



Australian Federation of Disability Organisations

247 Flinders Lane
Melbourne, VIC, 3000
Phone: 03 9662 3324
TTY: 03 9662 3724
Fax: 03 9662 3325
Email: office@afdo.org.au

Mavis Tan
ASX Corporate Governance Council
Via email: mavis.tan@asx.com.au

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Dear Ms Tan,

The Australian Federation of Disability Organisations (AFDO) has been established as the primary national voice to Government that fully represents the interests of all people with disability across Australia. The mission of AFDO is to champion the rights of people with disability in Australia and help them participate fully in Australian life. AFDO is governed and operated by people with disability for people with disability. Our member organisations are individual consumer peak bodies representing a range of disabilities.

AFDO is interested in providing comments to the public consultation on the ASX Corporate Governance Council's *Review of the Corporate Governance Principles and Recommendations*.

AFDO supports the elevation of diversity within the Corporate Governance Principles and Recommendations

AFDO is very supportive of the proposal by the ASX Corporate Governance Council to re-position diversity related recommendations within Principle 1 which is focused on laying strong foundations for management and oversight. This move rightly recognises the economic and business benefits of diversity. AFDO is also supportive of the elevation of diversity from commentary to recommendations (and in turn to obligations) within the Corporate Governance Principles and Recommendations.

AFDO also supports the re-wording of Recommendation 1.5 which recommends that listed entities should have a diversity policy which includes requirements for the board to 'set measurable objectives' (proposed for achieving gender diversity) and 'to assess annually both the objectives and the entity's progress in achieving them'. We are also pleased that a recommendation has been included that a 'listed entity should have and disclose a statement as to the mix of skills and diversity that the board is looking to achieve in its membership' (Recommendation 2.5).

AFDO agrees with the approach that some matters previously regarded as commentary, such as gender reporting, should be recognised as 'contemporary governance standards' rather than as mere guidance and that organisations who do not adopt the governance standards should be required to provide an explanation as to why the standards are not being followed. We see this as an important move forward which recognises the business benefits of a diverse workplace and workforce which more accurately reflects the Australian population.

AFDO would like to pay particular attention to reference within the consultation paper to the workforce participation of people with disability and the Council's recognition that this is an important social issue. AFDO takes the position that this is more than an important social issue but also an issue which has current and future implications for business in meeting workforce demands associated with an ageing population and addressing skill shortages.

AFDO has a different perspective to what has been outlined in the ASX Governance Council consultation paper regarding disability reporting. This perspective is outlined below.

A matter of corporate governance

AFDO disagrees with the view presented in the consultation paper that the workforce participation of people with disability is not a "matter of corporate governance".

In 2009, the Australian Bureau of Statistics reported that there are two million people with disability of working age. More than half are not in the workforce as compared to around 5% of the working age population as a whole. Internationally, Australia ranks 21 out of 29 OECD countries in the employment participation rates of people with disability. Research conducted by National Disability Services estimates that the employment of people with disability could fill about 15% of the projected shortfall in the labour force caused by the ageing of the population.

These figures alone (which are explained in more detail in Appendix A) highlight that this is more than just an important social issue, but one which requires a more holistic approach to redress - not dissimilar to the approaches undertaken over many decades, including the current focus by the ASX Corporate Governance Council, to support and encourage listed entities to increase the workforce participation of women.

With a significant proportion of Australians living with disability, caring for or having a personal connection with a person with disability, the requirements for business to remain competitive and reflective of its customer base are as justifiable and important as working towards gender balance in the workforce. Disability is reflected in every element of business – employees, customers, markets, suppliers, stakeholders and shareholders. In light of the sheer number of people impacted by disability either directly or indirectly, mechanisms which monitor the participation of people with disability within the workforce are just as pertinent as reporting mechanisms to monitor the participation of women.

AFDO does not believe that the inclusion of the term disability in the commentary to Principle 3 on 'listed entities promoting ethical and responsible decision making' and the commentary to recommendation 1.5 on the issues that a listed entity's diversity policy should address, will do enough to raise the "level of awareness of the issue". It is not reasonable or realistic to expect that commentary alone will raise sufficient awareness and, in turn, lead to an improvement in the employment of people with disability without organisations having a starting point to measure from.

AFDO maintains that the inclusion of a recommendation within the Corporate Governance Principles and Recommendations to report the number of people with disability employed by ASX listed companies provides an important starting point to understand how truly inclusive listed entities are of diversity in their workplace. The inclusion of disability reporting requirements also presents other benefits including:

- ✓ Fostering a work environment that is safe and encourages people with disability to consider disclosure and to be open about their abilities and needs

- ✓ Providing a benchmark/baseline for organisations to measure their performance both as an organisation and as a ASX listed entity
- ✓ Building 'mindfulness' of the productivity and economic benefits of a diverse workforce which includes employees with disability, which can lead to momentum over successive reporting periods to improve and refine processes
- ✓ Increasing understanding of the demographics of a listed entity's current workforce – this understanding can be useful to inform corporate and productivity strategies such as retention strategies to retain 'good workers' who have or acquire a disability during their working life and ensure that business acumen is not lost by a company. Reporting can also provide insights into career trajectories within the company.

Concerns about privacy issues

AFDO believes that the ASX Corporate Governance Council's comments regarding 'serious privacy issues' associated with disability reporting have been over-inflated.

Under the Disability Discrimination Act 1992 (Cth), there is no legal obligation for an individual to disclose information about their disability unless it is likely to affect the person's work performance or their ability to work safely. AFDO recognises and upholds that the disclosure of disability is a personal choice and that individuals will use their own discretion about when, how or whether to disclose.

Privacy concerns should not be used as a barrier to the implementation of disability reporting by listed entities. We believe that privacy issues can be resolved by including guidelines or commentary, supplementary to a Recommendation, within the Corporate Governance Principles and Recommendations that reinforce that

- ✓ The choice to disclose rests with the individual as a potential or current employee
- ✓ That disclosure from an employer's perspective is only necessary and relevant where it relates to the ability to perform the inherent requirements of the job at hand and when reasonable adjustments may be required
- ✓ Reporting and internal organisational processes must respect and recognise an individual's right to privacy as protected under State, Territory and Federal privacy laws and to dignity under the United Nations Convention on the Rights of Persons with Disabilities, to which Australia is a signatory.

Implementing disability reporting in practice

The consultation paper notes that disability reporting would be "extremely difficult to implement in practice".

Many large national and multi-national employers operating in Australia – in a range of different sectors – have included measures, objectives and reporting as a component of their corporate governance and business strategies to increase the workforce participation of people with disability. These mechanisms have been used successfully to continually improve, refine and build on processes to increase productivity and reflect the customer base.

Internationally, the Business Disability Forum, a forum comprised of some of the largest employers in the UK, have developed the Disability Standard, an online management tool to measure and improve on performance and 'disability confidence' for customers, service users, employees and stakeholders (www.disabilitystandard.com/about/).

AFDO recognises that reporting on disability requires a different approach to reporting on gender. This does not mean that baseline measurement is not achievable. More so, reporting could be implemented as part of current employee engagement measurements

that listed entities may have in place such as internal organisational surveys on engagement, retention, employee satisfaction and other measures.

AFDO recommends that the Corporate Governance Principles and Recommendations include parameters to guide disability reporting practices among listed entities (supplementary to a Recommendation). These parameters could include:

- ✓ ASX listed companies to implement a mechanism (appropriate to their organisation size and structure) to report on the number of people with disability employed
- ✓ Disability is defined using the definition of disability by the Australian Bureau of Statistics
- ✓ Disclosure of disability, while encouraged, remains at the discretion of the individual
- ✓ Reporting is provided per annum in each listed entity's annual report
- ✓ The 'if not why not' principle is applied – if a listed entity opts not to report on the number of employees with disability, a response is required indicating why the organisation has not complied with the requirement

While AFDO recognises that there may be inconsistencies in how reporting is undertaken between listed entities, the initial requirement to report can help to shape what best practice disability reporting among Australia's top companies should look like, which in turn could inform further refinement of the Corporate Governance Principles and Recommendations.

Much like the approach to gender reporting, we need a point to start from – a baseline for organisations to transparently appraise their own performance and to benchmark with other listed entities. Introducing disability reporting will also help to establish a preliminary data set (for use by both organisations and ASX listed entities as a whole) that can provide insight at the workplace, occupation and industry level.

Conclusion

While we acknowledge that disability has been referenced in the Corporate Governance Principles with a focus on "raising awareness of the issue", AFDO notes that awareness can only be part of the equation to improving the workforce participation of people with disability. The ASX Corporate Governance Council has a role to play to encourage our top Australian businesses to lead by example by examining their own employment practices and driving change within their own organisations. In turn, this commitment will help to set an example for employers around the country.

AFDO recommends that disability reporting is elevated beyond commentary (in Principles 1.5 and 3) to a Recommendation within the Corporate Governance Principles. What AFDO is recommending is not onerous – many multi-national organisations do this now as a matter of good corporate governance and practice. AFDO believes that this is not only relevant to corporate governance but also provides an important first step to transparently assess how our top Australian businesses are performing and to provide the much needed push for employers to follow this lead.

AFDO welcomes the opportunity for further discussion with the ASX Corporate Governance Council to discuss the recommendations contained in this letter.

Yours sincerely,

Jessica Zammit
Manager Stakeholder Relations
Australian Federation of Disability Organisations

Appendix A: Statistics on disability and workforce participation

According to the ABS SDAC 2009, there are about 2.2 million Australians with disability of working age (15-64). This group has an unemployment rate of 7.8%.

The data tells a story of unemployment and poverty:

- Large numbers of Australians with disability of working age are not actively participating in the workforce and are reliant on income support.
- About one million (54.3%) participate in the labour force. Another million (45.7%) do not participate in the labour force.
- The labour force participation rate is lower (31.3%) for people with profound and severe disability.
- The gross median weekly income for Australians with disability (\$306) is less than half the gross median weekly income for Australians without disability (\$614).
- Almost half (42.6%) rely on income support as their main source of income and live in or near poverty (OECD 2009).

According to the COAG Reform Council, from 2003 to 2009 there was no significant change in the national labour force participation rate for people with disability.

People with disabilities in receipt of disability services in Australia, as reported by AIHW DSS 2011, have low levels of employment and high levels of non-participation in the regular workforce.

- More than one-third (32%) of service users aged 15–64 were unemployed.
- Around 1 in 5 service users (23%) were employed in the open labour market.
- About 1 in 10 service users (9%) were working in segregated employment settings.
- Almost a third of service users (26%) were not participating in the labour force.
- And 1 in 10 services users (10%) had a labour force status that is unknown.
- 73% of all disability service users report income support as their main source of income.

According to Disability Support Pension Recipients & Earned Income report of 2011, 8.5% of pension recipients reported earnings from work; 4.1% earn less than \$125 per week; 2% earn less than \$250 per week.

The rate of disability support pensioners earning income dropped from 9.9% to 8.5% between 2007 and 2011.