centred plans are developed, identifying their capacities, wishes and goals and setting out a pathway from segregated to integrated service provision. Similarly, future employment options and day services should also be informed by a person-centred planning process. Investment in staff training in person centred planning approaches is necessary to ensure the system has the capacity to respond appropriately. Similarly, many participants in sheltered work programmes will require significant training and ongoing supports to take up work.

7) HSE funding for day activities should be reframed to prioritise non-facility based supports to stimulate conversion of sheltered work/day activity services to supported employment and integrated day services. The Department of Enterprise Trade and Employment and the HSE should continue to collaborate on the development of bridging projects and initiatives to ensure that service users are engaged in meaningful activities during the transition from sheltered services.

8) The NDA recommends that the blanket embargo on recruitment of staff in the public sector be reconsidered in cases where an organisation is recruiting staff with disabilities in order to meet its legal obligations under Part 5 of the

Disability Act to meet the 3% target. In particular, the NDA would advise that recruitment of staff with disabilities under schemes such as the FÁS-supported Willing Able and Mentoring (WAM) temporary job traineeships for people with disabilities, or the Supported Employment programme, would be exempt from the embargo.

9) A quality assurance framework should be developed, which includes standards and monitoring, along with regulations, as appropriate, for application to non centre based day supports and supported employment to ensure that such supports provide meaningful purposeful activity for those engaged with them and that these supports are of a high quality

10 ) Article 19 of the European Union Procurement Directive 2004/18/EC provides member states an option to reserve public contracts for agencies in which a majority of employees are people with disabilities. During the transition period away from sheltered work options, NDA would suggest that this directive be considered in terms of its potential to promote not only the employment of people with disabilities but also to allow public bodies to direct contracts to companies in Ireland.

## Introduction

The aim of this paper is to set out proposals regarding the configuration of HSE-funded work options to ensure that, as part of a comprehensive employment strategy and of the reconfiguration of adult day services towards more person-centred approaches, there are appropriate systems in place to support employment of people with higher support needs in integrated work settings.<sup>3</sup>

Article 27 of The UN Convention on the Rights of Persons with Disabilities (UN CRPD) recognises 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 accepting in a labour market and work environment that is open, inclusive and accessible to persons with disabilities”.

In line with this, in its recent submission to the Department of Enterprise Trade and Employment NDA has advised that

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<sup>3</sup> The NDA's report **A Strategy of Engagement – towards a comprehensive employment strategy for people with disabilities** (2006) recommended that the volume and overall pattern of provisions in the area of education, training and employment be sufficiently diverse to meet the needs of all people with disabilities, **particularly people experiencing severe disabilities**

“A key issue in the period covered by the next Sectoral Plan will be to ensure there are alternative work opportunities and meaningful day activities available as sheltered workshops progressively close, and that these are in place in a timely way”

Furthermore NDA advised that

“the Department of Enterprise Trade and Employment and the Department of Health and Children, together with their agencies, should work together to develop a common vision of what is required to support people who have more restricted capacities. Owing to its statutory role in co-ordinating policy responses across four government departments, the Office for Disability and Mental Health should play a leadership role in developing this framework. The outcome should be a policy framework which spans the spectrum of ability and which extends to everyone with a disability who wishes to work. This integrated policy framework should have the capacity to deliver a reconfiguration of HSE-funded Adult Day Services away from centre-based services like sheltered work and towards work in inclusive mainstream settings.”

### **Background and Context**

In March 2009 the executive presented a Briefing document on Sheltered Employment and Sheltered Work to the Authority which set out a number of key questions for consideration with regard to the population of 8200 people currently engaged in HSE funded activities on the work spectrum, which includes voluntary work, sheltered work, sheltered employment and supported employment. Of these some 4,700 are in some form of sheltered work or sheltered employment.<sup>4</sup>

Sheltered work has been defined as ‘work undertaken by people with disabilities in workshops specifically established for that purpose. People working in sheltered workshops retain their social welfare benefits, typically Disability Allowance, and usually receive a small discretionary additional weekly payment from the work provider’.<sup>5</sup>

Sheltered work has its origins in Ireland in the 1950s and 1960s when disability service providers sought to provide a variety of work-related opportunities for their service users. In its submission to the Commission on the Status of People with Disabilities the National Rehabilitation Board (NRB, 1994:46) made reference to the ‘ad hoc system of sheltered workshops and settings’, which had developed in Ireland as a response to the work needs of people with disabilities who, for various reasons, were unable to find employment in the open labour market.

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<sup>4</sup> NDA (2009) Brief for Authority on Sheltered Employment and Sheltered Work

<sup>5</sup> National Rehabilitation Board (1997) *Employment Challenges for the Millennium: A Strategy for Employment for People with Disabilities in Sheltered and Supported Work and Employment*, Dublin: NRB

The NRB recommended that the '*status of people with disabilities currently in sheltered work be reviewed including such issues as wage structure, the legal status of work places and workers, funding, standards and conditions*'. In 1996, the NRB's National Advisory Committee on Training and Employment (NACTE) established a sub-committee to:

- Examine all aspects of the current position in regard to sheltered and supported work/employment of people with disabilities in Ireland
- Identify models of sheltered and supported work/employment in other countries
- Recommend measures required to bring the position in Ireland in line with best practice internationally.

In its report: *Employment Challenges for the Millennium: A Strategy for Employment for People with Disabilities in Sheltered and Supported Work and Employment* (1997), the Committee recommended:

- The introduction of a person-centred flexible range of sheltered and supported work and employment options for people with disabilities
- The adoption of an appropriate legal status for persons with disability in sheltered and supported work and employment
- A more equitable balance between employment and work opportunities for people with disabilities in the future development of sheltered and supported services
- The development, implementation and monitoring of minimum operating standards for sheltered employment, sheltered work, supported employment and supported work
- The transfer of responsibility for sheltered/supported work and employment services to the Department of Enterprise, Trade and Employment (DETE).<sup>6</sup>

Subsequent to the NACTE report, the Employment Equality Act 1998 and 2004 prohibit discrimination (with some exemptions) across nine grounds including disability. The Act provides for equal pay for like work. Like work is defined as work that is the same, similar or work of equal value. The Act also set out provisions for appropriate measures for people with disabilities in relation to access, participation and training in employment. The Employment Equality Act has implications for any differences in treatment for workers which is related to their disability status. The National Minimum Wage Act 2000 provides for a minimum wage (currently €8.65 an hour).

On foot of a commitment in the Partnership for Prosperity and Fairness agreement (PPF, 2000:101) that a Code of Practice for the Operation of Sheltered Workshops be developed, the Minister of Health and Children established a working group on the matter in August 2000.

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<sup>6</sup> ibid

The working group recommended that a realignment of service provision take place, to include day centre activities, and a replacement of the traditional model of sheltered work with a new model called Sheltered Occupational Services, which would involve a combination of structured occupational activities and supports for people with disabilities who require a significant amount of flexibility, time and personal support. The Group also recognised that a considerable level of activity in some workshops would be more correctly recognised and classified as employment, benefiting from the protection and supports available from the Department of Enterprise, Trade and Employment and/or its agencies.

Sustaining Progress (2003:28) identified a commitment that an Action Plan be developed in 2003 for the implementation of the Code of Practice on Sheltered Occupational Services. In its 2003 publication Towards Best Practice in the Provision of Further Educational, Employment and Training Services for People with Disabilities NDA recommended

“The Dept of Health and Children should adopt and implement the report of the Working Group on the Code of Practice for Sheltered Workshops to facilitate the replacement of the existing category of service provision Sheltered Work, with the new form of provision, Sheltered Occupational Services”.

While the Draft Code of Practice on Sheltered Occupational Services suggested drawing a distinction between sheltered employment (with a contract of employment) and sheltered work, which would be primarily therapeutic, the NDA’s legal advice obtained in 2008, leaves some room for doubt as to whether such a distinction would stand up if it were tested in court. Given the legal uncertainty, to date there has been no progress in the implementation of the Code, and the Department of Health and Children no longer see it as a viable way forward. Thus the standards, conditions and procedures for ‘therapeutic work’, have not been implemented, and in line with the Employment Equality Acts 1998 and 2004, concerns regarding the legal standing of persons within such services as employees (or otherwise) and their entitlements, remain at question.

Today a continuum of services is available for people with disabilities and includes the following:

- Day Care
- Day Activation
- Sheltered Work / Therapeutic
- Sheltered Work/ Commercial
- Sheltered Work/’Like work’
- External Work/like work
- Supported Employment
- Sheltered Employment
- Rehabilitative Training
- Voluntary Work

In the absence of the Code of Practice on Sheltered Occupational Services, there are no nationally agreed standards or regulations covering these services.

Of sheltered workshops in Ireland, a 2007 report from the European Centre notes

“there is no uniform admission procedure and workshops are free to set up their own procedures.”<sup>7</sup>

The Health Act (2007) provides for the specific development of standards and regulations for designated centres for people with disabilities, to be monitored by the Health Information and Quality Authority. HIQA has within its statutory powers, the capacity to develop standards for application to other health services, but to date no such standards exist.<sup>8</sup>

### International Evidence

A 2007 European Centre study notes that since 2000 the number of people with disabilities participating in sheltered employment increased in Austria, Germany, Italy, Luxembourg and Portugal. In contrast, statistics show a declining trend in Finland, Poland and Sweden.<sup>9</sup> Greve, on behalf of the Academic Network of European Disability experts<sup>10</sup> notes the ‘lack of policy convergence in relation to sheltered employment. Belgium, Italy and Spain report the highest percentages working in sheltered employment. ...Increased employment rates in some countries (e.g. France) appear to be largely consequential on increases in sheltered rather than mainstream employment opportunities.”

The international literature reflects concerns regarding the lack of legal protection, effectiveness and quality of sheltered work programmes.

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<sup>7</sup> Ward, T., Grammenos, S, and Huber, M. (2007) *Study of Compilation of Disability Statistical Data from the Administrative Registers of the Member States* Brussels: Applica & CESEP & European Centre.

<sup>8</sup> This is in contrast to established practice in other jurisdictions. For instance, the UK Department of Health issued Draft National Minimum Day Service/Opportunities Standards in 2007. These provide a ‘baseline to which all day services/ opportunities should aspire.” The Australian Disability Act 2006 sets out a ‘framework for the provision of high quality services and supports for people with a disability”. In line with this, as of 1 July 2007, funded day services have to align with a number of key policy documents including ‘Disability Services Planning Policy; Disability Services Access Policy, Registration Guidelines May 2007, and the Quality Framework for Disability Services in Victoria 2007. Similarly, the state of Vermont issued standards for funded Adult Day Services in January 2004 which set out minimum standards for facilities, activities coordination, program policies, certification processes and record keeping.

<sup>9</sup> Ibid pp8

<sup>10</sup> Greve, Bent, (2009) *The labour market situation of disabled people in European Countries and implementation of employment policies: a summary of evidence from country reports and research studies*. UK: University of Leeds.

In considering sheltered employment programmes in their review of 'Policies to Promote Work and Income Security for Disabled People, the OECD (2003) concludes:

“This segregating approach is not good enough for disabled people... This approach is also very expensive and therefore, ultimately not good enough for the taxpayers as well.”

An ILO review of sheltered employment practice, in twenty countries (Visier, 1998) found that most of the countries studied operate sheltered workshops under specific legislation or regulations governing aspects of sheltered employment, both to protect employees and to specify exceptions to the application of labour law (e.g. a fixed minimum wage)<sup>11</sup>. A number of countries e.g. Costa Rica, Greece, India, Ireland, South Africa or Sweden, had no specific legislation on the organisation or operation of sheltered workplaces.

The author found that average length of service in sheltered employment varied considerably; in Scotland, this was reported as 20 - 25 years, Costa Rica 12 years, Sweden 8.4 years for men. The study found that disabled workers in both Greece and Ireland who entered sheltered workshops generally remained in sheltered workshops 'for the whole of their working lives'.

Transfer rates from sheltered workshops to open employment were generally low: South Africa cited a transfer rate of just 4 per cent, Sweden estimated the rate at 3 – 6 percent, Greece and Costa Rica estimated 3 per cent, Switzerland and Scotland specified under 2 percent, and France, Spain, Belgium and Ireland reported a transfer rate of less than 1 per cent.

In over two thirds of the countries considered there was a minimum wage or income for disabled workers in sheltered employment: the exceptions were Argentina, Australia, Greece, India, Ireland and South Africa.<sup>12</sup>

In other research Sinnot –Oswald et al (1991) reviewed perceived quality of life among individuals with disabilities in supported community employment, and sheltered workshops. The authors found that supported community employment was positively related to perceived quality of life on a number of domains, including number of leisure activities, self-esteem, leisure time, mobility, job skill perceptions and perceptions of income.<sup>13</sup> Similarly Kober and Eggleton (2005) found statistically significant quality of life scores among

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<sup>11</sup> It is accepted that current practice in the countries studies may have changed since this research was undertaken.

<sup>12</sup> Visier L. (1998) Sheltered Employment for persons with disabilities, *International Labour Review*, 137 (3) 347- 365

<sup>13</sup> Sinnot-Oswald, Mary et al. (1991) Supported and Sheltered Employment: Quality of Life Issues among Workers with Disabilities Education and Training *Mental Retardation*, 26 (4) pp 388-97

a cohort of people with intellectual disabilities placed in open employment compared to a group with Intellectual disabilities in sheltered employment.<sup>14</sup>

Research at the University of Wisconsin comparing four different “extended employment models” for people with disabilities including sheltered employment, and matching 160 participants for age, gender, measured intelligence and primary disability, found that the sheltered employment model scored lowest on most measures except annual number of days worked and variety of work.<sup>15</sup>

Practice in the UK is under significant transformation. In 2006, a five year funding envelope of £111 million per annum was agreed to enable REMPLOY (a publicly subsidised company which, in 2004 – 2005 comprised 83 sheltered factories) to support more individuals with disabilities into work. The strategy was triggered by three factors: 1) Government policy favouring inclusive employment options for people with disabilities; 2) a national audit establishing low levels of progression from REMPLOY factories into open employment and 3) the rising cost and recurrent financial losses of REMPLOY. To date a total of 29 factories have been either merged or closed.<sup>16</sup>

Valuing People Now, the UK Government strategy for people with intellectual disabilities, identifies ‘Job Centre Plus’ as the preferred resource for people with intellectual disabilities seeking work, with specialist employment agencies providing additional resources.<sup>17</sup>

NDA undertook a brief review of US literature regarding policy and provision of sheltered employment programmes. (Appendix 1) Evaluation studies in the US show that supported employment works out as a significantly cheaper model than sheltered work, with better outcomes for the individuals concerned. In the US the supported work option typically involves significantly less hours of work than the traditional sheltered workshops. There is limited involvement of people with more severe and profound levels of disability engaging in supported employment, despite the fact that the supported employment model is specifically charged with prioritising this population. In addition, those with more severe levels of disability participating in supported employment report poorer outcomes than those with less severe disabilities in terms of lower earnings, fewer social interactions and shorter working hours.

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<sup>14</sup> Kober R. and Eggleton R.C. (2005) The Effect of different types of employment on quality of life, *Journal of Intellectual Disability Research* 49 (10) pp 756 – 760,

<sup>15</sup> Coker C. et al, (1995) *A comparison of Job Satisfaction and Economic Benefits of Four Different Employment models for People with Disabilities*, Wisconsin: University of Wisconsin – Stout, Rehabilitation and Training Centre,

<sup>16</sup> NDA (2009) *Employment policy & practice for people with disabilities in three international jurisdictions*.

<sup>17</sup> HM Government (2009) **Valuing People Now** UK: Office for Disability Issues. The document sets out key themes to underpin an employment strategy for people with learning disabilities. The first of these is ‘the presumption of employment’. The document states “the evidence from some parts of both the USA and the UK is that even people with more complex needs can be supported to work successfully in paid jobs.”

The Fair Labor Standards Act (1938) sets the minimum wage for employees in the US, however, a Special Wage Certificate Program allows for a 'special minimum wage' or 'commensurate wage', to be paid to persons with disabilities, based on their productivity. Employers participating in this programme are required to obtain a Section 14 ( c ) certificate for each worker who is paid a special minimum wage. These Section 14 ( c ) services are typically provided in a 'work centre' in which a majority of participants are people with disabilities.

Support for 'supported employment' (competitive work in integrated settings) as opposed to sheltered training settings began in the US in the 1980's in line with the decline of institutionalised congregate settings and the growth of the philosophy of normalisation. Today a number of states have curtailed, or ceased altogether the funding of non-integrated work programmes, and the US Department of Labor supports 'T-TAP' which aims to increase the capacity of Community Rehabilitation Programmes to evolve their Section 14 ( c ) programmes to integrated employment options. In addition, "Employment First" policies introduced across six states aim to make employment the first day service option for people with intellectual or developmental disabilities.

Mainstream supports to promote the employment of people with disabilities in integrated settings in the US include the Workforce Investment Act (1998) (WIA) and the Ticket to Work and Incentive Improvement Act (1999). The WIA aims to consolidate workforce preparation and employment services into a unified system. Title 1 of the Act provides a framework for the delivery of services at local and state level to all job seekers, including those with disabilities. All services are provided centrally via a One Stop Career Centres in all US states since 2001. In an attempt to increase the representation of people with disabilities in mainstream employment, the Department of Labor and the Social Security Administration jointly created the Disability Program Navigator (DPN) In 2008 a total of 450 Disability Navigators were employed in 30 States. Disability Navigators, who have training and expertise in the field of disabilities are employed by the Workforce Investment Board of their state to assist One Stop Centres support people with disabilities.

NDA's review of practice in the US identified three 'high performing states', as defined 'by a state having a high rate of individuals with intellectual and developmental disabilities in integrated employment". A key characteristic of these states (Washington, Colorado and New Hampshire) is the existence of an explicit policy statement endorsing full community integration of people with disabilities accompanied by clear goals for the transition from sheltered work settings to integrated work opportunities.<sup>18</sup>

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<sup>18</sup> Appendix 1 NDA (2009) *US practices with regard to providing supports in sheltered or integrated work setting for people with disabilities*

## Recommendations for Ireland Going Forward

A key issue for Ireland compared to other countries studied is the lack of legislation and regulation covering the provision of sheltered work and unwaged supported employment. The absence of legislation in this area means that participants in these programmes have the sole status of service users, and they lack the range of legal protections afforded to employees, eg, rights to minimum wage, pension entitlement, security of employment, rights to collective bargaining.

As NDA has noted previously, the outcome of the HSE Adult Day Services review is likely to lead to an accelerated move away from sheltered employment. This move away from sheltered activities to integrated settings is in line with the provisions of Article 27 the UN Convention and consistent with the normalisation principle and deinstitutionalisation.

A comprehensive approach to supports for employment needs to blend together consideration of the issues emerging from the 2008 Review of FÁS Supported Employment, with any revisions envisaged to adult day services and the role of work and employment supports within those services, following on from the publication of the HSE Review of Adult Day Services.

Currently there are some 1,000 people in HSE funded supported employment services, in addition to about 2,300 in the FÁS-funded supported employment programme. A needs assessment of the personal goals, capacities and needs of each of these individuals is required to enable appropriate planning for new service developments. The range of activities include the following:

- Paid employment in the open competitive market. This may require the development of specialist service supports (e.g. one stop career centres, with key workers with disability expertise) through FAS.
- Participation in extended Community Employment Schemes
- Participation in full time Supported Employment programmes
- Participation in a combination of Supported Employment and non-facility based day activities<sup>19</sup>
- Participation in facility based day programmes for those with the greatest level of disability

Ongoing support is key to enabling people with disabilities to remain in employment. Those with high support needs may only be able to work part-

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<sup>19</sup> A move to supported employment for the 4,700 people currently engaged in sheltered work and like work activities will more than treble this number. In light of current economic conditions it is unlikely that job sites would be available to provide full time supported employment opportunities for this number. (A third of people on HSE-funded supported employment work fewer than six hours a week) In light of this reality, it is important that appropriate services and supports are available to ensure that in the remaining time, service users are engaged in structured, meaningful and integrated day activities.

time: employment support needs to be available for those who work outside a 9 - 5 arrangement, and such supports need also be available for those who work on weekends. There is evidence of effective practice in the field of rehabilitative training of good supports to people with disabilities in making the transition to employment. Established Employee Assistance Programmes could be useful in supporting people with high support needs in work arrangements.

### **Community employment**

Community Employment (CE) is currently one of the most important employment supports to people with disabilities. About a quarter of CE participants are people with disabilities. CE is effectively a job which offers a protected work environment in an integrated setting, where participants with disabilities work in the mainstream community and alongside other CE participants without disabilities. Participants are sheltered from the full rigours and demands of employment in the open job market. For certain people with disabilities, the rigours of the modern open market workplace may be difficult to sustain, for example people with some mental health conditions, or people with intellectual disabilities who exhibit challenging behaviour.

The current focus of CE is on progression to open employment. However, for those participants who would be unable to sustain employment in the open labour market, even with supports, long-term participation on CE, in the Social Economy programme or a programme on similar lines could provide an opportunity to work in an integrated setting, offering an alternative to the current sheltered work model.

### **The 3% employment target for people with disabilities**

The NDA also notes that the rise in unemployment is likely to disproportionately affect the recruitment and retention of staff with disabilities. With a plentiful supply of candidates for every vacancy, employers may be less likely to hire recruits with disabilities in spite of it being illegal to so discriminate. OECD research suggests that during recessions, workers with disabilities are particularly likely to leave the workforce under early retirement schemes.

The overall employment rate achieved in the public service in 2007 was 2.5%, with just half the public bodies meeting their employment targets. While, as noted in NDA's reports for 2006 and 2007, under-reporting may account for some of the shortfall, there is nevertheless considerable concern that the statutory target has not been met. The application of the embargo rules out the possibility for most public sector bodies of using targeted recruitment to address any shortfall in meeting their commitment to reach the 3% target.

The NDA recommends that the blanket embargo on recruitment of staff in the public sector be reconsidered in cases where an organisation is recruiting staff with disabilities in order to meet its legal obligations under Part 5 of the Disability Act to meet the 3% target. In particular, the NDA would advise that

recruitment of staff with disabilities under schemes such as the FÁS-supported Willing Able and Mentoring (WAM) temporary job traineeships for people with disabilities, or the Supported Employment programme, would be exempt from the embargo.

### Key Considerations

1) The Office for Disability and Mental Health has an important role in overseeing the development and articulation of a common vision which supports people with disabilities currently in adult day services to participate in meaningful purposeful employment in integrated settings. A Policy Framework should be developed which spans the spectrum of ability, from those with mild functional impairments to those with more severe support needs, and which extends to everyone with a disability who wishes to work. The range of activities and supports should be identified to include (but not limited to) the following: participation in open employment; extended community employment schemes<sup>20</sup>; supported employment; non-facility based day programmes<sup>21</sup> and day activation supports for those with the most severe needs.

2) The Policy Framework should identify a clear timeframe for the transition period which marks the end in provision of sheltered employment/work services in Ireland. This transition period should be marked by clear targets for the movement of clients from sheltered work settings to open and/or supported work settings.

4) The Policy Framework should address the following questions:

- The manner in which people across the full spectrum of disability can be supported to engage in work or employment as part of a meaningful adult life
- Providing such work as far as practicable, within an integrated and mainstream environment
- The level and duration of support required for those with medium or short-term support needs
- The level and duration of support required for those with enduring and those with high support needs
- The alternative options which will be available to those currently in sheltered work as part of a person-centred planning process

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<sup>20</sup> The primary purpose of CE is as a transitional programme to reintegrate the long term unemployed into open labour market jobs. Employment is provided on a wide range of projects, which are sponsored by communities, and funded by FÁS

<sup>21</sup> Community based non-work are defined by the Institute for Community Inclusion as “non-job-related supports focusing on community involvement such as access to public recreational, educational resources, or volunteer activities”.

- The arrangements that will be made for any transition from existing sheltered work to alternative arrangements for those currently in such services
- The programmes to be put in place to provide long-term work opportunities for those who would have enduring difficulty in a marketplace environment
- The arrangements which will be put in place to share information between the health and employment sectors in relation to supports to individuals and monitoring delivery of linked elements of support

5) The time limit on the participation in the Community Employment Scheme should be removed for those individuals with disabilities for whom the progression focus of CE is unrealistic and for whom the rigours of the modern open market workplace may be difficult to sustain, for example people with some mental health conditions, or people with intellectual disabilities who exhibit challenging behaviour.

6) A comprehensive needs assessment should be undertaken for all those currently engaged in segregated work and day activities to ensure that person centred plans are developed, identifying their capacities, wishes and goals and setting out a pathway from segregated to integrated service provision.

7) HSE funding for day activities should be reframed to prioritise non-facility based supports to stimulate conversion of sheltered work/day activity services to supported employment and integrated day services. The Department of Enterprise Trade and Employment and the HSE should continue to collaborate on the development of bridging projects and initiatives to ensure that service users are engaged in meaningful activities during the transition from sheltered services.

8) The NDA recommends that the blanket embargo on recruitment of staff in the public sector be reconsidered in cases where an organisation is recruiting staff with disabilities in order to meet its legal obligations under Part 5 of the Disability Act to meet the 3% target. In particular, the NDA would advise that recruitment of staff with disabilities under schemes such as the FÁS-supported Willing Able and Mentoring (WAM) temporary job traineeships for people with disabilities, or the Supported Employment programme, would be exempt from the embargo.

9) Those who transition from sheltered employment settings where they are likely to be engaged for the full day, five days a week, to part-time supported employment arrangements, require appropriate meaningful activities for the remainder of the time. A quality assurance framework should be developed, which includes standards and monitoring, along with regulations, as appropriate, for application to non centre based day supports and supported employment to ensure that such supports provide meaningful purposeful activity for those engaged with them and that these supports are of a high quality.

10 ) Article 19 of the European Union Procurement Directive 2004/18/EC provides member states an option to reserve public contracts for agencies in which a majority of employees are people with disabilities. During the transition period away from sheltered work options, NDA would suggest that this directive be considered in terms of its potential to promote not only the employment of people with disabilities but also to allow public bodies to direct contracts to companies in Ireland.

### **Related Reading from NDA**

Disability and Work: The Picture we learn from Official Statistics, 2005

How Far Towards Equality, 2005

Towards Best Practice in the Provision of Further Education, Employment and Training Services for People with Disabilities in Ireland (2003)

Response to Outline Sectoral Plans of Government Departments under the National Disability Act 2005 (December 2005)

Submission to the Department of Enterprise Trade and Employment on its 2<sup>nd</sup> Sectoral Plan (June 2009)

Submission to the Department of Health and Children on its Sectoral Plan (July 2009)