

The continued exclusion from NDIS access of people with disabilities dating from childhood, in particular disabled survivors of Infantile Paralysis (poliomyelitis), over the age of 65 manifestly contradicts the National Disability Strategy, and the new 10 year plan must correct that gap in a “UNIFIED, NATIONAL approach to ‘an INCLUSIVE Australian society that enables people with disability to fulfil their potential as EQUAL citizens”.

Clearly, arbitrarily and unfairly banning one group of people with a disability from NDIS access is not a “unified, national approach” and is diametrically opposite to an “inclusive society”.

The NDS current Position Paper states:

“Australia’s first National Disability Strategy is a 10 year agreement which commits all governments to a unified, national approach to “an inclusive Australian society that enables people with disability to fulfil their potential as equal citizens”.

and further that

“The current Strategy is about creating a more INCLUSIVE society that enables Australians with disability to fulfil their potential as EQUAL citizens. It is also the main way Australia implements the United Nations Convention on the Rights of Persons with Disabilities.”

“The current Strategy is the primary mechanism through which Australia implements its obligations under the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD). The new Strategy will continue to uphold Australia’s commitments under the UN CRPD”

In fact, the NDIS exclusion flagrantly violates the CRPD, in particular

“Article 5 (“Equality and non-discrimination”) :

1. States Parties recognize that all persons are EQUAL before and under the law and are entitled without any discrimination to the EQUAL protection and EQUAL benefit of the law.

2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities EQUAL and effective legal protection against discrimination on ALL grounds. “

Under the The NDIS Act disabled persons over 65 are expressly stated NOT to be “***EQUAL before and under the law***”, and the Act explicitly denies such persons “equal benefit of the law” and “effective legal protection against discrimination on ALL grounds”.

Hence, I call on the new National Disability Strategy to include a statement that the exclusion of disabled survivors of Infantile Paralysis (poliomyelitis) over 65:

1. Is not inclusive;
2. Does not provide a unified national approach to an inclusive Australian society that enables people with disability to fulfil their potential as equal citizens”;

3. Is discriminatory; and
4. Is in breach of the United Nations Convention on the Rights of Persons with Disabilities.

CONCLUSION

The new National Disability Strategy should recommend amendment of the NDIS Act to allow access to the NDIS by disabled survivors of Infantile Paralysis (poliomyelitis) over 65.

Dr Peter Freckleton