

Sheltered Employment

A review of the literature



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to better know *theirs*

Table of Contents

Foreword	1
1. Introduction	2
2. Definitions	4
3. Evolution of legislation for equal opportunity for people with disabilities	9
4. Disability employment policies	14
5. Current practices in sheltered employment	25
6. References	50

“If misfortune comes, it will only be something flowing from the common lot of men, not from my own particular disability.”

“The Handicapped” by Randolph Bourne, 1886–1918

Foreword

Tom Martin & Associates/TMA were commissioned by the Department of Enterprise, Trade and Employment in 2001 to carry out a review of sheltered employment. As part of the review, TMA undertook a review of the literature in order to gain an understanding of the issues relating to sheltered employment both in Ireland and internationally.

The review of the literature was largely carried out by Jim McDevitt to whom I owe a large degree of gratitude. I want also to express my thanks to William Parnell and Ailish Looby of the Department of Enterprise, Trade and Employment, Shira Mehlman of FÁS and Charles Lynch of Galway County and City Enterprise Board who were members of a steering group set up to oversee the study.

A number of people contributed to the literature review and it would be impossible to mention them all. However, particular thanks are due to:

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Finally, any errors or omissions are mine and mine alone.

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1. Introduction

The NACTE¹ Steering Group declared that:

“Access to employment is crucial to the status and economic independence of People with Disabilities. Employment is fundamental to one’s sense of well-being and citizenship, and Irish citizens with disabilities place employment as a top priority. Employment provides for dignity, sense of accomplishment and the value that it brings to each community. The benefits of income provide control over one’s affairs, and promote financial stability and overall contribution to society. If the status of People with Disabilities is to be equal to that of people generally, then People with Disabilities should be afforded equality of opportunity to access and participate in employment.”

Faughnan and O’Connor (1980) had investigated major issues in planning services for mentally and physically handicapped persons and were equally convinced that employment was a vital need:

“The need to work is a very basic need in modern society. It gives a person status, dignity and self-dependence through being a contributing member of the community. The need is not less real among the handicapped population although it is often more difficult to meet.”

This last point is amplified in the NACTE Report which went on to state that, despite Ireland’s economic boom and decreasing levels of unemployment in recent decades, the employment experience of people with disabilities had not changed:

“They remain on the margins of Irish society. The rate of unemployment amongst people with disabilities, estimated to be at least 70%, is an appalling statistic.”²

As part of the Programme for Prosperity and Fairness (2000–2003) the Government gave a commitment to review existing sheltered employment models and to consider their role and potential for enhancing employment for people with disabilities.

The review of sheltered employment was commissioned by the Department of Enterprise, Trade and Employment and was undertaken by Tom Martin & Associates/TMA. The following definition of sheltered employment was used:

Employment in an enterprise established specifically for the employment of people with disabilities, but which may also employ able-bodied people.

The following characteristics should be displayed by sheltered employment enterprises:

- *they should have entrepreneurial objectives with a view to generating sufficient revenue to achieve sustainability, with or without state support;*
- *they will be operating in a commercial market place with a traded income;*
- *they will provide direct goods and/or services for sale in the market place in response to market needs;*
- *they should provide sustainable employment;*

- *they should comply with all statutory requirements in relation to employment rights, PRSI and income tax liability.*

Notwithstanding the above points, the objectives of sheltered employment enterprises need not exclusively be commercial. For instance, a non-commercial goal of an enterprise may be the personal development of people with disabilities. The review includes enterprises that display all of the commercial characteristics of sheltered employment, even if they do not formally embrace the traditional employer-employee relationship.

It is important to note that the above definition of sheltered employment informed the review of the literature; consequently, what may have been described in the literature as ‘sheltered employment’ may according to this definition be classified as something else e.g. sheltered work.

This brief review of the literature looks at the evolution of policies and practice surrounding the provision of sheltered employment for people with disabilities from both an international and an Irish perspective. It focuses specifically on the following topics:

- Definitions and models of disability;
- Evolution of legislation on equal opportunity for people with disabilities;
- Disability employment policies;
- Current practice in sheltered employment.

FOOTNOTES

¹ NACTE was a National Advisory Committee on Training and Employment set up by NRB, the Irish National Rehabilitation Board, a statutory board of the Department of Health, responsible for organising the service needs of people with disabilities.

² NRB (1994) pointed out the extra ignominy endured by most people with disabilities of not even being included in the counting of the unemployed and having to seek special permission and exemptions to take part in schemes aimed at assisting the long-term unemployed target group.

2. Definitions

2.1 International definitions of disability³

Leichsenring and Strümpel (1994) noted that there is a wide variation in definitions of ‘disability’ and of ‘people with disabilities,’ not only between but also within countries—each country has different definitions of disability for certain aspects of its policy. Some countries have more open definitions than others. Countries with quota schemes⁴ tend to adopt narrow definitions as these schemes call for an exact and restrictive definition of disability. The Scandinavian countries use a broader concept of disability than most of the other European countries—there, ‘occupationally disabled people’ include people whose problems have a social rather than a medical origin.⁵ Canada has adopted a ‘self-report’ approach for planning purposes.

Nexus Research (1998) discerned a broad divide in country definitions of disability between work-based definitions in e.g. France, the Netherlands and Spain, and broader, WHO-based definitions in Germany, Ireland and the UK.

OECD (1992) noted that:

“As the definition of disability has moved from the medical sphere into the socioeconomic sphere, a certain conceptual confusion has been unavoidable. Therefore, the ways in which concepts are interpreted, used and operationalised by policy-makers, researchers and service-providers vary widely both within and across countries. This tendency is accentuated by the wide array of operational definitions or sub-definitions applied in the context of eligibility assessments.”

Thornton (1997) looked across the study countries and found that definitions were formulated for different purposes:

- to determine the beneficiaries of over-arching national policies (for example, those to whom the state has an obligation);
- to outline the characteristics of a group with rights under the law (for example, the right not to be discriminated against);
- to define the target group for particular policy interventions (for example, those who count towards a quota);
- to determine individual eligibility for specific services or measures (for example, to qualify for sheltered employment).

Giles (1996) reminds us that the ambiguity of the definitions, while confusing to researchers, has proved to be desirable in certain respects, since the flexibility of definitions has enabled the development of unique strategies reflecting local differences, service needs and various resources. This flexibility has also provided an increased latitude in service delivery, along with a wider range of options for persons with disabilities.

However, behind the array of country and policy-specific definitions, most experts agree that the World Health Organisation’s definition of disability, impairment and handicap remains a sound background for discussing the issue of disability.

First issued in 1980, the World Health Organisation's International Classification of Impairments, Disabilities and Handicaps (ICIDH-I) states:

"In the context of health experience, an impairment is any loss or abnormality of psychological, physiological or anatomical structure or function. A disability is any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being. A handicap is a disadvantage for a given individual, resulting from an impairment or a disability that limits or prevents the fulfilment of a role that is normal (depending on age, sex and social and cultural factors) for that individual" (WHO, 1980: 27, 28, 29).

According to the ICIDH classification handicaps are concerned with the disadvantages experienced by the individual as a result of impairments and disabilities; thus, handicaps reflect interaction with and adaptation to the individual's surroundings.

ICIDH-I has been accepted world-wide as providing both a scientific model of disability and the basis for a common language for clinical use, data collection, and research.⁶

In practical disability policy terms however, the application of the rather abstract ICIDH definition is found to be difficult to 'operationalise'. When considering the employment of People with Disabilities many experts prefer the ILO work-based definition as a point of reference:

"... the term 'disabled person' as meaning an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognized physical or mental impairment." (ILO Convention 159 (1983))⁷

The ILO's definition has been contested by Disabled Peoples' organizations because external barriers are not included. These organisations prefer definitions such as that promoted by the British Council of Organizations of Disabled People (BCODP):

"the loss or limitation of opportunities to take part in the mainstream of life in the community on an equal level with others due to physical or social barriers"

or the similar definition used by Disabled Peoples International.

Zarb (1994) describes this tension:

"This issue (viz definitions) has proved to be particularly controversial in recent debates around anti-discrimination and civil rights legislation in the UK.⁸ The government has expressed concerns about the practical difficulties associated with attempting to implement legislation based on a broad definition of disability which, it is believed, would introduce an unacceptable degree of subjectivity into disputes about particular cases of discrimination. The government's preferred approach is to identify a specific list of conditions and impairments which would be used to define who is and is not covered by the conditions of the legislation. The disability lobby has opposed this on the grounds that it would inevitably lead to the arbitrary exclusion of individuals and groups who are just as likely to experience some form of discrimination, and that such an approach fails to take account of the social dimensions of discrimination."

The EC accepts the case for a more inclusive definition:

"The population of people with disabilities is extraordinarily heterogeneous. An individual's limitation/s may result from a wide variety of impair-

ments that have differential impacts on their participation in society. Disability is a multi-faceted concept that represents the relationship between an individual and his or her environment. It typically refers to a limitation in functioning that stems from the presence of a physical or mental impairment. The definition becomes complex, however, because an individual who is limited in his or her ability to function in one environment may not be limited when components of that environment are modified or when functioning in alternative environments.”

2.2 Irish definitions of disability

The ESF Programme Evaluation Unit (1996) commented that there exists a wide variation in Irish definitions of disability based on context-specific applications. The definitions used by the National Rehabilitation Board (NRB) and the Department of Health were necessarily medically-oriented because these bodies had to decide on peoples’ eligibility for state services and benefits.⁹ The 1994 Department of Finance “Code of Practice for Employment of People with Disabilities” included a definition of disability that, naturally, related strongly to employability—a person’s ability to do the job, to function in the physical environment of the workplace, and the likelihood of experiencing discrimination because of a disability.

The Commission on the Status of People with Disabilities¹⁰ took a wider, ‘social’ view of the term ‘People with Disabilities’ to include:

“children and adults who experience any restriction in their capacity to participate in economic, social or cultural life on account of a physical, sensory, learning, mental health or emotional impairment.”

2.3 Models of disability¹¹

DeJong (1979) documented differences between the traditional view of disability and an evolving view of disability in which the environment played an important role. He contrasted what he called the “rehabilitation paradigm” with what he labelled the ‘independent living paradigm.’ Historically, disability has been viewed from the perspective of medical pathology and individual functional limitations that result from such pathology. In this traditional model, the approach to reducing the impact of disability rested almost exclusively in “fixing” the person with the disability.¹² With the advent of the independent living and disability rights movements, greater attention began to focus on the role of the environment as a factor in disability.

Michael Oliver (1996) also describes how the traditional ways of understanding disability located the problem of disability in the impaired individual, and saw difficulties as the direct and inevitable consequences of impairment. Oliver has described this as ‘the personal tragedy theory.’ He describes how a policy of lifetime segregation developed to remove people with physical and sensory impairments, learning difficulties and mental illness from ‘decent’ (i.e. non-disabled) society.

By contrast, the ‘social model’ emphasizes the re-casting of disability by disabled people and the importance of collective action. Calls were made for the individual and collective responsibility of all societal members to dismantle disablement, and promote a socially aware, active and inclusive culture.

The social model has its origins in people with physical and sensory impairments. As the US disability movement’s ‘big idea’ (Hasler, 1993) this alternative approach to understanding disability was initially developed by the Union of the Physically Impaired Against Segregation (UPIAS) during

the high point of the civil rights movement in the mid-1970s. People with impairments are disabled by a society that excludes, disadvantages and discriminates against them (UPIAS, 1976).

The social model distinguished between impairment (i.e. the loss or lack of some functioning part of the body) and disability (i.e. the meaning society attaches to the presence of impairment). Recently, this definition of impairment has been broadened to include sensory, and 'intellectual' or 'developmental' impairments (Barnes et al, 1999). Chappell et al (2001) describe how the social model appears to have neglected learning difficulty; learning difficulty researchers had not utilised the social model as a means for understanding the experiences of people with learning difficulties.

Clark and Lillie (2000) find that the social model fits the experience of many people with disabling conditions (especially "hidden" ones) very well and has, therefore, become prominent in the field. They describe how social forces have been (consciously or unconsciously) gathered to discourage individuals with disabilities from exercising their rights. This 'oppression' is the result of historical workings, is not natural, and therefore can be changed by societal action. They make a distinction between the 'social model' and the 'civil rights' view of disability which seizes on the law as the necessary vehicle for changing the social construction of disability. They contend that the most compelling reason for adopting the civil rights (law-related) model is that the social model does not adequately cover the situation of very seriously disabled people.

Zarb (1994) made a similar distinction:

"While the civil rights approach is seen as a vehicle for creating opportunities for disabled people to become full and active members of society, the anti-discrimination approach is seen as being limited simply to protecting them against acts of discrimination. Although the latter is obviously important, it does nevertheless represent an essentially neutral approach to rights. The kinds of measure proposed from a civil rights perspective, on the other hand, seek to go further by actively and positively promoting the right to, and the opportunities for, self-determination for disabled people."¹³

Thornton and Lunt (1994) note that:

"The growth of organizations of rather than just for disabled people has, since the late 1980s, challenged the dominant view that disabled people 'need' care and 'deserve' special provision. They are in large part responsible for a heightened public awareness of disabled peoples lack of civil rights."

The UK Disability Rights Task Force (2000) believe that the rights-based approach is winning through:

"Attitudes to disabled people have changed significantly during this century. From seeing disabled people as the passive recipients of charity, society has come to recognise the legitimate demands for disabled people to have equal rights."

ENDNOTES

- ³ See Ecotec (2000) pp. 196–201 for a useful tabular presentation of the various definitions used by each of the 17 countries in its study.
- ⁴ Quota schemes refer to the mandatory employment of set levels of people with disabilities in the public and private sectors.
- ⁵ This implies that their employment services for people with disabilities are often close to the regular labour market services.
- ⁶ In 1995, in response to international calls for an ICIDH revision, WHO began a consensus-based process that will culminate with the issuance of ICIDH-2 later in 2001. This version is intended to broaden the definition significantly.
- ⁷ The draft version of the ILO's code of practice for the employment of people with disabilities (July 2001) included a definition of disability that focused on functional limitations experienced by individuals in the performance of activities associated with all aspects of human life, including participating in activities of society. People may have a disability arising from physical, intellectual or sensory impairment, medical conditions or mental health difficulties. Such impairments, conditions or difficulties may be temporary or it is due to be adopted by December 2001.
- ⁸ The UK Disabled Persons Employment Act 1994 states that a disability exists where: "*a person who, on account of injury, disease, or congenital deformity, is substantially handicapped in obtaining or keeping employment or in undertaking work on his own account of a kind which apart from that injury, disease or deformity, would be suited to his age, experience or qualifications.*"
- ⁹ Ralaheen (2000) commented that the Irish Health and Social Welfare Systems were "based on definitions of deficit." Nexus Research (1998) maintained that the Departments of Health and Social Welfare used a WHO-based version but the NRB advocated a social definition on the grounds that "it is Irish society itself which disables its disabled citizens by means of its current structures, policies and practices."
- ¹⁰ The Commission had a 60 per cent membership of disabled people or their family and carers. [Whyte et al, 1997]
- ¹¹ c.f. article on the UN web site: "The UN and Disabled Persons: The First Fifty Years" for an account of the evolution in approaches to disability.
- ¹² Migliore (1999) sketched the evolution in the approach to disability from the care/welfare-oriented model which treated people with disabilities as 'patients' to the social/human rights-oriented model in which people with disabilities are viewed as 'clients' or 'service users' by service providers and where the focus is on abilities.
- ¹³ Contributors to Zarb's report felt that disability discrimination legislation had the same limitations as existing race and gender legislation in that it failed to acknowledge that discrimination is institutionalised in society. Because "*the anti-discrimination legislation is premised on the assumption that society is basically neutral and that acts of discrimination are only random occurrences which can, therefore, be addressed by a combination of education and persuasion backed up where necessary by legislation,*" legislation on its own will not be sufficient to tackle institutionalised discrimination unless it is part of a wider process of political and cultural change.

3. Evolution of legislation for equal opportunity for people with disabilities

3.1 International

United Nations Initiatives The Commission on the Status of People with Disabilities Report (1996) noted:

“The United Nations International Year of Disabled People in 1981 marked a watershed in thinking and led to the World Programme of Action concerning Disabled People adopted by the UN in 1982. In essence, this international movement has changed the approach towards disability. Rather than being seen as a “personal” or “medical” problem ... it is now seen as a “social” problem whereby disability is caused by society’s failure to adapt itself to the different ways in which those with disabilities accomplish activities.”

The United Nations web site presents a useful historical overview tracing the seminal activities of the UN in relation to the disabled population over “the last fifty years.”¹⁴ It also outlines some of the activities undertaken by the specialised agencies of the United Nations such as the World Health Organisation (WHO), which has helped to equalise opportunities for the disabled by providing technical assistance, the United Nations Children’s Fund (UNICEF), which supports childhood disability programmes and technical support in collaboration with Rehabilitation International, and the International Labour Office (ILO), which works to improve access to labour markets and to increase economic integration.

The principal instruments of international policy include:

- the ILO Recommendation 99 on Vocational Rehabilitation¹⁵ of People with Disabilities (1955); Section 7, Article 29 dealt with Equal Opportunities and Choice, and placed the emphasis on abilities;
- ILO Recommendation 150 on the Development of Human Resources (1975): urged the integration of handicapped and disabled persons;
- ILO Convention 159 and Recommendation 168 (1983) addressed the Vocational Rehabilitation and Employment of People with Disabilities and promoted equality of opportunities;
- Council of Europe Recommendation No. R (92) 6 on a Coherent Policy for People with Disabilities (1992);
- Rehabilitation International “Charter for the ‘80s”;
- United Nations Universal Declaration of Human Rights (1948);
- United Nations Declaration on the Rights of Mentally Retarded Persons (1971);
- the UN United Nations Standard Rules on the Equalisation of Opportunities for Persons with Disabilities (1993).¹⁶

European Union The Council of Ministers Recommendation of 24th July, 1986 on “The Employment of Disabled People in the Community and Guideline Framework for Positive Action to Pro-

mote the Employment and Vocational Training of Disabled People” called for mandatory quotas and the provision of basic social security (a minimum wage and pension). It called on the Commission to develop pilot projects for Sheltered Employment and to grant the Member States financial support for such schemes.

In December 1996, the Council adopted by resolution, A New European Community Disability Strategy, the Commission’s Communication on Equality of Opportunity for People with Disabilities. This Communication endorsed and expanded the UN Standard Rules and reaffirmed the principles of non-discrimination and employment as a key to integration for people with disabilities.

Under the heading “From the accommodation of people with disabilities to the accommodation of society” the Community’s DG V Working Paper described the EC’s new approach to disabilities:

“This move towards a human rights approach has been expressively endorsed by the Council in its Resolution on Equality of Opportunity for People with Disabilities ... The Commission has committed itself to mainstreaming the disability perspective into the formulation of policy and legislation and has recognised the need to harness policies and programs that could help people with disabilities to participate effectively in the economic and social processes.”

A High Level Group of Member States’ Representatives has been set up to allow the Commission to keep abreast of policy developments in the Member States and to further the exchange of information and experience within the Union. Co-operation with NGOs has been consolidated with support being granted to the newly established European Disability Forum as well as to the exchange of information and good practice among other disability NGOs. A Code of good practice for the employment of disabled people within EU institutions has also been adopted.

In November 2000, an EU Directive outlawing discrimination in the workplace on a number of grounds including disability and establishing a general Framework for Equal Treatment in Employment and Occupation was agreed.

Under the heading “Integration of Persons with Disabilities” the Charter of Fundamental Rights of the European Union,¹⁷ states:

“The Union recognises and respects the right of Persons with Disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.”

In 1998 the Commission’s Directorate-General for Employment, Industrial Relations and Social Affairs (EU, 1998) published a Compendium on Member States’ Policies on Equality of Opportunity for People with Disabilities. The approach to this work was grounded on an equal opportunity model and the view that disability policy goes beyond the provision of social and medical services to embrace issues of accessibility, education, and employment.

Differences between countries Leichsenring and Strümpel (1994)¹⁸ describes how a country’s disability and equality legislation is a product of its historical, social and cultural development:

“Some countries focus more on legislative measures, others emphasize methods of persuasion and voluntary action. The respective focus is very closely related to the cultural background of the respective country. Each country emphasizes certain social policy aims that in turn affect disability policy. Whereas policy measures in some countries are based more on the idea that people with disabilities must be protected (e.g. leading to specialized institutions), policies in other countries are aimed at enabling people with a disability to live in a ‘normal’ setting.”

Leichsenring and Strümpel noted another major difference between countries concerns the location of disability policy in general social policy. Whereas some countries have very specific and elaborate disability policies, others, like the Scandinavian countries, don't have specific disability policies but locate services and regulations for disabled people in mainstream policy.

“Policy measures increasingly pertain to disadvantaged groups in general rather than addressing disabled people specifically. For example, the Employment Equity Act in Canada is aimed at women, aborigines, visible minorities and people with disabilities. In Scandinavian countries there has always been a tendency to include people with a disability in mainstream policy. Thus, some measures are geared to disadvantaged groups in general. Advantages include larger lobbies and more acceptance and integration between different groups of the disadvantaged. On the other hand, the measures become less specific, meaning that they may not match the needs of people with disabilities. Also, it means that they have to share limited resources with a larger number of people.”

Trends towards Rights and Independent Living Leichsenring and Strümpel discerned a trend towards “normalization” and “independent living” in all countries, but “the stages of development within this trend seem to differ quite substantially.”

The Report of the Commission on the Status of People with Disabilities (1996) and NACTE (1997) both noted how attitudes towards disability have changed considerably over the past 15 years, led by a stronger and more vocal movement of People with Disabilities throughout the world. They suggested that the following principles had informed recent international legislation and practice:

- the recognition that disability is a social rather than a medical issue;
- the adoption of a civil rights perspective;
- the recognition of equality as a key principle of the human rights approach.

Many countries have now adopted specific legislation on the rights of people with disabilities. These include the USA (Americans with Disabilities Act [ADA] 1990), Australia (Disability Discrimination Act 1992), Italy (Law for the Care, Social Integration and Rights of People with Disabilities 1992) and the UK (Disability Discrimination Act 1995).

Fordham (1997) describes how, in the UK, the disability legislation which was introduced in 1944 defined disabled people in functional terms focusing on their impairment being a handicap for getting or keeping employment. The new definition of disability introduced by the 1995 Act (DDA) recognised the inadequacy of this definition after fifty years and shifted the focus from “a paternalistic approach to one which acknowledges society’s role in disabling some people.” She observed that the Government sought to strike a balance between the ‘social model’ of disability which disability groups tend to favour, and a more targeted approach concentrating on those areas they considered to be of most practical concern and in which the law could have a positive effect.

3.2 Ireland

The report of the Commission on the Status of People with Disabilities (1996) stated that:

“The recommendation that persons with disability be granted equal status with all other citizens is a fundamental question of human rights. A society which respects human rights is richer in a way that cannot be measured on any balance sheet. Respect for such rights is a necessary condition for a society to be classified as wealthy.”

The Commission described how, after various stops and starts over the years, the Irish disability movement restarted again towards the end of the UN Decade of Disabled Persons (1981–1990). As the European movement of disabled people grew, more Irish people with disabilities became aware of it and wanted to be a part of it.

The Irish paper towards the ILO 18-country study (Whyte et al, 1997) offers a comprehensive account of the evolution of Irish disability policy and legislation beginning with the Department of Health’s 1984 Green Paper on services for disabled people. Later years saw changes in service delivery and an increased emphasis on the status of disabled people. These changes in the direction and underpinnings of disability policy were encapsulated in the report of the Commission on the Status of People with Disabilities (1996). Of primary importance was its recommendation to draw up a general principle of equality for the Constitution. This, in turn, would be accompanied by a Disabilities Bill¹⁹ with the requirement that public and private bodies, employers, and educators should make ‘reasonable accommodation.’²⁰

The Compendium (EU, 1998) profiles Ireland’s progress since 1993 towards the promotion of equal opportunities for People with Disabilities, listing the establishment of the Commission on the Status of People with Disabilities, the setting up of the Irish Council of People with Disabilities,²¹ the 1997 announcement by Government of its intention to establish a National Disability Authority under the aegis of the Department of Justice, Equality and Law Reform²² and a Disability Support Service under the Department of Social, Community and Family Affairs. The Compendium also highlights the Government’s acceptance of the Commission’s recommendation to transfer the responsibility for vocational training and employment from the Department of Health and Children to the Department of Enterprise, Trade and Employment.

The ICTU Progress Report (ICTU, 2001) notes that an Irish Employment Equality Act was signed into law on 18 June, 1998. This Bill prohibited discrimination on nine grounds including disability, in relation to all aspects of employment, work experience, promotion, dismissal, etc. An Equal Status Act was passed in 2000 prohibiting discrimination with respect to access to goods and services i.e. accommodation, disposal of property, and education.²³ ICTU notes that, in the Programme for Prosperity and Fairness, the Government committed to consult with the Social Partners in implementing one of the key recommendations of the Commission on the Status of People with Disabilities viz. the introduction of disability-specific legislation.

Ecotec’s benchmarking report (Ecotec, 2000) noted that the late 1990s was a time of significant change in Irish disability policy.

“This change was influenced by several factors:

- *commitment to conform with EU and international labour policies;*
- *economic, industrial, labour market and employment transformation in Ireland;*
- *changes in emphasis within anti-poverty strategies;*
- *recent social and cultural shifts in Ireland.”*

In its Ireland profile, Ecotec presents a detailed ‘historical spine’ tracing the gradual change from policies based on voluntarism and the medical model to rights-based measures designed to facilitate integration.

The National Disability Authority (NDA, 2000) noted that:

“The Commission’s report, and the reactions of all political parties to it, proved to be a watershed in Irish disability policy. It set a new framework of reference—a rights-based approach. The shift to this rights-based

approach is reflected in the way disability has now been mainstreamed in the State's main legislative weapons against discrimination: the Employment Equality Act, 1998 and the Equal Status Act, 2000. ... The Government's commitment to introduce an over-arching Disabilities Bill is a further vital element in an overall strategy to create a genuinely inclusive society open to all. It is more than a matter of equity. It is a matter of rights."

ENDNOTES

- ¹⁴ The introduction describes how "*Over the course of the United Nations' first half century, people with disabilities have gone from passively accepting whatever was made available to them to actively asserting strength and confidence in their own abilities to lead self-reliant and independent lives.*" In a major resolution passed in 1975 containing a Declaration on the Rights of Disabled Persons, the United Nations General Assembly stressed that people with disabilities have exactly the same human rights (and responsibilities) as all other persons.
- ¹⁵ The term vocational rehabilitation means "*that part of the continuous and co-ordinated process of rehabilitation which involves the provision of those vocational services, e.g. vocational guidance, vocational training and selective placement designed to enable a disabled person to secure and retain suitable employment.*"
- ¹⁶ Ireland has signed and ratified the UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities. While they are not legally enforceable they do carry a strong moral commitment to be fulfilled by member states of the UN.
- ¹⁷ Introduced in December 2000.
- ¹⁸ This report looked at equality and employment policies for people with disabilities in Austria, Canada, Denmark, Germany, France, the Netherlands, Sweden and the UK.
- ¹⁹ The Department of Social, Community and Family Affairs (2001) stated that a Disabilities Bill, providing for positive action measures to advance and underpin the active participation of people with disabilities in society, is being prepared, with a view to publication in 2001.
- ²⁰ Thornton (1994) noted that "*A central feature of disability legislation is the requirement on employers to make 'reasonable accommodation' for the known limitations of disabled individuals, marking a move towards the concept of equality of opportunity ... Reasonable Accommodation includes not only modifying the physical layout or equipment used, but also restructuring jobs, work schedules and training, and providing aids or personal assistance. Legislation containing 'reasonable accommodation' is more likely to benefit people with physical, rather than intellectual or psychiatric disabilities. Debates about what constitutes reasonable accommodation are unfolding on the basis of case law.*"
- ²¹ This body has subsequently been reconfigured as People with Disabilities Ireland (PWDI). This organisation, consisting of people with disabilities elected by people with disabilities, was established in March, 2000 to promote the human, civil, social, economic, political, cultural and recreational rights and freedoms of people with disabilities. It is funded by the Department of Justice, Equality and Law Reform.
- ²² The Department of Equality and Law Reform was established in January 1993 to promote equality of treatment for persons experiencing disability, disadvantage or discrimination. It was subsequently merged with the Department of Justice.
- ²³ Both Bills went through the Oireachtas in 1996 but were found to be unconstitutional by the Supreme Court and required redrafting.

4. Disability employment policies

4.1 International

Samoy and Waterplas (1997) offer a useful typology of national systems of employment measures for people with disabilities based on three dimensions:

1. a classification of ‘employment situations’ of people with disabilities;
2. a classification of agencies providing employment supports to people with disabilities;
3. a classification of employment policies.

Policies combines the two previous classifications with other elements. To describe a policy, one has to establish who gets what and how it is delivered and financed.

There have been several major international reviews of employment policies for people with disabilities in the last decade. These include OECD (1992), Thornton and Lunt (1997), and Ecotec (2000).²⁴ Leichsenring and Strümpel (1994) contrasted mandatory employment and equal opportunity approaches in 10 countries. Nexus (1998) looked at employment policies from an SME perspective in six EU Member States.²⁵

The point of departure for all studies was the disturbing fact that the participation rate for people with disabilities was dramatically lower than, in some countries actually less than half, that of the non-disabled population. It was generally concluded that the work potential of people with disabilities was grossly underutilised and that this affected not only the individuals concerned, but also the economic performance of societies. An increasing portion of the working-age population was totally excluded from the workforce due to health and disability reasons.

Ecotec cites a British Labour Force Survey 1997–98:

“One of the most striking illustrations of the employment circumstances of disabled people is that of the ‘iceberg’ phenomenon—whereby the group of disabled people more usually targeted for mainstream employment policy measures, are but a small proportion of the total potential disabled labour pool. The extent of economically inactive disabled people who would actually like and are able to work is 17.5% as compared with 4.5% of non-disabled economically inactive people.”

All studies noted that the fundamental right to employment for people with disabilities was being increasingly stressed by organisations of the disabled in all countries, and that most governments now acknowledged that participation in working life serves as a springboard to broader social integration. The studies also noted that a second factor driving major employment policy reviews in many countries in recent years was the growing pressure on income maintenance systems. Governments sought ways to counteract the flow of new entrants into disability schemes. Thirdly, emerging labour shortages due to changing demographic patterns were adding urgency to policies aimed at mobilising inactive human resources.

Back at the start of the decade the OECD (1992) had highlighted the growing imbalance between expenditures on income maintenance schemes on the one hand, and vocational rehabilitation and employment schemes on the other, and raised the question whether resources would not be more

effectively used—in terms of both the welfare of the individuals and the national economy—if allocated to work-promoting measures rather than simply being used to pay compensation.

In 2000 the Ecotec study found that many countries had moved to redress this imbalance:

“Employment policy is undergoing considerable changes in most countries, and all are seeking an increase in active policy.²⁶ Most are also moving away from passive policies, although these have not been abandoned altogether, nor will they be in the near future. The move from passive to active measures is not a simple process and there is much evidence to show that conflicts in policy objectives may result. Disabled people and disability organisations do not always support reduction in passive measures and encouragement of active employment-focused measures. There is therefore a need for such policy shifts to be better thought through, better co-ordinated, and better communicated to disabled people and disability organisations.”

The classic problem at the intersection of the active and passive policy approaches is the ‘benefits trap’ which is addressed in detail in most studies. The size and timing of the benefits earning disregard and rules governing retention of secondary benefits vary from country to country. The studies universally conclude that the tendency for the safety nets to turn into passivity traps needs to be actively countered by generally providing more flexibility in the interface between the labour market and income support systems.²⁷ The OECD study described the focused US efforts to dismantle the disincentive structures of their income support arrangements through a Social Security for Disabled Individuals (SSDI) programme, and a means-tested Supplementary Security Income (SSI) income support programme.²⁸ The Thornton study (1994) also identified innovative social security measures that aimed to encourage entry into the workforce. These included one-off cash grants for starting work (Australia and France) and extending medical coverage for those beginning work (United States). Germany had a scheme to enter work gradually with only proportionate loss of benefit and a guarantee against financial loss if unsuccessful.

The reports find that, in all countries, policy related to employment of disabled people is highly complex. It includes different definitions, different implementing organisations and objectives, and many different measures. The principal measures are listed in Table 1 below.

Ecotec noted that:

“It is not possible therefore to assess the precise impact of any one policy or measure, since all interact with each other. It is however possible to assess the extent to which the policy ‘packages’ used by countries achieve the broad aims of policy. In all cases these seek to encourage and support disabled people to find and retain work. In no cases can they be said to be fully effective—in all 18 countries in the study, the proportion of disabled people in the workforce, the extent of unmet demand for work, the unemployment rate of disabled people, and the quality of the jobs they occupy is significantly worse than that for able bodied people.”

All countries hold the common objective of facilitating the integration of people with disabilities into the labour market, but the differences regarding measures allocated to this objective are substantial. For example, the United States’ emphasis on individual rights (backed up by legislation focusing on the elimination of barriers) stands in contrast to the Swedish policy in which subsidised employment for people with disabilities is a corner-stone. Both these approaches are in turn very different from other countries’ reliance on legal interventions imposing a quota system under which employers are obliged to reserve a certain percentage of jobs for persons with disabilities.

Table 1: Range of disability employment measures

OECD (1992)	Ecotec (2000) Benchmarking Framework Passive/Compensation measures
Assessment and counselling to establish skills, aptitudes and needs	
Rehabilitation and training to enhance the competitive powers of the individual	Rehabilitation—training, retraining and employability
Legislation to secure equal access and equal treatment	Anti-discrimination legislation
Legislation requiring the employers to reserve a specified number of jobs for people with disabilities (quotas)	Quota systems
Financial and other incentives to encourage integration into the ordinary labour market	Job subsidies
Encouraging employers and other involved parties to take voluntary action to facilitate employment of people with disabilities	Persuasion measures
Developing a special sheltered labour market for people with disabilities	Sheltered employment
Work environment/health and safety improvements	Aids and adaptations
Early rehabilitation interventions to prevent marginalisation and exclusion from the labour market	
	Enterprise strategies for self-employment

Thornton and Lunt (1997) observed in their earlier 1993 survey that:

“the countries fell into two broad groups according to their approach to securing employment rights for disabled people. The majority of the European Union (EU) member states had an approach to employment promotion which involves legal requirements guided historically by principles of compulsion and exemplified by quota systems and reserved employment. The countries with direct human rights provision did not have measures of this sort. Rather they had ‘enforced’ the employment of disabled people through conditions attached to the pursuit of economic activity, such as contract compliance. They commented that, while in many respects individual European countries differed from each other in the details and emphases of their disability employment policies and provision, when set against the ‘new world’ countries uniformity was more apparent than diversity.”²⁹

Quotas The OECD report (1992) pointed out the main disadvantage of quotas:

“They may encourage a view that the employment of people with disabilities is a constraint, something that no employer would willingly undertake without a degree of compulsion. They may therefore militate against the view that people with disabilities should be employed for what they can do well, provided of course that they can have the necessary support, training and equipment.”

In a comprehensive discussion on the mandatory (‘quota’) system versus equal rights approaches Leichsenring and Strümpel et al expose several internal conflicts within the quota-levy system. The explicit aim of a quota scheme is that employers should employ a certain number of people with disabilities. But if, for example in France or Austria, all employers fulfilled their obligation there would be no money in the AGEFIPH or Compensatory Levy Funds which are used to provide benefits and programmes in those respective countries to support the employment of people with disabilities by training, education and wage subsidies. A second conflict exists in that quota-levy schemes have a tendency to prevent partnerships between government agencies and companies, as they are often perceived as a punishment by companies, even though governments do not see it

as such. A third problem is the fact that definitions and registration procedures that underlie quota schemes can lead to stigmatization; theoretically, quota schemes are supposed to create opportunities for people with disabilities, but in practice they focus on deficits.

However the equal rights approach has its limitations as well,³⁰ and Leichsenring and Strümpel conclude that “mandatory employment measures and equal opportunity schemes do not necessarily contradict each other. All in all people should have several types of options to choose from.” Thornton and Lunt (1997) likewise observe that, while “the rhetoric of obligation is replacing that of compulsion”, mandatory employment does not appear to be considered incompatible with anti-discrimination legislation in several countries e.g. France, Germany and Spain; and, in the UK, campaigners sought, unsuccessfully, to retain the quota system alongside the right not to be discriminated against in employment.

Persuasion policies ‘Persuasion’ of employers is an important and necessary element of employment policy.³¹ Thornton (1994) shows that, in certain countries, persuasion measures are:

“a central plank of policy and are preferred to imposition of legal obligations. There are examples of collective voluntary action on the part of employers to adopt recruitment and employment practices sensitive to disabled people, in part through governmental encouragement e.g. in the UK, the Employers’ Forum on Disability brings together leading employers. Trades Unions too, for example in the UK and Ireland, have produced guidance or codes of practice. There are instances (as in France) of national funds offering support to the social partners for measures to increase the sensitivity of employers and employees to the needs and circumstances of disabled workers. In the UK a re-launched awareness scheme recognises employers who demonstrate a commitment to specified recruitment and employment practices. A similar initiative was launched in Ireland in 1996.”³²

Thornton points out “interesting differences in persuasion rationales: the Danish persuasion campaign emphasises the social responsibility of enterprises; the UK stresses the ‘business case’ for employing disabled people.”

Ecotec are of the latter view: “persuasion measures should focus on practical solutions and a credible business case.” They feel that larger employers are the more likely to adopt positive policies and codes of ethics; however, in some cultures, SMEs can play an important quasi-caring role in providing opportunities for disabled employees.

“In Ireland for example there is perceived to be more of a tradition of ‘roles’ being available for disabled people (particularly those with learning difficulties) amongst small employers, performing simple tasks, but more generally as an informal social service. Similar traditions also exist in other countries (such as Spain and Italy). This type of role is perceived to be more possible in small employers, where large organisation bureaucracy does not get in the way, and where companies are more embedded in the community (these are often family firms, with the disabled person sometimes a family member).”

Ecotec also point out that:

“Assessment of the effectiveness of such (i.e. persuasion) activity is very hard to achieve. It is almost impossible to establish whether attitudes have been changed, particularly in a field such as this where, for example, attitude

surveys always show a very high level of sympathy and support for positive measures, even though actual practice is very different.”

All studies reveal that employers harbour deep-seated reservations around lower productivity, higher cost expectations associated with health, safety and insurance, and around tacit opposition from their supervisory staff. Nexus (1998) identified “the key role of personal experience” as the motivational factor for employers in several case studies where there had been successful placements of people with disabilities. Nexus pointed to an important awareness-raising and mediating role for organisations of people with disabilities to publicise the positive capacities of people with disabilities and challenge employers’ perceptions in three key areas: “absenteeism, capacity/ability, and risk.”

Financial incentives In addition to ‘persuasion policies’ most countries make use of Financial Incentives to employers as a means of promoting employment of people with disabilities. Measures include wage subsidies to compensate for productivity deficit, grants for workplace and work practice adaptation, exemptions from social insurance and other statutory charges, and once-off premiums for hiring people with disabilities.

Ecotec note in relation to wage subsidies³³:

“The calculation for the State is that it may be less expensive to provide this subsidy than to pay unemployment or disability benefits to an individual without work, whilst an employed worker may pay tax (though this is in most cases simply churning funds) and will be covered by the employer’s social protection liabilities (although in some schemes these too are subsidised). As with so many aspects of policy towards disabled people, whilst these measures look attractive in principle, in practice they are complex and have the potential to become entangled in administrative and implementation problems.”

The once-off employment premium has proved a controversial measure, abused by some ‘bounty-hunting’³⁴ employers and, in consequence, avoided by others unwilling to be tainted by association. It is also perceived as a demeaning “knock-down price” exercise by some advocates of people with disabilities.

Institutional arrangements In comparing the institutional arrangements the studies identify the natural fault line between countries that still place responsibility for ‘specialist’ vocational rehabilitation and employment services³⁵ on the traditional Departments of Health/Welfare—with the attendant risk of inducing a ‘welfare orientation’—and countries that adopt a progressive ‘mainstream’ approach, vesting responsibility in their labour market authorities and local employment offices.

Thornton and Lunt (1994) commented:

“The means by which services are delivered tend to reflect the societal structure of a country, as well as its traditions and stage of economic development. In Ireland, for example, there has been a tradition of non-statutory and voluntary provision by charities and the church. In the USA, there is increasing private involvement in the provision of vocational rehabilitation, reflecting more market-orientated influences, as in the UK. It is interesting to note the emergence of disabled people’s organisations as service providers, frequently challenging traditional means of service delivery.”

They note that countries appear to all follow a similar developmental pattern: separate, often institutionally-based, provision is replaced by mainstream provision, which in turn is modified by the introduction of specialist staff.

The location of responsibility for vocational rehabilitation³⁶ and employment services has a large bearing on the dominant employment model adopted by a country—i.e. sheltered employment versus open (or supported) employment. On this key question of ‘sheltered versus supported’ Leichsenring and Strümpel state that:

“The debate about sheltered work and its alternatives has been continuing for many years (see Melvyn (1991)) and has taken on very ideological facets. In the course of our discussion we reached the consensus that it is not a question of ‘either/or’. Firstly, since people with a disability are a very heterogeneous group it is necessary to provide a wide variety of services to allow for choice. Secondly, it would be advisable to develop sheltered workshops in such a way as to accommodate aims of modern disability policy. That means that the aims of sheltered workshops and supported employment also need to be explicitly formulated in order to explore whether existing sheltered workshops are compatible with these aims. Thus, when opting to adapt to certain values, it is not necessary to abolish sheltered workshops completely.”

Further literature on sheltered employment and its alternatives is reviewed in more depth in Section 5.

EC employment policy for People with Disabilities The European Commission approach is to incorporate employment policy for people with disabilities within its wider employment policy. EC (1998) stated that:

“The current four-pillar structure of the 1998 Employment Guidelines³⁷ has proved to be a valuable and comprehensive framework within which a comprehensive disability employment strategy can be framed.”

This EC paper is underpinned by the equal opportunity principles which shaped the debate on the New European Community Disability Strategy, as set out in the Commission’s Communication of 30 July 1996 on equality of opportunity for people with disabilities. The paper notes that the employment rate of disabled people in the Union is 20 to 30% below that of non-disabled people.

“In addition to the particularly low employment rate, Member States indicate that most people with disabilities of working age are out of the labour market altogether and heavily dependent on disability benefits.³⁸ These benefits can often reinforce recipients’ exclusion from the labour market—creating a benefit trap. It is also noted that many people with disabilities have a poor basic education and are as a consequence often employed in low-skilled and low-paid jobs.”

The paper sets out some of the issues to which the European Commission intends to pay particular attention in its future work around the Employment Guidelines, notably the need to mainstream disability action, to move away from piecemeal initiatives and to establish a co-ordinated strategy so that the challenge of disability and under-employment can be effectively met. Based on an appraisal of the National Action Plans³⁹ of Member States the paper concludes that:

“Several inter-related disability employment issues deserve further attention. These include setting clear goals and targets, mainstreaming disability issues, ensuring better access to education and training, reviewing the design of income support in general and disability related arrangements

in particular. The goal is to allow for successful preventive and early-intervention actions, to increase and diversify active labour market schemes, to provide better access to job creation, to raise awareness, to foster a new and safer workplace culture, to involve the disability organisations and to ensure accountability, effective planning and improved co-ordination.”

4.2 Ireland

It is generally acknowledged that Irish employment policy for people with disabilities has developed in an incremental manner. NACTE spoke of “an ad hoc system of Sheltered Workshops and Settings” that had been developed “to try to respond to the work needs of people with disabilities who, for varying reasons, were unable to find employment in the open labour market.” Miller (2001) describes how many of the employment options developed in a ‘piecemeal and ad hoc’ fashion, sometimes as specially designed programmes but more often as modifications to standard programmes aimed at the long term unemployed.

Thornton and Lunt point out that piecemeal is the norm:

“It is in the nature of policy to be incremental, even piecemeal ... there is no single coherent disability employment policy in any of our study countries. Typically, the objectives of policy are unclear and we have noted the consequent internal contradictions and tensions ... The piecemeal approach to meeting employment needs certainly continues and in many countries there is a marked proliferation of measures: voluntary action is being promoted alongside legal obligations, help for disabled people in mainstream employment services is offered alongside a burgeoning range of specialist services, and financial incentives—to both employers and employees—are multiplying. Fragmentation of disability policy continues.”⁴⁰

The second half of the 1990s marked the beginning of a concerted effort by Government and the social partners to rationalise services to Irish people with disabilities. In November 1996, the Commission on the Status of People with Disabilities published its pivotal report—A Strategy for Equality.⁴¹

Among its 402 recommendations the Commission called for the ‘mainstreaming’ of vocational training and employment services by transferring responsibility for vocational training and sheltered and supported employment services from the Department of Health and Children (DOHC) to the Department of Enterprise, Trade and Employment (DETE).⁴² The Government accepted this recommendation in principle in November 1997 although the transfer did not finally take place until June 2000.

The Establishment Group Report (1998) noted that:

“Recommendations to mainstream vocational training and employment services for people with disabilities were signalled as essential in a number of recent significant reports and studies on future policy for people with disabilities. These also reflect best international practice. The main influences were:

- *The Commission on the Status of People with Disabilities;*
- *The NACTE Report;*
- *Partnership 2000;*
- *The Department of Health and Children’s Draft Document on Future Policy on Training for Persons with a Disability⁴³ as well experience*

*gained from training schemes for other groups such as the long-term unemployed.*⁴⁴

In their 1997 review Whyte et al (1997) found that “both mainstream and specialist training facilities are available for disabled people. The actual delivery of specialist training rests with voluntary and non-statutory bodies.” They describe in some detail how the ‘benefits trap’⁴⁵ remains unsolved in Ireland and is proving a serious disincentive to integration of people with disabilities into open employment.⁴⁶ The trap is due to continuing rigidities in the income support system compounded by a lack of awareness of system reforms on the part of people with disabilities and employers.⁴⁷

Whyte (1994) noted that “until very recently, the main thrust of policy in Ireland has been to promote open employment opportunities for people with disabilities in the private sector,⁴⁸ using persuasion and financial incentives to employers.”

Persuasion policies These refers to voluntary initiatives aimed at changing attitudes and persuading employers to recognise the abilities of disabled workers. The social partners have recognised an important role for such voluntary initiatives within the overall policy approach.⁴⁹ The Programme for Competitiveness and Work (1994) and Partnership 2000 (1996) referred to the active support of employer bodies in promotional campaigns and grant schemes. NESF (1996) suggested a number of initiatives including one led by Government to educate the public regarding access and inclusion of disabled people.

Codes of good practice EC (1988) reported that a working party, representative of government, the NRB, disabled people’s organisations and both sides of industry, established a code on the employment of disabled people, containing recommendations aimed in particular at firms.

The Irish Congress of Trades Unions has issued a Charter of Rights for Disabled People, including 18 basic rights, some of which pertain to employment.

As part of its Partnership Programme commitments, the Government, through the Department of Finance, developed a Code of Practice for the Employment of People with Disabilities in the Civil Service in 1994. Partnership 2000 set out plans for the preparation and active promotion of similar codes in the broader public service.

Positive to Disability Award The NRB’s Positive to Disability initiative was launched in 1996. To gain the right to use the Positive to Disability logo in advertising and other communications, organisations must satisfy NRB that they have an equal opportunities policy in place and are fulfilling all the listed requirements.⁵⁰

ICTU (2001) announced a new joint ICTU/IBEC initiative to increase awareness of the potential employment of people with disabilities and promote increased employment opportunities in a dynamic and tightening labour market. This will provide a co-ordinated infrastructure to deliver the key commitments contained in the Programme for Prosperity and Fairness.⁵¹

Financial Incentives to Employers

Employment Support Scheme (ESS) In July 1990, the Government introduced a new programme, the Employment Support Scheme, to increase employment opportunities for disabled people. This scheme provides support to employers to encourage them to employ people with disabilities whose work productivity levels are below average—assessed productivity levels between 50 and 80 per cent.⁵² The employer offers the job and pays the normal rate of pay and the State (through the NRB, now FÁS) pays the remainder of the salary via a grant to cover the shortfall. Individuals taking advantage of the scheme forfeit their state benefit (Disability Allowance) but retain supplementary benefits including medical and travel passes for a year. The Establishment Group (1998) noted that

“To date, the average weekly wage subsidy (paid by NRB to the employer) is less than the lowest forfeited weekly state benefit.” Mehlman (2001) stated that the current average weekly subsidy is €77 (IR£61).

Workplace Equipment Adaptation Grant (WEAG) This scheme provides a grant, up to a maximum of €6,349 (IR£5,000) for the adaptation of a workplace or work equipment to facilitate the employment or retention of employment of people with disabilities.⁵³

Disability Awareness Training This grant assists Employers cover the cost of disability awareness training for employees.

Grant to re-train or re-deploy workers who become disabled This grant assists employers to retain at work employees who become disabled through sickness or injury. Employees may be offered re-training to undertake alternative duties or continue to work at their existing duties using modified equipment or techniques.

Financial support measures to employees NRB administered a Job Interview Interpreter Grant Scheme (Sign language Interpreter), a Personal Reader Grant Scheme (Reading assistance to blind or visually impaired people in a new job), a Fares to Work Scheme, and a number of Job Clubs. The responsibility for the administration of these schemes has transferred to FÁS.

Quota system A quota system was introduced in the public service in 1977.⁵⁴ The set quota was three per cent and the beneficiary had to register with the NRB.

In the civil service the three per cent quota was met at the end of 1995 but there were variations across Government Departments. The employment of disabled people in the public service as a whole at the end of 1995 was 1.49 per cent. Partnership 2000 (1996) outlined measures to ensure that the target was met in the broader public service. The Department of Social, Community and Family Affairs (DSCFA, 2001) stated that the Department of the Environment and Local Government is taking action to encourage Local Authorities that have not yet reached the 3% quota to achieve this target by the end of December 2002.

Debates during the 1980s and 1990s focused on whether to extend the quota to the private sector. The Green Paper (Department of Health, 1984) concluded that the rights of disabled people were best achieved by agreement rather than through compulsion. The document did, however, make a commitment to review the situation over time and not rule out the possibility of future legislation. The NRB submission to the Commission (1996) recommended that a 3% levy should be applied to both the public service and the private sector, enshrined in legislation, monitored and enforced with appropriate sanctions. The report of the Commission on the Status of People with Disabilities did not recommend immediate extension of the quota to the private sector, but the position was to be reviewed after three years should less than 3% employment of people with disabilities have been achieved within that period.

The extension of the quota to the private sector is an issue on which the social partners strongly disagree. IBEC are strongly opposed to any mandatory legislation while ICTU believe that some of the barriers will not be overcome by a ‘voluntary approach’ [Carey (1996)].

The Inter-Departmental Task Force (1999) stated that:

“The Department of Enterprise, Trade and Employment prefers the idea of a voluntary code of practice. This might be backed up by an exhortatory clause in a formal letter accompanying grant offers to companies. Such a clause is a standard part of offer letters from IDA Ireland.”

ICTU (2001) regretted that the time devoted by Government Departments, the Social Partners, and other key players to introducing the new legislation and new mainstreaming approach to

policy making and service provision during the Partnership 2000 period⁵⁵ diverted much-needed resources and attention from the practical agenda of promoting employment for people with disabilities. They pointed to the Civil Service quota dropping to 2.7%, the Public Service quota falling to a low of 1.5%, and to a blockage of the promised resources for an extension of the Employment Support Scheme because of the shift of responsibility between Government Departments. However, ICTU acknowledge that the transfer to DETE had given added impetus to developments in the private sector and commitments in the current Programme for Prosperity and Fairness reflect the more strategic approach by this Department in co-operation with the Social Partners.

Table 2: Ecotec (2000)—Profile of Irish employment policies

Passive/ compensation measures	Active measures						
	Anti-discrimination/ persuasion measures	Prevention/ retention measures	Job subsidies	Rehabilitation- initial training/ rehabilitation- return to work	Sheltered employment	Adaptation of work and the workplace	Enterprise strategies ⁵⁶
<p>The following benefits are available:</p> <ul style="list-style-type: none"> • Disability benefit • Disability allowance • Invalidity pension • Disablement benefit • Blind person's allowance • Blind welfare allowance • Carers allowance • Domiciliary care allowance <p>There were around 150,000 recipients for all benefits in 1998.</p>	<p>The Employment Equality Act (1998) prohibits discrimination in employment on nine grounds, including disability. The Equal Status Act (1999) also prohibits discrimination and applies to education, transport, the provision of goods, services, refreshments and entertainment. A Disability Bill is also being prepared. The National Disability Authority will comprise an expert body dedicated to research and development of disability issues and act as an independent monitoring body reporting to the Minister for Justice, Equality and Reform.</p> <p>Quotas: A 3% disabled quota exists but is restricted to Public Services. Quotas have never been met although overall figures suggest that they have. Fulfilment of quota differs enormously when figures are broken down by public service functions and by department.</p>		<p>Subsidies are available to employers of disabled individuals to cover shortfalls in productivity. In 1995, nearly €1.2 million was paid out to employers in this way.</p>	<p>The national training agency, FÁS, has recently assumed responsibility of all training relating to disabled individuals. In 1998, a total of 3,200 individuals with disabilities were in FÁS training—8% of all trainees. There are increasing efforts to include disabled individuals in mainstream provision.</p>	<p>Sheltered employment is mainly provided by voluntary organisations and funded by the Health Boards. Training is usually provided in sheltered employment, but it is not always clear whether this is designed to lead to open employment. In 1995, around 5,000 individuals were in sheltered work and long-term training and sheltered work.</p>	<p>Adaptation grants are available to employers of up to €6,350. The take up of these grants has increased in recent years, but remains low. It reached €117,000 in 1995 (benefiting 75 disabled individuals) A Personal Reader Grant is available to blind or visually impaired individuals who are required to do reading as part of their job.</p>	

ENDNOTES

²⁴ Ecotec was an 18-country study.

²⁵ As Thornton noted, these reviews generally report disability policy and services from a policy maker's or a provider's perspective, not a user's.

²⁶ However, while Ecotec finds indicative evidence that these active policies are beginning to enable more disabled people to obtain or retain employment it concedes that "*such evidence is patchy.*"

²⁷ A strong message from the Irish Commission on the Status of People with Disabilities concerned the inflexibility in the income support system for disabled people which discouraged participation in education, training or work.

²⁸ The US principle was that "*no person entering employment should be in immediate danger of losing the supports which have been essential to his or her living situation.*"

²⁹ EC (1998) notes that "*Some Member States may favour an approach based on anti-discrimination provisions. Others may give priority to 'positive actions.'*"

³⁰ "*Even with the Americans with Disabilities Act (ADA), unemployment among the disabled is still outrageous—it is greater than 70 percent. I think the major challenge at the turn of the century is still attitude. Employers are still concerned about liability, sick leave and financial burdens. They're also concerned that someone with a disability can't do the job.*" [Government Executive Magazine, April 2000]

³¹ See preceding footnote.

³² i.e. the Positive to Disability Award scheme.

³³ Ecotec presents the experience of various countries with the wage subsidy system.

³⁴ The term reported in Nexus used by one French employer describing other unscrupulous employers who apply for the 'windfall' premium with no intention of retaining the person with a disability.

³⁵ Employment services comprise Guidance, Training and Placement.

³⁶ Writers use the word 'Rehabilitation' differently. Some oppose 'Rehabilitative Training' (training in personal and life skills) to Vocational Training (training for work in general or for a specific job); but the most common usage is 'Rehabilitative Training' as meaning training to enable the person with a disability to re-enter the open labour market [the term 'vocational rehabilitation' is often used].

³⁷ Under its Employment Strategy the EU issues Employment Guidelines annually, reflecting the employment challenges facing the Union as a whole. The 1998 Guidelines for Employment Policy set out four priority concerns or gaps, all of which need to be tackled:

- *the jobs gap;*
- *the skills gap—a two-speed labour market in Europe is making it very difficult getting unemployed people back into work, even when jobs are available; so the second big priority which is the theme of employability. It is the centrepiece of the guidelines;*
- *the partnership gap—a lack of partnership in tackling the problems of industrial restructuring makes it extremely difficult to handle lay-offs. This led us to focus the third pillar on the question of the adaptability of firms and of individuals.' This means in particular a huge responsibility for improved contributions from the social partners, from employers and trade unions working in better productive partnership with public authorities;*
- *the gender gap.*

³⁸ Echoes of Ecotec's 'iceberg.'

³⁹ The Employment Action Plan (EAP) is produced annually to respond to the EU's Employment Strategy. EAP 2001 is the fourth such Action Plan.

⁴⁰ The authors added that "*At the same time, in several European Member States policy for employment of disabled people is now contained within a wider disability policy framework.*"

⁴¹ "*Generally regarded as the most comprehensive review of the quality of life of People with Disabilities undertaken in any Member State in recent years*" [Tracy (2001)]. Miller (2001) claimed it was "*probably one of the most inclusive and consultative processes ever undertaken in Ireland and strongly representative of people with disabilities.*"

⁴² Responsibility for rehabilitative training and sheltered work was to remain with the Department of Health and Children.

⁴³ This was based on information provided by a wide variety of groups and interests.

⁴⁴ Another influential contributor to the debate around disability and employment policies was the National Economic & Social Forum (NESF). This Forum was established by Government in 1993 to contribute towards formation of a wide national consensus on economic and social policy. It represented Government and the Opposition, the Social Partners, and other interest groups including disabled people.

⁴⁵ See National Rehabilitation Board (1996).

⁴⁶ Both ESFPEU (1996) and the Commission on the Status of People with Disabilities (1996) called for greater flexibility in rules governing the combination of disability-related allowances with paid employment.

⁴⁷ The Department of Social, Community and Family Affairs has set up a working group to identify the current disincentives — it includes representatives from the Department of Enterprise, Trade and Employment, the National Disability Authority, Forum of People with Disabilities, Ahead, People with Disability Ireland (PWDI) and the Department of Health and Children.

⁴⁸ "*In general terms the policy approach has been one of the promotion of employment opportunities in the private sector, underpinned by a range of supports and incentives.*"

⁴⁹ Miller (2001) noted that the five programmes between the social partners had each considered the employment opportunities for people with disabilities and the current PPF has the highest number of commitments to date.

⁵⁰ FÁS now operate the Positive to Disability scheme.

⁵¹ Programme for Prosperity and Fairness 2000–2003.

⁵² The productivity level is agreed by FÁS, the employer and the person with a disability.

⁵³ The Department of Social, Community and Family Affairs (2001) stated that additional funding is being provided in Budget 2001 to increase the Employment Support Scheme and the Workplace/Equipment Adaptation Grant scheme.

⁵⁴ "*though not firmly enshrined in legislation*" [Quinn (1995)]; "*no legislative base*" [Miller (2001)].

⁵⁵ Partnership 2000 for Inclusion, Employment and Competitiveness 1997–2000.

⁵⁶ i.e. help to people with disabilities to start their own business; known as Self-directed Employment in North America.

5. Current practice in Sheltered Employment

NACTE (1997) defined sheltered employment as:

“employment in an enterprise established specifically for the employment of people with disabilities and which is in receipt of designated funding from the State. It refers to employment under sheltered conditions where workers have a contract of employment.”

It defined sheltered work 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.”

5.1 Rationale

Giles (1966) goes into some detail in tracing the “philosophical arguments” behind the concept of sheltered workshops. He cites authors Whitehead (1987)⁵⁷, and Power and Marinelli (1973) laying stress on their rehabilitation function,⁵⁸ while Morton (1982) emphasises the provision of employment as the objective, and Prendergast (1986), speaking in a Republic of Ireland context, links training centres and workshops together as providing both rehabilitation and employment under one roof:

“The objective is to provide fulfilment, job satisfaction and training on an ongoing basis for personal development of the individual in order that he realises his full potential.”

It is this ambiguity or divergence of objectives that makes the administration of sheltered employment so problematic. Giles argues that it is essential that the objectives of these organisations are appreciated and clearly specified, given the increasing importance attached to performance.

The expectation of more rigorous evaluation requirements stemmed from his examination of the economic rationale for sheltered employment. He cites the work of writers such as Professor Ciaran Kennedy (1974) who demonstrated that, at an aggregate level, there is strong support for the argument that rehabilitation is worthwhile in ‘economic’ terms.⁵⁹ At the individual workshop level, however, Giles agrees with Whitehead’s (1987) “not-for-profit” classification and suggests that the individual sheltered unit cannot be expected to be ‘profitable’ in terms of standard profit & loss accounts because a labour force with low productivity militates against profit making. Most schemes will thus require a statutory subsidy. In the current competitive public funding environment this will inevitably imply ‘value for money’ assessments.⁶⁰ Giles quotes Kiernan’s (1987) assessment that sheltered workshops are “probably society’s most difficult organisations to manage.”

“The task facing managers is complex, consisting of mixed objectives, providing a welfare oriented service to attenders in parallel with maximising commercial results. Managers and staff must care for attenders in their social needs and at the same time extract contribution or profit out of the workforce.”

The task of formulating policy for sheltered employment is no less formidable.

Giles was comparatively silent on the important question of providing sheltered employment versus more open employment options. He merely cited Article 53 of the Rehabilitation International “Charter for the ‘80s”:

“Wherever possible, people with disability should be placed or find work in open employment. For those who cannot cope with competitive work and employment, sheltered or semi-sheltered conditions should be provided in sheltered workshops.”

The European Social Fund Programme Evaluation Unit (ESFPEU) (1996), gave a more committed viewpoint:

“While open employment may be the logical next step after training for some people with disabilities, it is unreasonable to assume that all will make the move in one step, and it is unreasonable to assume that all will make the transition at all. Voluntary, sheltered and supported forms of work and employment can be important and necessary links in the vocational rehabilitation chain.”

Blumberger and Jungwirth in Leichsenring and Strümpel argued that:

“Contrary to most current debates on vocational rehabilitation of people with disabilities, our research shows that the supposedly “open” and “free” labour market is in fact neither open nor free and, as far as people with disabilities are concerned, it is even closed. Not all disabled workers should be integrated at all costs and possibly unsuccessfully in a mainstream business. Therefore, there is a growing need for sheltered workshops. Considering the current debate on vocational rehabilitation it may sound paradoxical, but we must realize that for an important minority of severely disabled persons with restricted working capacities integration can be guaranteed much better by specialized facilities (such as sheltered workshops), than by confronting them with the harsh reality of the labour market.”

While generally advocating a strategy of conversion to a more competitive environment NACTE also made the point that it will not suit all people:

“Some of those currently working in sheltered workshops may wish to continue there. People who wish to work in sheltered workshops as distinct from sheltered employment or supported employment, should be able to exercise this choice. We estimate that 1,950 of the total of 7,900 people who are currently engaged in sheltered work may not yet be ready for, or wish to transfer to sheltered employment.”

5.2 Definitions

Back in 1992, OECD described the sheltered workshop concept:

“The concept of sheltered workshops or enterprises covers a wide range of facilities geared towards providing people with disabilities with jobs in a protective environment along with their disabled peers. These establishments vary with respect to administrative structure, financing, target groups, salaries, and productivity. The common feature is the content of work: with few exceptions, sheltered employment implies manufacturing industry, often on a sub-contract basis, and sometimes involves the

employment of persons without disabilities to support production and improve the working environment.

Leichsenring and Strümpel found that:

“The question of definitions on several levels posed one of the major and constantly recurring problems during the conference. As a matter of fact, one single term can have a variety of meanings therefore, one cannot always be sure whether all participants are discussing the same phenomenon. This dilemma became especially clear in the discussion on sheltered workshops. Different countries have very different conceptions of sheltered workshops concerning the groups of people they cater to, the aims in terms of rehabilitation or permanent employment, etc.”

The NACTE Report commented that most of the submissions to the Committee made reference to the significant lack of clarity and understanding which existed in the area of sheltered/supported employment and sheltered/supported work. It was felt that the lack of agreed definitions and understanding of each of these options had impacted negatively on the status of people with disabilities, both in work and in employment.

Most commentators find it useful to locate the concept of sheltered employment in a ‘continuum’ of employment options ranging from activation or ‘occupational activity’ at one end to the ‘regular’ or open labour market at the other. NAMHI (1992) lists sheltered employment, enclave employment and supported open employment as intermediate steps. Miller (2001) refers to a matrix of work and employment options ranging from rehabilitative work, sheltered work, supported work, sheltered employment, supported employment to community employment.

NACTE defined the terms Sheltered Work, Sheltered Employment, Supported Work, Supported Employment, and Open Employment in the competitive labour market. It made a sharp distinction between the terms employment and work,⁶¹ emphasising the legal vulnerability of people in sheltered or supported work positions, and repeated the call of the Commission on the Status of People with Disabilities for a code of practice to regulate these positions. The Partnership 2000 programme contained a commitment that Government and the Social Partners in consultation with organisations of people with disabilities would draw up a Code of Practice on the employment of people within sheltered workshops.

Besides the ‘social-production’ axis from activation to open employment there is also a training-employment axis and some writers present this as a second dimension of the continuum. In Ireland as elsewhere there is a complicated situation in regard to provision of training⁶² and sheltered work with providing organisations juggling both services to optimise the capture of available funding. The demarcation between these activities can often be unclear.

There is even a third, time dimension to the employment options matrix if one considers that people with disabilities may work full-time or part-time in permanent or temporary work/employment. It is common practice for people in supported work situations to work part-time within the limits of the earnings disregard and then return to the resource centre to pursue other training or recreational activities. NACTE presents this “broadest range of work/employment options” and states that, as a matter of principle, people with disabilities should be able to select any combination of these options together with other personal choices.

Samoy and Waterplas (1992) also exploit the continuum idea, basing their gradation on level of ‘productive work.’ They defined sheltered employment as:

“work performed by people with disabilities in a segregated environment, with considerable material, financial and human support. Opinions differ

as to the question whether an employment contract and wages were necessary requirements.”

The authors broadly distinguished between two types of workshop. One type sees itself as providing ‘productive’ work (either in industry or services) to persons who have an employment contract and a wage. This highly productive Sheltered Enterprise closely resembles a normal factory—generally they have a majority of employees with physical disabilities with “an almost normal employment contract and (almost) normal wages.” In the other type, productive work is not the only or even the main aim, and people with disabilities typically have no employment contract and receive no wages, only a bonus in addition to their disabilities pension. This Sheltered Workshop is less productive and the majority of the workers tend to be people with mental disabilities.⁶³

Giles (1996) comments that:

“the ambiguity of the definitions, while confusing to researchers, has proved to be desirable in certain respects, since the flexibility of definitions has enabled the development of a unique strategy reflecting local differences, service needs and various resources. Such flexibility has also provided an increased latitude in service delivery, along with a wider range of options for persons with disabilities.”

Giles suggests that, on occasions, the blurring may be deliberate:

“... these units are called activation centres, but in the listings of centres operating in favour of disabled persons it suits management and agencies to call these units ‘sheltered workshops’ usually because there is an advantage in the securing of grants to describe them as such.”

5.3 History of sheltered employment in Ireland

Giles quotes an 1866 paper by George Kidd, Vice-president of the Dublin Pathological Society, drawing attention to the reluctance of the authorities in Ireland to recognise the needs of children with learning impairment for training and education in order that they might be given the means to earn a livelihood. Kidd’s paper reviewed American and European initiatives in the first half of the nineteenth century and provides several evaluations of centres established during that period.

NAMHI (1992) traces the origin of sheltered employment to the rapid expansion in the provision by voluntary organisations of special education for children with mental handicap in the 1950s. The provision of sheltered employment evolved mainly due to the efforts of these organisations to provide for the changing needs of graduates of these special schools as part of the sequence of education, vocational training and employment. The 1971 Health Act set out a statutory base for voluntary agencies to be funded by the state

The Robins Report (1975) set down guidelines in 1975 for the training and employment of people with disabilities. It emphasised:

- the development of the individual’s work capacity in the hope of eventual placement in open employment;
- the importance of the training component in all workshops;
- adherence to the greatest degree possible to a policy of normal working conditions with whatever additional supports that may be necessary;⁶⁴
- that workers should have a realistic wage.

Robins made no reference to the need for legislation to facilitate these developments.

NAMHI (1986) recommended the separation of the training and employment functions. It called for formal statutory provision for sheltered employment and the enactment of legislation granting legal status to the workers in sheltered employment. It also called for the setting of remuneration levels for persons in sheltered employment. Appendices to NAMHI (1986) carried excerpts from the 1983 ILO Convention 159 and Recommendation 168 outlining guidelines for good practice in sheltered employment, and from a Council of the European Communities memorandum to member States concerning a “Model Code of positive action to promote the vocational training and employment of disabilities people.”

Giles states that the 1983 Department of Health Green Paper recognised the sheltered employment sector, and the need for development, but it wasn’t until NAMHI (1986) highlighted the extent of the gap in the range of employment options available to the school leavers with mental handicap that sheltered employment became a recognised feature in the continuum of care provided to people who were disabled due to a learning impairment.

In more recent times the Programme for Economic and Social Progress (PESP) 1990 and subsequent Partnership Programmes have recognised the needs of people with disabilities and committed Government to ensuring their fullest participation and integration in all aspects of life. However, NACTE noted that while:

“Partnership 2000, the national agreement for Inclusion, Employment and Competitiveness provides a context within which the employment of people with disabilities can be promoted, so far there seems to have been little in the way of practical actions to follow-up the positive sentiment of the partners.”

As noted above, ICTU acknowledged that employment prospects for people with disabilities had progressed with the Programme for Prosperity and Fairness due to a substantial impetus from the transfer of responsibility to the DETE.

Commenting on the institutional context, Giles noted that:

“In a European context Ireland is unusual, since from 1971 these services have been part of general health provision, funded via the Department of Health, rather than part of the employment or welfare function of government. The Irish Department of Health acts directly with voluntary agencies (direct funded) or through each of the eight Health Boards set up in February 1970 (Barrington, 1987). Generally the Health Boards use voluntary organisations as service providers and all services are seen as part of the general health service delivery.”

The Government has since begun to rectify this anomaly when it accepted the Commission’s recommendation to transfer responsibility for vocational training and sheltered employment to the DETE. Both the Commission and NACTE called for all sheltered work/employment to be transferred to the DETE but the decision taken was to transfer responsibility for vocational training and employment of people with disabilities to the Department of Enterprise, Trade and Employment. Responsibility for rehabilitative training and sheltered work remains with the Department of Health and Children.

5.4 Legal status

The legal status of workers in sheltered workshops in Ireland has been a vexed question ever since the mid-1980s when the NAMHI (1986) report called for legislation to grant them legal status.

NAMHI (1992) noted that:

“The first legislative provision for rehabilitation services for people with disabilities appeared in the Health Act 1947 which gave local Health Authorities the power to arrange education and training for people suffering from infectious diseases. The Health Acts, 1947, 1953 and 1970 empowered the Health Boards to provide services to meet the health, welfare and rehabilitation needs of persons with disabilities or to arrange their provision through a specialist non-governmental agency. Up to the present time this health/care approach has been maintained.”⁶⁵

There was no national programme of sheltered employment that incorporates provision of a guaranteed minimum wage, a legal contract of employment or employment protection legislation. In 1972 the workers of the Dublin Blindcraft company negotiated a comprehensive wage agreement with the Department of Health but this remained the only instance of statutory sheltered employment in the country for the following twenty years.

NAMHI (1992) attributes the lack of progress to the fact that the Department of Health did not really see itself as having responsibility for the development of the employment policy of people with disabilities. Matters were clarified a little in October 1991 when the Minister for Health stated that Government policy in relation to services for people with mental handicap would be based on the Report of the Review Group on Mental Handicap Services (1990). The Government committed itself in principle in the Programme for Economic and Social Progress to the recommendations of this Report which included “providing vocational training, guidance and placement services to ensure that people with disabilities have equality of opportunity in employment.”

Whyte et al (1997) noted:

“There is a ongoing debate about the role and development of sheltered workshops (Conroy, 1994). The Irish Congress of Trades Unions has recently expressed concern about the low levels of pay and poor working conditions in some of the workshops. In recognition of the urgency of addressing issues such as the number, type and range of places needed, the legal status or workplaces and workers, and funding, a NACTE working party on sheltered work and employment was established and was set to report in mid 1997.”

The Report of NACTE and of the Commission for the Status of People with Disabilities (1996) highlighted the continuing lack of progress on the legislation front despite commitments in the Partnership 2000 agreement. The Commission report recommended that:

“the status and rights of people with disabilities in sheltered work settings should be defined and appropriately protected. Standards should be introduced for the establishment and operation of sheltered workshops.”

A central chapter in the NACTE report contains its advocacy of a legal framework to cover the work/employment situations of people with disabilities. It recommends ‘minimum standards contracts’⁶⁶ including a minimum wage for employees in sheltered employment,⁶⁷ and a contract of work for sheltered/supported workers. Supported employees should be paid the ‘going rate’ for the job and a wage subsidy provided to the employer to offset any reduced performance. It recommended a ‘Maximum Opportunities Policy’ which would commit the employer or provider of work to supply the necessary inputs to maximise the potential of the sheltered/supported employee/worker.

Following modest progress during Programme 2000, the Programme for Prosperity and Fairness (2000) allowed the Government to re-commit itself to establishing a Working Group on a code of practice for Sheltered Workshops. This Group is now expected to complete its work in the Autumn of 2001. One of the key areas which the Code of Practice will address is the legal status of the workers.

On the question of legal status Giles noted in 1996:

“There is a substantial body of statute law in Ireland regulating the employment of labour; however, the undefined relationship of the worker in a sheltered workshop to the owners (be they a charity or a state agency) seems to leave these workers outside the definition of ‘employee’ used in certain statutes. This is an imprecise area needing much clarification.”

Giles cites Murdoch’s view that “Providers are employers, but workers may not be employees.”

The current ruling on legal status will be with reference to the new Employment Equality Act, 1998 and the Equal Status Act, 2000. Commentators and people in the field are eagerly awaiting the definitive ruling as to whether workers are employees or service-takers; the outcome has very significant implications for a work centre’s operating costs—increased statutory payments to workers (minimum wage threshold), taxes, etc.

5.5 Pilot Programme for the Employment of People with Disabilities (PEP)

The Pilot Programme for the Employment of People with Disabilities (PEP) was introduced by Government in 1994 for a three year period. This was a sheltered employment programme operated by NRB on behalf of the Department of Health and Children. The aim of the programme was to determine the feasibility of establishing commercially viable enterprises which have a minimum of 50% people with disabilities.⁶⁸ The concept of an integrated sheltered option was the novel feature on which hopes of viability turned.

Seven companies, six of which were part of Gandon Enterprises (a constituent of the Rehab Group) were part of the original PEP complement. They employed 100 able-bodied people and 180 people with disabilities. Wage subsidy grants were provided for disabled employees who also retained their medical cards and certain secondary benefits. Once off capital grants and subsidies in respect of able bodied persons were also made available to the qualifying businesses in 1994, 1995 and 1996. While Gandon paid equal wages for equal work the disparities in average earnings of employees reflected the fact that able-bodied workers held a higher proportion of supervisory and managerial positions within the enterprises.

The PEP was administered by the National Rehabilitation Board (NRB) and was overseen by an Inter-Departmental Monitoring Committee. A review of the PEP by the Monitoring Committee was completed late in 1996. NACTE reported that:

“The Report of the Monitoring Committee of the Pilot Programme for the Employment of People with Disabilities concludes that the programme has been a successful vehicle for providing employment for people with disabilities and has achieved the social objectives of the programme. A high degree of satisfaction is reported among the employees with a disability. An important objective of the programme has not been met during the pilot, i.e. that the employment be provided in commercially viable enterprises.⁶⁹ Some of the enterprises are sustaining considerable losses, and the monitoring committee is not satisfied about the continued viability of the

companies involved. The continuation of this type of employment is to be considered following the report of this Steering Committee.”

Following the 1996 review the Government decided to approve an extension of funding for people with disabilities only for a further year. A further extension of the PEP to end 1998 (on the same terms as in 1997) was agreed by the Government in June 1998 pending the transfer of responsibility for employment services for people with disabilities to the Department of Enterprise, Trade and Employment. The Government also approved an increase of €1,397 (IR£1,100) in the annual subsidy provided in respect of employees with a disability bringing the new rate to €6,7100 (IR£8,520) per year. This was again increased in January 2000 to €7,088 (IR£9,000) p.a. per disabled worker.

Commencements Ltd. (1996) was commissioned to carry out an independent review of the PEP for the Department of Health in November 1996. Its brief was to determine:

1. The current state of ‘commercial viability’ of each participating enterprise;
2. An objective prediction on the future economic performance of the participating companies;
3. The level of State support, if any, required by each company to ensure its future or continued viability.

The term “commercial viability” is very significant given that the core objective of the PEP was:

“to assist, through the provision of capital and employment grants over a three year period, in the development of commercially viable enterprises whose workforce comprise a minimum of 50% people with disabilities.”

The working definition for viability given to the consultants was:

“Businesses which are operating with a sufficient level of profit to re-generate their fixed assets without special state subvention other than those for disabled employees.”

The consultants assessed each PEP company from the point of view of Financial Capability, Marketing, Production, Human Resources, Management, Future Financial Performance and Estimated Support Required.

They found that the social impact was very high and that the PEP has been successful in developing and implementing an alternative model for employment of people with disabilities which included some of the features of sheltered employment but which had some additional, attractive features such as commercial sustainability, integration of employment and a ‘real’ wage for disabled employees.

“The PEP has had a significant impact on each of the seven projects included in the pilot. In six of these cases, the impact has been positive in that turnover and employment have increased and there has been progress towards commercial viability.”

However the consultants voiced serious misgivings about several aspects of the programme. One key concern was the discrepancy between the companies’ (and Programme’s?) interpretation of the term ‘viable’ and the dictionary meaning.⁷⁰ They also found that the structure of grant assistance had placed an emphasis on new equipment and employment as opposed to strengthening the marketing and selling dimensions of the business—participating enterprises certainly under-performed in terms of sales and marketing. The consultants felt that the commitment to employment of people with disabilities appeared stronger than the commitment to commercial viability.

There were also questions in relation to the degree to which the Gandon Enterprise companies had accessed the “open market for employees with disabilities,” the consultants expressing surprise at

Gandon's assessment of 30% productivity in the light of an average level of 60% as assessed by NRB in its Employment Support Scheme. There was also a degree of "fuzziness" in the appraisal of the financial performance of the Gandon companies because of the level of central funding given and central supports charged to the companies.

Consultants Tansey Webster Stewart & Co. Ltd. (2000) carried out a cost-benefit analysis of Gandon Enterprises for Gandon and showed that, after incurring significant losses in its early years, by 1999 Gandon had become "a significant success." Sales at Gandon's wholly owned businesses exceeded €12.7 (IR£10) million in 1999, while net profits (including that of its 50% associate company) reached €349,178 (IR£275,000). The consultants found that the commercial viability had been contingent on PEP funding. Between 1995 and 1999 Gandon received €9.0m (IR£7.1m)—€7.87m (IR£6.2m) provided as ongoing operational subsidies for the employment of people with disabilities (studies suggested that the average productivity of the cohort of people with disabilities in Gandon was about 35% of the able-bodied workers).

The consultants calculated that the net cost of the PEP to the exchequer was €1.65m (IR£1.3m) for the five years 1995–1999, representing a net cost per job per year of €1,980 (IR£1,550). The gross cost was offset by major savings on disability payments and training grants, plus incremental revenue from tax and PRSI. Thus the net cost of continuing to finance integrated social employment at Gandon was shown to be lower than any of the feasible alternatives except open employment. Gross costs were shown to be in line with other programmes in the Human Resources Development Operational Programme targeted at the socially excluded.

5.6 Statistics

One of the major impediments to the formulation of enlightened policy in the area of disability employment is the dearth of a comprehensive database. This is a problem in many countries.

Thornton (1997) observes:

"The area of disability statistics is fraught with difficulties. This observation is no less true of the use of statistics in relation to disability and employment. In the USA, for example, estimates of the number of disabled people vary between 3 million and 49 million people, depending on which working definition is chosen.

Information on disabled people in employment is generally limited to participants in quota schemes and sheltered employment or to those receiving special subsidies or work incentives. Obviously, interpretation of such data must take account of legislative definitions and eligibility criteria."

The Irish statistical shortcomings have been emphasised in the Flood Report which called on the Government to address the gap.

Specific disability organisations have endeavoured to survey their own constituency e.g. An Assessment of Need 1997–2001 (1997) provided a database of people with learning difficulties, but there is no overall Irish statistics compared with the situation in the Scandinavian countries c.f. Ecotec's Sweden profile. Ideally what is needed is a complete census of people with disabilities both within and without the labour force with information on employment activities (type of work, pay rates etc.) or employment aspirations.

NACTE notes that most unemployed people with disabilities are not registered as unemployed⁷¹, nor is there any satisfactory information relating to the numbers and skill levels of people with disabilities available for work/employment.

NACTE drew on the work of ESRI for the Commission on the Status of People with Disabilities who estimated Irish statistics from average international statistics. NACTE worked on the estimate of a proportion of 10% of the population or 360,000 people with disabilities, with 40% of these in the 'working age group'. As things stood only 10,500 required sheltered and supported work/employment options. NACTE gave the breakdown between these four categories—80% were in sheltered work.⁷² It recommended a seven year strategy of conversion such that by 2004 two out of every three places would have converted from work to employment. Conversion must encompass consumer choice based on identified ability.

NACTE reported a concern over the shortage of places:

“There is currently a major shortage of sheltered and supported work and sheltered and supported employment opportunities for people with disabilities in Ireland. Those which do exist are virtually restricted to people who have completed education or training programmes linked to the agency or service provider. People with disabilities have few rights and choices in the current situation.”

NACTE reported calls for an expansion of sheltered employment places by the Flood Report (1996), “Towards an Independent Future” (Department of Health and Children, 1996), and Partnership 2000, in all totalling 1,200 places.

ESFPEU reference (1996) in its key findings spoke of the inadequate statistics and attributed the problem to the definitions difficulty. It called for adjustments to the national Census of Population and to the Labour Force Survey.

Samoy (1997) gives the international picture:

“In terms of the proportion of people in sheltered employment in relation to the labour force, the largest proportion was found in Sweden (7.5%), followed by Switzerland (6%), Norway (5%) and Finland (4.4%—including work activity centres). Only Austria had extremely few persons in sheltered employment (0.3%). The 1992 EC study provided widely divergent figures, ranging from 12% (in the Netherlands) to less than 1% (mainly the southern European countries), with an average of 2.3%. Sweden, Switzerland and Norway were among the European countries where sheltered employment was the most developed.”

Ecotec reports that in the UK, disabled people are over six times as likely as non-disabled people to be out of work and claiming benefits. There are over 2.6 million disabled people out of work and on benefits; over a million of them want to work.

5.7 Viability

From the funding agency's perspective the ideal employment projects for people with disabilities are ones that can become viable⁷³ after reasonable initial public support. This was the impetus behind the PEP. But, as Giles pointed out, and Commencements found in relation to Gandon, there is a constant tension between the social and commercial goals which militates against true viability.

Whatever about semantic scruples regarding the compatibility of viability and special funding, the inescapable business fact is that the viability of a work centre is intimately tied up with the freedom or constraint on management to set levels of remuneration based on productivity, and, accordingly, with management's latitude to select the mix of types and levels of disability.⁷⁴ The special needs of employees with disabilities and the 'zero reject' requirement of the disability movement⁷⁵ clearly pose extra challenges for the enterprise.

ESFPEU presents the tension lucidly:

“The primary objective of most employing organisations—public or private, small or large—is to carry out the business of the organisation in an effective, efficient, and—particularly in the private sector—profitable manner. Employing organisations generally want the best employees for the least cost. The issue of what constitutes the ‘best’, what it is referenced to, and on what basis ‘the cost’ is calculated is clearly likely to have implications in the context of this argument. However,—while acknowledging that disability primarily constitutes a relation between an individual and his environment—in general, the primary objective of employing organisations conflicts with the reality that disability is referenced to the norm, and, by implication, means, in a given set of circumstances ‘less than the norm’ and less than ‘the best’. The primary objective of employing organisations by default works to make attainment of the goal of occupational integration of people with disabilities more difficult.”

NACTE says bluntly that public funding is inevitable:

“The expectation that sheltered employment can be provided in commercially viable enterprises is an unreasonable one for the future. There are major difficulties in developing an enterprise culture in a “not for profit” service organisation.”

NACTE goes on to assert that:

“The funding structure for sheltered work, sheltered employment, supported work and supported employment is totally unsatisfactory, resulting in varying and limited capitation fees being paid to agencies, and an inability to fund appropriate pay and work conditions for people with disabilities. Many sheltered employment and supported employment projects are funded as innovative pilot projects under the ESF and Employment Horizon. The fixed term pilot project funding structure is too short to adequately establish and test models of sheltered employment and sheltered enterprises for people with disabilities. Many of the agencies are largely dependent on fund-raising to survive. The ESS requires a sound funding base similar to support schemes for unemployed able-bodied people. Funding should meet the targets set in Partnership 2000.”

NACTE includes the critical funding situation as one of its six critical areas of recommendation:

“A significant increase in funding is needed to enable agencies to provide quality services and a full range of employment choices and opportunities for people with disabilities. An additional €7.6m (IR£6m) is required in 1998 increasing to €43.2m (IR£34m) in the year 2004. The provision of a full range of choices involves a shared understanding of the various forms of sheltered and supported employment, and sheltered and supported work.”

Entrepreneurial skills A key determinant in the viability of sheltered employment centres is the entrepreneurial skills of its staff. Many reviews comment on the lack of entrepreneurial skills among the sheltered employment staff, understandable given the historical association with the ‘medical model’ where care was the main priority and production/marketing were deemed ancillary operations.

A large number of submissions to the NACTE committee referred to the difficulties experienced by service providers in developing own products, identifying new markets and securing con-

tract work. People with disabilities and their parents/advocates expressed dissatisfaction with the repetitive nature of low skill contract work. The general view expressed was that profit margins on sub-contract work were too low to enable operators to pay workers the maximum ‘top up wages’ allowable under current welfare regulations never mind pay minimum wages should the workshop convert to sheltered employment.⁷⁶

NACTE identified the difficulties experienced by sheltered work providers in developing business based on the manufacture of own products:

- lack of seed capital;
- difficulties in identifying and appraising new business opportunities;
- lack of expertise in areas such as product development and marketing and the costs associated with ‘buying in’ this expertise.

NACTE recommended:

“A business advisory service should be established to assist sheltered employment providers with product identification, manufacture, costing, marketing, business planning and management. This service should also be available to sheltered workshops. The existing expertise of the Department of Enterprise, Trade and Employment in business development and enterprise creation should be readily available to sheltered employments and sheltered workshops.”

Geography and viability Giles notes that the locational constraints on a sheltered employment centre can also have a major influence on its viability—there are many more commercial opportunities for a sheltered employment centre located in a sophisticated urban industrial park than for a centre serving a remote rural community.

5.8 Evaluation

Giles pointed out that increasing pressure on public funds would bring an accompanying insistence on accountability and value for money. There is a public demand for evidence that social welfare programs are using money wisely, and in times of fiscal constraint the demand for accountability increases.

Thornton noted that few countries are yet in a position to engage in meaningful evaluation exercises:

“Typically, the objectives of policy are unclear and we have noted the consequent internal contradictions and tensions. Comprehensive evaluation of policy responses and measures remains limited.”

Giles offers a very detailed discussion on evaluation challenges associated with ‘not for profit’ organisations:

“One must first decide which perspective to take in calculating costs and benefits. What point of view should be the basis for specifying, measuring and monetarising benefits and costs? In short, costs to and benefits for whom? Benefits and costs must be defined from a single perspective, because mixing points of view result in confused specifications and overlapping and double accounting. Of course, several cost benefit analyses for a single programme may be undertaken, each from a different perspective.”

“Unlike the situation in the open market where the big issues in considering the performance of a business are assets, profits, growth, cash-flow, and where measurement of performance is usually defined in terms of financial ratios⁷⁷—return on assets, return on net assets, return of capital employed, return on invested capital—public sector programmes will typically produce multiple outputs. It is often the case that these will be qualitative and will not have the physical characteristic of countability. The usual measurement of efficiency, that is, the ratio of outputs to inputs is often inadequate due to the existence of multiple inputs and outputs related to different resources, activities and environmental factors. An analysis in the above terms (i.e. inputs and outputs) will say little of other criteria in what is essentially a care programme mediated through sheltered work, such as equity, approval of carers, and the quality of life for the service takers.”

Giles informs us that:

“The recent interest amongst policy-makers in performance indicators has coincided with a renewed interest on the part of academics in the problems of efficiency measurement. The result has been the development of a large number of new methods for measuring efficiency. Most of these have in common the concept of the ‘frontier’—where efficient organisations are those operating on the cost or production frontier, whilst inefficient organisations operate either below the frontier (in the case of the production frontier) or above the frontier (in the case of the cost frontier).”

Giles presents one such new method of performance evaluation called Data Envelopment Analysis (DEA) which can estimate efficiency by examining how management utilises its resources. Giles carried out an evaluation of 12 Irish work centres and found substantial variation in the efficiency levels.⁷⁸ He concluded that there was a clear need for some such method of benchmarking to prompt low performance centres to upgrade.

One of the most widely accepted measures of achievement in the public sector is the ‘3Es’:

1. Effectiveness: the extent to which objectives have been achieved;
2. Efficiency: the extent to which outputs have been maximised in relation to inputs;
3. Economy: the extent to which inputs have been minimised.

Maxwell (1984) expanded this set of criteria:

- | | |
|--------------------|--|
| Effectiveness... | the extent to which objectives are achieved. |
| Efficiency... | the ratio of benefits to cost. |
| Equity... | equal treatment for equal need. |
| Appropriateness... | relevance to need. |
| Acceptability... | to individuals, groups and society at large. |
| Accessibility... | in terms e.g. of time and location. |

The stakeholders in the provision of sheltered work comprise the government who mediate welfare derived from the tax payer, the organisation and staff who manage the sheltered workshop, and,

most importantly, the people with disabilities who works in the sheltered workshop. Each would select from these evaluation criteria quite different priorities.

The specialist service provider has two customers; in addition to the public fund manager there is the service user. From the service user's perspective evaluation relates to standards of service. NACTE notes that there are no set minimum standards pertaining to the delivery of sheltered/supported work/employment services in Ireland. It recommends that national minimum operating standards be set and monitored, and a national system of accreditation for sheltered employment and sheltered workshops be introduced—the latter task is the focus of the Working Group on a Code of Practice set up by the Department of Health and Children.

5.9 Comparisons with supported employment

NACTE defined supported employment as paid employment in an integrated setting with ongoing supports in the open labour market.⁷⁹ It described how the model involves a number of key elements, notably:

Integration: *A person with disability must be a regular employee of the business and work alongside co-workers who do not have disabilities;*

Wages & Benefits: *Work performed is paid for and all relevant benefits (sick leave, holiday, training, etc.) are received;*

Placement First: *A person is firstly placed in employment and training/support is provided specific to that job;*

Zero Reject: *No one should be denied access to supported employment services because of the severity of disability;*

Flexible Support: *All aspects of supported employment should be tailored to the needs and capabilities of the person concerned. This requires the development of a variety of services;*

Life-Long Support⁸⁰: *Supported employment services must provide ongoing support to enable an individual to maintain employment and where desired, move to other jobs;*

Choices: *Individuals are supported in their employment choices. They can choose where and under what conditions they want to work.*⁸¹

There was no specific funding mechanism for supported employment and the availability of the model was largely dependent on the interest and understanding of the model by disability service suppliers. The ESF funded Employment-Horizon⁸² programme helped launch several pilot projects introducing supported employment to employers and job-seekers with disabilities around the country.

The NRB commissioned consultants Leigh-Doyle & Associates to carry out an independent review and evaluation of the various models of supported employment. The report, published at the end of 1997, found that the employment outcomes to date for the first round Horizon supported projects were modest. The most successful projects were ones with selective recruitment policies, targeting individuals with lesser degrees of disabilities.⁸³ Horizon evaluation reports found that the 'benefits trap' led many participants to opt for part-time work and accordingly low pay. The consultants were able to report happier news on the 'integration outcomes' criterion—practically all of the participants and their families were satisfied with the personal development and social interaction benefits. No data was available for Ireland on cost-benefit outcomes but experience in the US and UK indicated that the individual supported employment model yielded a better cost-benefits

ratio for the agencies than the sheltered option as well as resulting in better wages and employment conditions for the participants. The critical factor in this better funding position was the ‘fading’ of support over time in the supported model. This provided an advantage compared with the ‘buildings-based’ services which usually had a fixed cost-benefits ratio which could only be improved by productivity increases.

ICTU describes how Supported Employment typically involves four key strands which are normally carried out by an individual known as a Job Coach:

- A Needs Assessment with the individual to identify the type of employment that is most suitable to him/her;
- Job sourcing and development;
- Matching the job seeker and a suitable employer;
- Providing the employee with the necessary support and coaching in the workplace.

Leigh-Doyle (1997) states that a variety of models of supported employment service delivery have been developed and implemented in the US and UK. These include the individual supported employment model and group models such as mobile crews, enclaves and small business enterprises. The individual supported employment model is the one that has been most piloted in Ireland.

Leigh-Doyle explains that:

“the development of the supported employment model was influenced by evidence that the traditional transitional model, with progression from sheltered training to sheltered work, to supported training and work was not beneficial, particularly for people with learning disabilities, associated with their lack of ability to generalise specific knowledge.”⁸⁴

The supported employment movement in Ireland is growing and has successfully lobbied government for funding support. The scale of the movement hasn’t yet reached the critical mass to rival sheltered employment as an alternative option for people with disabilities. But the opportunity it offers to work in an integrated setting with paid work, individualised services and ongoing supports makes its future expansion inevitable. ICTU (2001) indicate that, under Programme for Prosperity and Fairness (PPF) commitments, the National Supported Employment Programme⁸⁵ will be further developed over the period of the PPF. The target is 1,000 placements within the lifetime of the PPF.

Normalisation and integration The Supported Employment or ‘Place, then Train’ option is more in line with the principles of normalisation and integration than the, often segregated,⁸⁶ sheltered model.

Leichsenring and Charlotte Strümpel note that:

“In general, most countries are shifting away from sheltered workshops. There are two main reasons. One is that sheltered workshops have become a major financial burden to the state and it is mostly agreed that supported placements in the open labour market are less costly. The other reason is that integrating people with a disability in the open labour market is usually seen as more in line with general aims of disability policy such as normalization, independent living and integration.”

Thornton et al (1997) observed:

“an emerging trend in favour of on-the-job training, in preference to training as a forerunner to placement. As we discuss below, Canada, Australia, USA, and the UK have policies to encourage integrated employment training in the form of various supported employment models.”

Leichsenring and Strümpel commented that:

“The debate about sheltered work and its alternatives has been continuing for many years (see Melvyn, 1991) and has taken on very ideological facets. In the course of our discussion we reached the consensus that it is not a question of “either/or.” Firstly, since people with a disability are a very heterogeneous group it is necessary to provide a wide variety of services to allow for choice. Secondly, it would be advisable to develop sheltered workshops in such a way as to accommodate aims of modern disability policy. That means that the aims of sheltered workshops and supported employment also need to be explicitly formulated in order to explore whether existing sheltered workshops are compatible with these aims. Thus, when opting to adapt to certain values, it is not necessary to abolish sheltered workshops completely.

What makes discourse about sheltered work and supported employment so difficult is, that each country has its own specific variation of what sheltered work actually is: What is called an occupational therapy service in one country is a sheltered workshop in another. Sheltered workshops between countries differ in their clients, sizes and priorities as well as in their workers labour status, pay and insurance. Also the abundance of sheltered workshops differs greatly between countries.”

Thornton pointed out that in the UK Sheltered Employment has recently been renamed Supported Employment, a term which encompasses both work in sheltered factories and workshops and supported placements with mainstream employers. In 1990, a consultation document signalled a future shift away from sheltered workshops to supported placements, “the latter being considerably cheaper.”

NACTE observed that many countries such as the US and Holland were beginning to scale down the numbers in their often, large sheltered employment and place more in supported and open employment.

Krug (1996) described how the Netherlands—a country that traditionally had one of the largest sheltered employment programmes in Europe—was moving towards the open, supported model. This was in part due to the growing waiting lists and the stricter admission policies of the sheltered workshops.⁸⁷

The OECD (1992) describes the philosophy of supported workshops:

“An important difference with other approaches is that ‘supported employment’ does not place emphasis on financial incentives to employers to take on people with disabilities, but rather provides assistance on the spot, if necessary intensively and permanently to ensure the person with disabilities can function reasonably in the world of work. This may entail co-operation with organisations of persons with disabilities in designing the job to fit the person, in addition to providing equipment or assistance to enable the person with disabilities to lead an independent life in the community.”

OECD reserved judgement on the success of the new option:

“It is still too early to come to firm conclusions about the advantages of the supported employment approach over older ways of providing help and training for people with disabilities. It must be for countries to continue to explore the possibilities of this approach and to evaluate its costs and benefits. There have been suggestions in some quarters that ‘supported employment’ requires more continuing assistance than had been foreseen. To this, the answer is given that enabling persons with very severe disabilities to be in employment and contribute to society is less onerous and adds more to the quality of life than maintaining people in institutions, or in complete dependence. There is an evident interest in sharing experience at the international level, and the countries which are leading the field may therefore wish to keep others informed about progress and concrete results in the future.”

Some commentators have placed a question mark over the quality of the work/employment secured for people with disabilities in supported placements—it can sometimes seem like ‘integration at any price’. Champions of the supported option acknowledge that more needs to be done regarding development and progression possibilities for workers in supported employment.

5.10 Sheltered employment as a transition to supported or open employment

“Very few sheltered workers move on to open employment: the annual rate is one per cent of the total” (OECD (1992)).

NAMHI called for the separation of training from sheltered employment in 1986, but the modern integrationist view considers sheltered employment as a staging post to train people with disabilities for eventual supported and open employment. This notion of a ‘flow through’ centre means less risk of both clients and staff growing stale as would be the case with a long-term stay philosophy. It has the added merit of freeing up valued places for people waiting to get in.

But there is often substantial resistance from service users to transition—partly based on camaraderie and fear of the new, but, in large part, stemming from the benefits trap.

Service providers may also resist the transition objective. Leichsenring and Strümpel (1994) describe the two conflicting aims that sheltered workshops are confronted with: the need to perform according to economic criteria while contributing to the rehabilitation and training of their workers and enabling them to transfer to the open labour market. The experience in many countries that workshop management are reluctant to part with their high-performing operatives is entirely understandable. In Sweden, the Samhall Group parent company offers a financial incentive to its regional plants to compensate for the loss of productivity and training costs associated with transition programmes.

ESFPEU (1996) commented that transition paths between sheltered and other more integrated activities in the general labour market should be developed in Ireland:

“The development of proper assessment procedures for entry to and progression in sheltered employment should be pursued. The amount of funding provided for these services could be on the basis of how much training is involved. Funding could be approved for an agreed period for an individual (e.g. 2–3 months) for the purpose of transition skills acquisition. Employment supports could also be used to support the transition.”

Employment Horizon National Support Structure (2000) recommended that:

“Incentives should be built into social enterprises to reward progression to open employment. Targets for transition to employment outcomes should be set and staff should be given the skills and time to work with prospective employers in order to develop job opportunities.”

One of the conclusions of the Samoy and Waterplas (1992) EC study was that workshops should, at least partially, be turned into training centres if they were to contribute to the social integration of people with disabilities. Transition from sheltered employment to the regular labour market was the main topic of interest to the Council of Europe Working Group for which Samoy and Waterplas's (1997) report was drafted. The authors found that, with the exception of Switzerland, transition was a stated policy goal in all the countries studied. Norway had moved dramatically in the direction of training for transition with the reform of its labour market enterprises (but still the rate for direct transition remained a modest 6% in 1992); Sweden achieved rates of 5% (Samhall offered a 12 months re-employment guarantee); Finland achieved 4% for its 'production workshops' (there was no data for its 'less production-oriented work-activity centres.' The authors described the "lively debate" in Finland concerning the future of the production workshops between "rehabilitation for transition and the goal of providing permanent employment."

The general success of the transition strategy was highly dependent on the availability of jobs for people with disabilities which at that time seemed uncertain given the high unemployment rates in many European countries.

The authors, in a concluding remark, pointed out how the meaning of transition changes as sheltered employment itself changes. The neat dividing line between sheltered and open employment was becoming blurred with workshop employees increasingly leaving the workshops to perform service activities 'in the community'.

The authors also noted that:

“as workshops increasingly have to comply with stringent productivity and production standards the workshop employees with the most severe disabilities might at the same time be threatened with 'reverse transition' from the workshop to a day centre.”

Ecotec warned of the dangers of forcing transition:

“In 1999 the UK Government announced its decision to close the remaining Remploy⁸⁸ sites, on the basis that they were both too expensive in comparison to other sheltered provision, and were ineffective in achieving transitions to open employment. This led to much controversy, which has yet to be finally resolved, with the decision attributed to purely economic (i.e. money saving) motives. The illustrative points from this experience concern the fact that many disabled workers in such facilities are apparently happy with their circumstances, with little ambition to progress to other types of employment; and that Governments tread on dangerous ground when they seek to change long established practices. Media coverage of the issue enabled Remploy's champions to deploy arguments which played heavily on public sympathy for disabled people, and some images and messages put across were close to stereotyping disabled people as victims and incapable of open employment.”

5.11 International practice in sheltered employment

Several of the references identified in this literature review presented information on international practice in sheltered employment. These include OECD (1982), Leichsenring and Strümpel (1994), Samoy and Waterplas (1997) and (1992), Ecotec (2000), Thornton and Lund (1997), Krug (1996), and the NACTE Literature Review (1996).

The Samoy and Thornton studies had the advantage of a longitudinal (albeit compressed) perspective, having visited the field in 1992 and again in 1997. The Ecotec study has the virtue of being the most up to date, an important consideration bearing in mind the rapid advances in employment policy in the 1990s, viz improved legislation and regulation of sheltered employment driven by organisations for people with disabilities, and a move towards more integrated models of employment driven by 'normalisation' ideology and criticism of conditions in sheltered employment, also by pressure on public funding.

Samoy, Thornton and Ecotec all provide detailed country studies, but this literature review can only hope to sketch the overall contours and point out some salient features of individual country provision.

Numbers of persons in Sheltered Employment Samoy presents a table giving the absolute numbers for 17 Council of Europe Member States in the early 1990s.⁸⁹ Countries with the largest sheltered population were Germany (140,000), France (90,000), and The Netherlands (85,000). The table showed that countries with comparable populations had very different numbers in sheltered employment. The proportion of the labour force in sheltered employment is a more informative statistic. The Samoy 1992 study found widely divergent figures ranging from 12% in The Netherlands to less than 1% in the southern European countries, with an average of 2.3%. In their 1997 five country study they found Sweden leading with 7.5%, then came Switzerland 6%, Norway 5%, Finland 4.4%. Austria had only 0.3%

NACTE presented a table showing the number of people per 1,000 population in Sheltered Employment⁹⁰ in five EU countries. The Netherlands and Sweden led with c. 5%; Belgium and Denmark posted 1%–2%; Britain had only 0.3%.

The Samoy Study delineates the contours with its common framework for comparison of sheltered employment practice in the different countries:

1. Institutional Context;
2. Target Population;
3. Access to sheltered employment;
4. Characteristics of the people in sheltered employment;
5. Current issues and policy debate.

Each of these areas are discussed below.

1. Institutional context

The history of development of sheltered employment centres was sketched for each country e.g. in Finland the first workshops were developed shortly after the war with grants given to start up handicraft enterprises; Norway's workshops first emerged in the early sixties; Austria had few centres before 1977.

- **Pivotal government legislation regulating sheltered employment** e.g. Austria's 1989 Disabled Persons Employment Act and the 1992 Comprehensive Programme for all aspects of legislation pertaining to people with disabilities; Finland's Services and Assistance for the Disabled Act 1987; Norway's Rehabilitation White Paper which transferred responsibility to the labour market authorities and stipulated that 50% of places in sheltered workshops must be for short-term rehabilitative training lasting a maximum of 2.5 years; the conversion of the Samhall foundation into a limited liability company in 1992 with an accompanying shift in emphasis from sheltered enterprise centres to supported employment.
- **Evolution of responsible departments for funding and employment policy** Most countries had mainstreamed responsibility for disability employment policy in their Labour ministries early on in its development, but Finland, like Ireland, is still in the process of shifting responsibility from Social Affairs and Health to its Labour ministry.
- **Ownership of sheltered employment centres** Public (centrally controlled e.g. Sweden's Samhall, UK's Shaw Trust, or under municipal/regional control as in Finland and Norway) versus private operations—Ireland is quite unique in its predominance of privately run sheltered centres, reflecting both the late development of Irish social policy and the vigour of voluntary activity (by both community and religious organisations).
- **Numbers served and size of workshops** Austria had 9 Sheltered Workshops (17 units) employing 1227 employees (1006 with disabilities) representing 0.3 per 1,000 of Labour Force; Finland had 126 'Production Workshops' (99 run by Municipalities employing 1,800, and 27 privately run employing 1,000) representing 1.13 places per 1,000 labour force⁹¹; Average size of work centres in Finland was 39 employees including staff; Norway had 96 labour market enterprises employing 5,400 people with disabilities and 1350 staff, representing 5 per 1,000 labour force. The Netherlands had one of the most extensive sheltered employment systems in Europe with 100 companies employing 86,000 people with disabilities and 7,500 staff. The UK and Sweden had the largest disability organisations—Remploy and Shaw Trust in the UK, and Samhall in Sweden. Samhall was the second largest corporate group in Sweden, employing over 30K in a parent company and 28 subsidiaries (19 Regional, 3 Business Area and 6 Marketing companies). As in the Netherlands, sheltered employment is a very important service in Sweden, representing 7.5 per thousand of labour force.
- **Mix of Sheltered Enterprises (with Production/Profit Ethos) and Sheltered Workshops (Occupational centres with a social/rehabilitation mission)** Austria had its Sheltered Workshops versus Occupational Workshops; Finland had Production Workshops versus Work-Activity Centres; Norway had its labour market enterprises versus Employment Co-operatives and Production Workshops. Sweden had Sheltered Workshops located with public employers for people with socio-medical disabilities (drink, drugs) and its state owned Samhall Group comprising 800 Local Workplaces offering both short term training and long term employment.
- **Activities** The consultants looked at the breakdown between revenue from sub-contract and own products. Samhall, for example, had 20% own products—this protected them from complete exposure to economic downturns which were particularly severe on sub-contract work.

- **Sectors** The most common manufacturing sectors were metalwork; carpentry; electronic parts assembly; textiles; print and packaging; plastics and rubber. The Finnish mix was carpentry (21%), textiles (20%), packaging & assembly (15%), metal products (13%). Samhall operated across a wide range of sectors including mechanical production, furniture, plastics, packaging, electronics, printing, ready-wear clothing. Its traditional sectors were experiencing difficulty: a number of large clothing & mechanical production units were forced to close.
- **Services** The consultants noted that the services sector was a growth area for sheltered work in all countries. Samhall operated kiosks in retail stores, and provided catering services in restaurants, cleaning services, data processing, repairs and maintenance, forestry and gardening. Finland's workshops had yet to move into services in a substantive fashion because their workshop population was predominantly restricted to people with severe disabilities, and because past investments were all geared to industrial activity. Norway had recently developed 'off the premises' services and was operating 50 long-term in-house projects; workshops took on contract service work, often taking over an entire service e.g. cleaning, catering.
- **Revenue: subsidies versus sales** The Austrian pattern was 30% subsidies to 70% sales; centres in Finland were funded 50% subsidies (combination of state and municipal) and 50% sales.
- **Different subsidy levels** The Dutch subsidy arrangement started out with a system of 75% for medical care, 50% for staff personnel, 75% to 90% for wage subsidies, and 80% of costs of local authorities; in 1981 it rationalised the subsidy system to 100% of wages and 80% of other costs; in 1989 it streamlined the process further with a new system of lump subsidies.
- **Evaluations** Samhall was regularly evaluated on four criteria: no of vocational jobs provided; share of prioritised recruits; transition performance; economic results (with the object of reducing the need for state grants—the target was to only require wage costs for people with disabilities by 1996–97).
- **Legal status of workers** In the majority of cases workers had an ordinary contract of employment; wages were set by collective agreements for the sector of activity, and workers were afforded full social security coverage (health, accident, pension).
- **Remuneration** In Austria, workers were given the legal minimum wage for the sector of activity. In Finland wages were time based; they were usually pitched 10% lower than the rate in the open market to provide an incentive for transition, but many workshops offered wages in the highest wage category equal to the rate in the open market; approximately 40% of workers were entitled to a disabilities pension—this cohort were on such low wage rates that their level of pension was unaffected by earnings. Wages in Norway were also pitched at 90% of the open rate; There were 5 wage categories in Sweden's Samhall based on the levels of difficulty of the job. The rates varied by sector e.g. metals obtained 85.6% of the open market rate; clothing was 96.6%; the overall average was 86.2%. In the Netherlands there were 9 wage scales—the lowest was set at the statutory minimum wage.
- **Objectives: transition/integration versus long-term sheltered employment** Austria was primarily interested in Transition, but recognised they also needed to expand the Sheltered Employment sector. Transition performance in France was so poor that they virtually abandoned it as a goal. In Norway the Rehabilitation White Paper in the early 1990s brought a radical switch of emphasis to supported employment. In Sweden the government had a philosophy of normalisation/integration and organisations of people with disabilities also preferred open employment over sheltered employment.
- **Transition performance** The poor Austrian transition performance was partly explained by the fact that workers were paid the minimum wage which meant there was no incentive to leave.

Also, they did not wish to forego the ‘perks’—extra days off, paid work-breaks, medical and social services; subsidised meals; outings and festivities—which were part and parcel of the ‘social vocation’ of the work centre. The management were also reluctant to see good operatives leave because they were dependent on sales for income. The availability of jobs in the open market was being reduced because the new protection legislation against dismissal was making employers less willing to hire people with disabilities.

2. Target population

Under the heading ‘Target Population’ Samoy examined the definitions of disabilities used to target employees with disabilities.

In Austria, the definition was “people who couldn’t immediately be placed in open market jobs but were still capable of some productive work of commercial value.” People had to have a level of disability of at least 50%, yet had to be at least 50% productive. For the occupational workshops the criterion was that they would find work therapy too undemanding, but yet were not up to production standard in sheltered employment; their productivity should be between 30–50% of a person without disabilities. In Finland the definition was people who “have special difficulties in managing the normal functions of everyday life.” No definite band of productivity was stipulated. The Finnish target also considered outside economic conditions, and number of places offered also depended on the wealth of the individual municipality. In Sweden ‘Occupational Disability’ referred both to an individual impairment and to the shortcomings of the labour market. In Norway the lower level of acceptability was set by the need for a specified or higher level of personal assistance in the workplace, the upper level by the ability to hold down a job.

3. Access

Access to sheltered workshops was principally obtained by referral from local employment offices (directly, or indirectly through Assessment Centres) or referral by the Municipal Welfare Services. Centres typically established a committee to decide on selections e.g. in Austria an ‘Expert Team’ comprised the manager of the workshop and representatives from the Federal Agency for Social and Handicap Affairs, the labour market administration and the provincial government (some also involved a medical specialist or psychiatrist).

4. Characteristics

This referred to the profile of the workforce in terms of age, sex, mix of disabilities, etc. The Austrian mix was reported as 59% physical disabilities, 21% mental disabilities, 5% psychiatric and 15% multiple. The majority of workshops indicated an average level of disability of greater than 50% and a productivity level of more than 50%. The clients of the occupational workshops were mainly school leavers who had not yet reached the productivity levels required for sheltered employment. The Finnish profile was 28% mental illness, 14% mental handicap, 12% physical disabilities, 8% sensory, and other illness, etc. 38%. In Norway the statistics were 65% physical, 18% psychological, 14% social or behavioural problems, and 3% mental difficulties. Norway found that mental difficulties were the hardest to place in the open market, and they were also excluded from labour market enterprises and vocational rehabilitation; they thus formed the majority in the employment co-ops (the centres where work least resembled a normal job). Recently, there had been pressure to admit even weaker groups to the employment co-operatives, but labour market authorities were reluctant to expand the concept of work to include occupational activities not aimed at the production of goods and services for the open market. The authorities laid down criteria relating to minimum productivity levels, worker-supervisor ratios and other factors, to differentiate between work and activation.

The OECD report (1992) commented on the substantial diversity in state contribution levels:

“The systems for government financing of sheltered establishments present a complicated picture. The relatively straightforward Norwegian scheme applying a per capita principle contrasts with, for example, the Canadian system involving federal or provincial contributions according to the content of the programme—e.g. how much training is involved. Also, the level of subsidy varies considerably. In Sweden, government contributions in 1990–91 equalled 109.6 per cent of wage costs (with ordinary wages paid) while in other countries the public contributions per worker are far more modest.”

Thornton (1997) found some countries—including Ireland—had no sheltered employment, only sheltered work:

“In certain countries, sheltered work appears marginal to disability employment policy. In Denmark, USA and Ireland it continues to be provided primarily as a social service, earnings complement disability benefits, employment rights are limited, and there is little or no growth.”

At the other end of the scale, Thornton finds the new world moving to the Supported Employment model:

“We have noted the eclipse of sheltered employment in Australia and the USA by more favoured supported employment measures. Despite the growth of interest in supported employment and the promotion of ‘mainstreaming,’ in Europe there is no consensus about the future of sheltered work, which still remains the main alternative to open employment in most Member States. In almost half of the States, the policy has been to enhance sheltered provision with notable expansion in France, Spain and Portugal. It is interesting to note that the EU countries which have only recently legislated for a sheltered employment sector (Spain, Portugal and now Greece) clearly see a need. In a further three countries—all with large sheltered sectors—levels are being maintained, although in the case of the Netherlands there have been concerted efforts to curb growth.”

But transition is not necessarily the only new option:

“Debate about the future of separate, sheltered employment provision for disabled people brings into prominence the question of how best to meet the needs of severely disabled people. There is no consensus that transition is a proper objective. The co-operatives in Italy wish to remain self-sufficient and eschew the concept of transition. The proponents of the CAT in France promote a similar model of social economy.”

Ecotec, in its conclusion to the section on sheltered employment in different countries, discerned a trend towards the more severely disabled:

“In a number of countries such as Belgium, sheltered employed still makes up the most significant part of ‘active’ policy provision for disabled individuals both in terms of financial allocation and number of beneficiaries. However, there has in recent years been an increasing emphasis on integrating disabled individuals into open employment. In a number of countries, such as the Netherlands, this development has gone hand in hand with legislative changes defining the groups who are to receive access to sheltered employment. In general, this has had the effect of narrowing down to the more severely disabled, the individuals who are to gain access

to sheltered employment. The trend is therefore increasingly in the direction of provision for individuals with the most severe disabilities.”

But, at the same time, there was increasing pressure for productivity:

“In all the countries studied data on transfers from sheltered to open employment is either unavailable or transferral rates are negligible. This has led to sheltered employment increasingly becoming perceived as a “social” rather than a labour market orientated form of provision. Having said that, there are at the same time increasing moves towards encouraging greater profitability and market orientation among sheltered workshops. In Belgium this has led to sheltered workshops increasingly employing individuals with less severe disabilities in order to meet the requirements of the greater market orientation. This is part and parcel of a wider debate on the role of the third system, not only in providing employment to disadvantaged groups, but also in providing marketable goods or services. Such approaches are more likely to characterise sheltered employment as an intermediate labour market. The latter is an approach currently particularly under discussion in Finland, where sheltered employment continues to be perceived as a step towards rehabilitation and the open labour market.”

In its final summing up, Ecotec cautions against precipitate action:

“Sheltered employment continues to be a major employer of disabled individuals. As a policy measure it is often very popular with disabled people themselves. The costs of disruption to established situations and unhappiness caused to those in sheltered employment arising from major changes in policy towards supported employment should be carefully considered by policy makers. It is likely to remain a part of the policy mix into the future, and for some people will remain the only viable option.”

ENDNOTES

- ⁵⁷ Whitehead (1987) suggested a useful definition of sheltered employment: “A work-oriented rehabilitation facility operating in a controlled environment for the purpose of providing employment related services.”
- ⁵⁸ Through ‘normalisation’ principles and ‘social role valorisation.’
- ⁵⁹ The movement of individuals from total dependency on welfare funds to being part of the general labour market will most likely represent a saving to the exchequer.
- ⁶⁰ For example the Department of Health and Children’s action plan for the 1990s—“Strategy for Health” (1994)—related budgets to outputs.
- ⁶¹ “Employment is a status whereby a person is engaged under a contract of employment and is remunerated for work. Employers and employees must comply with the statutory requirements in regard to employment legislation, pay related social insurance, and income tax liability.” “Work is the undertaking of organised tasks which may attract some forms of remuneration, but which is not covered by employment protection legislation or pay related social insurance. People working in Sheltered Workshops in Ireland retain their social welfare benefits and usually a small discretionary additional weekly payment from the work provider. Sheltered workers are not employees.” [NACTE, 1997]
- ⁶² Training here could refer to initial vocational training for special school leavers to equip them for production duties in the workshop, or to training of experienced residents towards transition to open or supported employment.
- ⁶³ The authors note that Norway and Finland have both types; Sweden and Austria have only ShE type, Switzerland only ShW type.
- ⁶⁴ The Report spoke of an ‘industrial atmosphere which would include tempo, accuracy, punctuality and efficiency.’
- ⁶⁵ Despite the fact that Ireland has subscribed to several international conventions and recommendations.
- ⁶⁶ A concept then established through the Joint Labour Committee structure.
- ⁶⁷ NACTE proposed changing this term to Social Enterprise to reduce confusion.
- ⁶⁸ The number of people with disabilities in Gandon qualifying for PEP grants was capped at 182 from the outset.
- ⁶⁹ Here we have the nub of the matter—the tension between social and commercial success.
- ⁷⁰ ‘Viable’ means “able to live and grow independently.”
- ⁷¹ Miller (2001) noted that UK statistics indicated that 60% of people with disabilities are not in the labour market—“where are they?”
- ⁷² NACTE estimated a figure of 7,900 people in 215 workshops, derived from data gathered in 1995 by the NRB from rehabilitation centres throughout Ireland (NRB, 1995): information on disabled people attending training and sheltered work programmes, and their activities (the data excludes people on ESF-funded programmes). Over two-thirds of participants had a learning disability, almost a quarter had a mental health problem and under one in ten had a physical or sensory impairment in 1995.
- ⁷³ i.e. not dependent on any special subsidies for employment of people with disabilities.
- ⁷⁴ Many practitioners believe that a viable mix must include a reasonable proportion of people without disabilities.
- ⁷⁵ NACTE urged that sheltered and supported work and employment centres should accommodate people with “significant disabilities.”
- ⁷⁶ Research commissioned by NACTE showed that the average ‘top up wages’ paid in the eight sheltered workshops participating in the study was just under £14 per week.
- ⁷⁷ This financial ratio approach to the measurement of business derives from the perspective of the investor, or owner.
- ⁷⁸ Centres cannot be outrightly condemned for this disparity in performance. They are geographically bound and those located in sophisticated urban.
- ⁷⁹ NACTE also defined Supported Work where people with disabilities are at work, but not employed, in ordinary workplaces, using job coaches or similar support staff at the worksite. Most of these workers continue to receive their Disability Allowance and enjoy an income disregard of c. £80 per week.
- ⁸⁰ c.f. Ecotec (2000) 7.26 in its Sweden profile noted that for supported employment “Services provided are generally limited to 18 months; after this time, states must either find additional funds to pay for continuing services or discontinue the services and see if the individual can continue without the continuing support.”
- ⁸¹ Supported Employment, Powell, 1990.
- ⁸² The Employment Community Initiative was launched by the EC in July 1994. It comprised four distinct but interconnected strands, one of which, Horizon, was to specifically target people with disabilities. Horizon would fund four types of measure:
- development of training, guidance, counselling and employment systems or structures;
 - promotion of the delivery of training, including training of trainers;
 - promotion of job placement, job creation, Supported Employment, public-private partnerships;
 - promotion of disability awareness and the dissemination of information and good practice.
- ⁸³ This practice ran counter to the principle of ‘zero-reject.’
- ⁸⁴ NACTE noted that “Supported employment was first established and developed in the USA context, where it developed as an alternative service delivery model to traditional rehabilitation programmes which were unable fully to assist severely disabled people to achieve mainstream, integrated employment.”
- ⁸⁵ The National Supported Employment Programme was launched in July 2000 with a budget of €5.07m (IR£4m).
- ⁸⁶ The PEP variant of the sheltered employment model (or ‘social enterprise’ to use NACTE’s suggested terminology) is comparatively ‘integrated’ to the extent that people with disabilities work alongside people with no disabilities.
- ⁸⁷ Holland underwent a period of restructuring its formidable sheltered employment system
- ⁸⁸ Remploy was established after the 1939-45 war to provide employment for disabled war veterans
- ⁸⁹ These were EU15 plus Norway and Switzerland.
- ⁹⁰ i.e. not including ‘Sheltered Workshops.’
- ⁹¹ There were 2.3 places per 1,000 labour force in the EU.

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