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## Submission on the Stage 2 consultation on new National Disability Strategy

Canberra Community Law, September 2020

### Introduction

Canberra Community Law (CCL) welcomes the opportunity to provide a submission relation to the proposed key features of the new National Disability Strategy (**Strategy**).

This paper responds to the questions set out in the National Disability Strategy Position Paper<sup>1</sup> (**the Position Paper**). It also draws on the experiences of CCL's clients with disability, as well as our centre's experiences in advocating for people with disability.

### About Canberra Community Law

CCL is a community legal centre providing free legal advice, assistance and representation to people in the ACT on low incomes for matters relating to tenancy, public housing, social security and disability discrimination law. CCL also operates:

- the Disability Discrimination Law Service provides legal advice and representation on disability discrimination;
- Dhurrawang Aboriginal Human Rights Program which provides services in housing, social security and race discrimination law to Aboriginal and Torres Strait Islander communities in Canberra through a human rights framework;
- the Socio-Legal Practice Clinic that combines legal assistance with intensive social work support to maximise the prospect of a successful outcome;
- the Street Law outreach program which provides legal advice, assistance and representation on relevant areas of law to people who are experiencing or at risk of homelessness; and
- the Night Time Legal Advice Service which provides legal advice to any member of the public on most areas of law from 6 to 8pm on Tuesday nights.

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<sup>1</sup> Australian Government Department of Social Services, 'National Disability Strategy – Position Paper' <<https://engage.dss.gov.au/Strategy-stage2-consultation/national-disability-Strategy-position-paper/>>.

CCL has substantial legal practice experience in disability discrimination law, and with providing legal support to people with disabilities. CCL has developed this expertise through the provision of specialist legal advice, assistance and representation services to people in the ACT on low incomes.

In the 2019-20 financial year, 66% of CCL clients identified as having a disability. We have assisted several clients with disability in a range of legal areas including disability discrimination matters, health and disability services complaints, public and community housing matters, and civil and minor criminal matters for people with disability who are experiencing or at risk of homelessness through CCL's Street Law program.

Our commitment to supporting people with disability, and parents and carers of people with disability is detailed in our [Disability Action Plan](#). Further information about how CCL helps people with disability as well as parents and carers of people with disability is available at <https://www.canberracommunitylaw.org.au/brochure-help-for-people-with-disabilities.html>.

## **Q1. Comments on the vision and outcome areas being proposed for the new Strategy**

We note that the Position Paper provides that feedback received as part of stage 1 of consultations for the new Strategy indicated that the following six outcome areas of policy action under the current Strategy were still appropriate:

1. Economic security
2. Inclusive and accessible communities
3. Rights protection, justice and legislation
4. Personal and community support
5. Learning and skills
6. Health and wellbeing

### **Housing accessibility**

CCL agrees that the current outcome areas are appropriate and should be reflected in the new Strategy. However, we recommend that either:

- 'Housing accessibility' be added as an additional policy area, or;
- Target area 2 (Inclusive and accessible communities) be amended to read 'inclusive and accessible communities and housing'.

We acknowledge that the current Strategy does discuss the need for improved provision of accessible and well-designed housing with choice for people with disability about where they live.<sup>2</sup> However, our experience in supporting people with disability who live in, or are seeking to live in accessible public housing, is that in practice there continue to be significant barriers to the realisation of this policy direction.

Case studies 1 and 2 below illustrate the challenges that people with psychosocial disabilities have faced in accessing and maintaining accessible housing which meets their disability needs:

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<sup>2</sup> Australian Government 'National Disability Strategy 2010–2020', p 32 <  
[https://www.dss.gov.au/sites/default/files/documents/05\\_2012/national\\_disability\\_Strategy\\_2010\\_2020.pdf](https://www.dss.gov.au/sites/default/files/documents/05_2012/national_disability_Strategy_2010_2020.pdf)>.

**Case study 1:**

*Ryan has been living in public housing for several years, and has a range of health conditions, including, chronic fatigue syndrome with noise sensitivity, anxiety and depression. The property has poor insulation, which has impacted on Ryan's health due to noise from neighbouring properties. Ryan's mental health deteriorated after new neighbours with loud pets moved into an adjacent property, and he began having panic attacks as a result of the noise. Ryan sought for a priority transfer with assistance from CCL, after his attempts at self-advocacy were unsuccessful.*

*A key barrier was Housing ACT's misunderstanding of Ryan's disability, which meant that while his needs were seen as significant, they were not considered urgent from Housing ACT's perspective. CCL helped with a new priority transfer request and also a disability discrimination complaint. After a number of years of advocacy, Ryan has finally been placed on the priority transfer waitlist for a property that meets his disability needs, though he is yet to be rehoused due to limits in suitable housing stock.*

**Case study 2:**

*Ahmed was facing homelessness and has schizophrenia. Symptoms of Ahmed's schizophrenia include loud involuntary vocalisations and tics. Despite being a good tenant, Ahmed has had difficulties maintaining stable accommodation due to the impact of his noise on neighbours and previous household members. Crisis accommodation that meets Ahmed's disability needs was not available. As a result, Ahmed had been living in a tent for a prolonged period. With advocacy from CCL, Ahmed was recently housed in a property with modifications, such as sound proofing and an outdoor shelter, to meet his disability needs.*

Case studies 3 and 4 highlight the challenges that people with mobility issues and their families have faced due to the limited availability of public housing stock:

**Case study 3:**

*Sonia has been living in public housing for several years. Approximately six years ago she had an accident and injured her back. As a result, she now requires the periodic use of a wheelchair. Approximately two years ago the Housing ACT Occupational Therapist assessed the property as unsuitable for Sonia because her wheelchair does not fit through the doorways. In the past, Sonia would stay at hospital or at a friend's house during the periods of time when she required a wheelchair, and was more recently living in her car. Her inability to access a bathroom using a wheelchair meant that she was unable to use her bathroom and had to resort to wearing a nappy for a period. While Sonia was assessed for a priority transfer with assistance from CCL after her attempts at self-advocacy were unsuccessful, she is yet to be rehoused due to a limited availability of accessible housing stock. Sonia remains in a precarious housing situation and her mental health has deteriorated as a result.*

**Case study 4:**

*Eddy is an elderly man with a range of disabilities including incontinence, which requires him to have easy access to a bathroom. Eddy uses a wheelchair. Eddy lives with his wife and three adult children. They have one bathroom between them. The hallways are too small for Eddy's wheelchair and he is unable to fit it into the bathroom, so he must leave it blocking the hallway when he uses the bathroom. Housing ACT have repeatedly assured the family they will be transferred to a disability modified property with an additional bathroom. Eddy has been waiting on the priority transfer list for about two years however CCL obtained advice that a suitable property is unlikely to come up for several years.*

In light of the ongoing barriers that people with disability face in social housing, despite there being a current Strategy which does comment on the issue of housing accessibility within the Strategy, we recommend that stronger emphasis and inclusion of the importance of accessible housing be spelt out at the outset as part of the target policy areas in the new Strategy.

## **Independence and individual autonomy**

We also note that the current Strategy states that it:

- adopts principles set out on Article 3 of the Convention on the Rights of Persons with Disabilities (**CRPD**), including ‘respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons’;<sup>3</sup> and
- aims to maximise the independence of people with disability.<sup>4</sup>

We consider that independence and individual autonomy for all people with disability must be at the heart of any government policy and decision making. Accordingly, in outlining the target policy areas, we recommend that the new Strategy reflect on this principle in its explanation of each target areas of policy action.

## **Q2. Views on proposed guiding principles**

CCL supports the inclusion of principles to guide government and non-government organisation policy and program design that support people with disability. We note that the proposed principles are in addition to the principle set out in article 3 of the CRPD.

### **Incorporating illustrative examples**

We agree with the proposed principles, however we note that the principles are broad and high level. To provide greater clarity as to how the principles may be applied in practice, we would suggest including examples of best practice in order to meet the guideline principles. For example, for the first guiding principle, a clearly mapped positive example of an involved and engaged program design process, or a checklist of actions that should be completed as part of program design to meet that principle would be beneficial.

### **Disability rights education**

People’s understandings of disability, as well as the needs of people with disability, are constantly evolving. Further, change in staffing within government and non-government organisations means there can be a loss of working knowledge around best practice for supporting people with disability. We believe that government has a crucial role to play in educating its workforce and the broader community about disability rights, to assist in shifting public attitudes and improving public knowledge around disability rights.

We recognise the value of ensuring that disability rights education is informed and where possible led by people with lived experience of disability as well as disability advocates. CCL also has particular expertise in delivering community legal education on topics that affect people facing disadvantage.

As such, CCL recommends that either:

- an additional guiding principle of ‘Educate government and the broader community’ be added; or
- the proposed guiding principle ‘Engage the broader community’ be amended to ‘Engage and educate the broader community’.

To enable broader community disability rights education, we would welcome any engagement from government in supporting and providing funding for community disability rights education.

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<sup>3</sup> Ibid, p 22.

<sup>4</sup> Ibid, p 24.

### **Q3. Views on proposal for the new Strategy to have a stronger emphasis on improving community attitudes across all outcome areas**

CCL welcomes the proposal for the new Strategy to have a stronger emphasis on improving community attitudes across all outcome areas. We note that it is not just community attitudes but also attitudes within government that in certain cases have not readily appreciated, accepted, or acknowledged the needs of people with disability in accessing government services. In our experience supporting people with disability in discrimination matters, many clients have reported unfair treatment in accessing government services (including health services and in accessing accommodation) based on assumptions about their disability and their personal interests and needs. We have also been aware of these attitudes from private organisations in the provision of services.

Noting the considerable challenges in improving community attitudes with respect to people with disability, we recommend that the new Strategy provide clear guidance on how the Government intends to achieve this aim. Improved community education that is led by people with disability, disability advocates and community legal centres, as proposed in our response to Question 2 of the Position Paper is one option.

We also recognise that inclusion of people with disability in public life benefits not just people with disability but the whole community. In our experience working with clients with disability, we value that many people with disability want their voices heard and have many contributions to make. People with disability have experience to offer, however, community attitudes do not reflect this. Many people with disability who we have supported also feel that they are treated as invisible or a burden, when in fact improving services and outcomes for people with disability enriches the community as a whole. Accordingly, we would support any steps to improve community attitudes across all outcomes areas in a way that recognises both individual and broader community benefits in ensuring inclusion for people with disability.

### **Q4. Benefit of clearly outlining government responsibility to assist people with disability in accessing supports and services**

We support the proposal to include additional detail to clarify the roles and responsibilities of various levels of government in disability policy and service delivery, as proposed in the Position Paper.<sup>5</sup> It is crucial that people with disability know where to go, who to contact, and how to navigate government supports and services. Further, it is important that information about government disability policy and service delivery is provided in accessible ways, with clear contacts for people with disability who may seek additional support in understanding how disability services can assist them, as well as how to access these supports.

We recommend that in outlining government responsibility to assist people with disability in accessing supports and services, the information provided is current, and in multiple formats and languages to ensure accessibility for all people with disability, including people from Aboriginal and Torres Strait Islander communities, people experiencing or at risk of homelessness, people from culturally and linguistically diverse backgrounds and people with different levels of literacy.

We recommend that any links to publicly available information about government services, including NDIS and Centrelink benefits be regularly reviewed to ensure that the information is current and accessible.

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<sup>5</sup> Australian Government Department of Social Services, 'National Disability Strategy – Position Paper', p 8 <<https://engage.dss.gov.au/Strategy-stage2-consultation/national-disability-Strategy-position-paper/>>.

## **Q5. How the Strategy should represent the role that the non-government sector plays in improving outcomes for people with disability**

We think the new Strategy should represent the role that the non-government sector (e.g. big, medium and small businesses, community organisations, employees of these businesses, private research, investment organisations and individuals) plays in improving outcomes for people with disability by:

- acknowledging and outlining the diverse roles of community organisations working with people with disability in improving outcomes for people with disability (including community legal centres and disability advocacy organisations);
- recognising the need to ensure that community organisations are well resourced and funded to enable them to improve outcomes for people with disability, and advance other objectives set out in the new Strategy; and
- including examples of best practice for business in ensuring inclusion and accessible service delivery for people with disability.

## **Q6. Availability and frequency of public information on the Strategy's progress**

We support the inclusion of an outcomes framework as a mechanism to hold governments and service providers to account for outcomes being achieved by programs and services that are delivered to people with disability. This outcomes framework should be periodically reviewed, with updates on progress provided through regular reporting.

We would support annual reporting from government, to ensure greater accountability and momentum in advancing policies and improving services and programs for people with disability.

We note that one proposed reporting option is for the responsible Ministerial Council to release an annual, public statement outlining government policy commitments to lift outcomes for people with disability. While an annual public statement would be welcomed, it is important that the statement includes or is accompanied by a more detailed outline of key developments in policy, program design and service delivery. The following is a list of some updates and information that we consider should be reported on periodically:

- The status of government-specific initiatives to support people with disability (including whether they have continued, changed in scope or have been extended);
- The amount of government funding put towards improving support for people with disability and improving community attitudes in relation to people with disability;
- The availability of support and services for people with disability including for people in regional and remote areas, and people with disability who do not meet the stringent criteria for the Disability Support Pension.

In addition to publishing progress reports, we recommend that progress reports are communicated through a range of methods, including roundtable discussions with relevant stakeholders (including organisations that support and represent people with disability and people with disability).

## **Q7. Views on the proposal to have Targeted Action Plans that focus on making improvements in specific areas within a defined period of time**

We generally support the adoption of Targeted Action Plans, provided that such plans have some flexibility to account for the changing needs of people with disability, and possible changes in the external environment which may result in additional needs or changes in priorities for people with disability. For example, the COVID-19 pandemic has had a particular impact on people with



disability. The following case study highlights challenges that client with disability have faced in accessing education due to COVID-19 related changes to learning:

**Case study 5:**

*Mary and Nick are siblings and have Multiple Chemical Sensitivity (MCS) which means that they require adjustments at their school to avoid and minimise exposure to certain chemicals and fragrances to allow them to access their curriculum in the school setting. As COVID-19 related health advice is unclear and continually changing, there are uncertainties around how to manage COVID-19 and the use of cleaning and other hygiene products. Mary and Nick have not been able to return to school yet and continue with remote learning. Nick also has Autism Spectrum Disorder. The health policy implemented as a result of COVID-19 has impacted the delivery of education services, and Nick has found remote online learning extremely challenging. He has been provided limited resources that are specific to the needs of students with disability.*

We recommend close and meaningful engagement with relevant stakeholders in relation to Targeted Action Plans. This would ensure that they meet the diverse needs of people with disability, and that where Targeted Action Plans are amended or new Plans are adopted, it is important that people with disability and their advocates are consulted.

### **Q8. How the proposed Engagement Plan could ensure people with disability and the disability community are involved in delivering and monitoring the next Strategy**

We note that the proposed new Strategy would include an Engagement Plan that articulates governments' commitment to ensure that people with disability can actively participate in shaping future disability policies, programs and services.<sup>6</sup>

It is important that the Engagement Plan also include details on the following:

- In plain language, a statement on what the Strategy is, why there is a Strategy, and the proposed Strategy outcomes on a practical level in key areas such as housing, employment, income support, health and education.
- A plan to provide condensed, summary documents of the new Strategy to ensure that the wider community has a broad understanding of the new Strategy and what steps can be taken to improve outcomes for people with disability.
- How to increase awareness of the Strategy (including practical outcomes) as widely as possible, and in particular to people with disability and their supports from Aboriginal and Torres Strait Islander communities, people with disability who are experiencing or at risk of homelessness, people from culturally and linguistically diverse backgrounds, and people with low literacy.
- How people with disability and their supports can provide meaningful input to advance the goals of the new Strategy.

It is important that engagement happens in a way that is as accessible as possible. This can include opportunities to provide feedback through periodic informal consultations.

For people with disability, the disability community, and community organisations that support people with disabilities to be involved in delivering the next Strategy, they need to be adequately resourced to help deliver outcomes under the new Strategy. Accordingly, we recommend that governments provide opportunities to apply for funding in order to give individuals and organisations the opportunity to use their knowledge and skills to advance the rights of people with disability.

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<sup>6</sup> Australian Government Department of Social Services, 'National Disability Strategy – Position Paper', p 11 <<https://engage.dss.gov.au/Strategy-stage2-consultation/national-disability-Strategy-position-paper/>>.

Further, any community engagement should happen in a way that is culturally appropriate, trauma informed and meets the diverse needs and interests of people with disability. This may include speaking to disability advocates around the best way to engage with people with disability that they support (which could be through, with the support of, or without an advocate).

## **Conclusion**

Thank you for the opportunity to provide comments on the proposed new Strategy as part of the stage 2 consultation process. We look forward to the outcomes of the stage 2 consultation and the development of a robust new Strategy which reflects a commitment to empowering and including people with disability in all areas of public life, and is accompanied by practical steps to ensure that the inherent human rights of people with disability are upheld.

### **Contact for this submission**

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