

Physical Disability Australia Ltd
PO Box 345
Toowong QLD 4066.
T | 1800 PDA ORG (1800 732 674)
E | manager@pda.org.au
🌐 | www.pda.org.au



Saturday 31 October 2020

Senator the Hon Anne Ruston
Minister for Families and Social Services
PO Box 6100
Parliament House
Canberra ACT 2600

RE: Physical Disability Australia's Submission to the Stage 2 Consultation on the new National Disability Strategy

Dear Minister,

Thank you for the opportunity to provide input into the development of a new National Disability Strategy (NDS) for Australia. Using your July 2020 *Position Paper*¹ as a guide, this submission will provide answers to the questions asked in the Paper and our thoughts on some of the other ideas expressed therein.

Proposed Vision

The *Paper* proposed recycling the Vision from the existing NDS:

“An inclusive Australian society that enables people with disability to fulfil their potential as equal members of the community.”

Physical Disability Australia (PDA) generally approves of this vision however, given many, the majority of, people with disability are ineligible to participate in the National Disability Insurance Scheme (NDIS), we would like the vision to ensure its readers know the NDS is for **all** people with disability.

Proposed Outcome Areas

The *Paper* also proposes recycling the existing NDS Outcome Areas:

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

Do you have any comments on the vision and outcome areas being proposed for the new Strategy?

PDA would like to see an additional Outcome Area added to the list above:

¹ <https://engage.dss.gov.au/wp-content/uploads/2020/07/national-disability-strategy-position-paper-accessible-pdf.pdf>

7. Proportionate representation

Part of the reason people with disability still face many barriers in the areas of life covered by the other outcome areas is that they are not represented in key influencing and decision-making positions in the media, business, and government.

People with disability make up 17.7% of the total population or close to 1 in 5 people², but you would not know this by looking at the mainstream media, corporate 'About Us' website pages, nor lists of local, jurisdictional and Federal representatives and Ministers.

In the media, with the notable exception of recent ABC programs, people with disability are almost non-existent and when they do appear, their roles are often restricted to providing comment on disability-related issues or discussing what it means to have a disability. This tokenistic state of affairs marginalises a significant demographic and denies both people with disability and media consumers of the opportunity to see and celebrate their talent, insight and expertise; a situation that is no longer tolerated with respect to other historically hidden populations; women, culturally and linguistically diverse Australians, and First Nations people.

Outside the mainstream media, in recent years, there has been a significant diversification in corporate governance and management positions as stockholders and the Directors they elect realise that talent, knowledge and skills are not the exclusive possessions of Caucasian, English-speaking background men, and as with the mainstream media there are a lot more women, and people from different cultures in senior business positions... but people with disability (and First Nations people) are still rare here.

The same observation can be made for all levels of Australian government. Women, people from culturally and linguistically diverse populations, and First Nations people are present in local, state, territory and federal legislatures, but people with disability are (largely) not.

PDA believes this needs to change. In keeping with the spirit of Equal Employment Opportunity legislation that has achieved so much for other cohorts, we call for the NDS to set benchmarks for proportionate representation of people with disability in all aspects of public life and for governments to be tasked with mandating their application.

Proposed Guiding Principles:

The *Paper* proposes that:

"In addition to the principles set out in Article 3 of the [United Nations Convention on the Rights of People with Disability] UNCRPD, these principles could include:

- **Involve and engage:** has the policy process or program design engaged with and listened to people with disability at all stages of planning and

² <https://www.abs.gov.au/statistics/health/disability/disability-ageing-and-carers-australia-summary-findings/latest-release>

implementation and provided accessible information and opportunities for feedback?

- **Design universally:** have the principles of universal design been applied where possible and has the project taken advantage of accessible and assistive technology where available?
- **Engage the broader community:** how has the broader community been informed of, involved in and been made responsible for removing barriers and supporting the inclusion of people with disability?
- **Address barriers faced by priority populations:** how have the priority populations noted by the National Disability Strategy been identified and what action has been taken to specifically address the barriers they may experience?
- **Support carers and supporters:** how have the needs of the family, carers and circles of information and formal support for the person with disability been considered in the development of the policy or program?"

What do you think about the guiding principles proposed here?

It was curious to note that the UNCRPD Article 3 principles were invoked but not listed:

"The principles of the present Convention shall be:

- (a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- (b) Non-discrimination;
- (c) Full and effective participation and inclusion in society;
- (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (e) Equality of opportunity;
- (f) Accessibility;
- (g) Equality between men and women; and
- (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.³

When these lists of principles are compared it can be seen that the proposed set are pored with questions that the proposers seem to think, if answered in the affirmative, would show that the principle was being adhered to. This is a good practice as it can be hard to understand what a principle means to those who claim to be following it.

That being said, PDA would like to see a few changes to the suggested additional principles and similar prompting questions written for the UNCRPD Article 3 Principles in the text of the new NDS.

³ <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

Involve and Engage and **Design Universally** could be combined into the principle of **Codesign** – Are the proposed programs devised and constructed with meaningful input from a broad spectrum of people with disability and their representatives?

Engage the Broader Community could be recast as **Shared Responsibility** as this better sums-up with the rhetorical thrust of the question posed.

PDA would also recast, or not include, the final suggested principle – **Support Carers and Supporters** – as this positions people with disability as people who will always need ‘care’. Many people with disability, especially those with physical disabilities, are sick of explaining that they don’t need ‘care’. What they need is ‘support’, and the continuing assumption by many, that they should turn first to their families, friends, and charities to have their needs met endures despite full implementation of the NDIS.

That being said, it must be recognised that the ‘supporters’ of people with disability do need support.

During the COVID-19 pandemic, people with disability have relied on their representative organisations – communities that they created for themselves – to provide them with vital information and social connection opportunities. Governments has also relied on these same organisations to provide them with insight into how the social distancing restrictions were impacting on people with disability and what needed to be done to address these situations. This important and urgent work has taxed the economic and human resources of these bodies and without a commitment from governments, business, and the community to provide local, state, territory and national disability representative organisations with adequate resources on an ongoing basis, many of them may not be there when the *next* crisis impacts Australia and its citizens with disability.

An increased focus on community attitudes

The *Paper* declared that “a key focus of the new Strategy will be to facilitate and foster ongoing attitudinal change so that we harness the rich contribution that people with disability make to our society.”

What is your view on the proposal for the new Strategy to have a stronger emphasis on improving community attitudes across all outcome areas?

PDA approves of this commitment by the NDS framers. We feel better community appreciation of people with disability is desperately needed across all public and private, social and economic contexts. That it is a necessary precursor for the full integration of all Australians with disability in our society... and this is why we suggested **Proportionate Representation** as an additional key outcome area (see above).

Proposed focus on improving accountability:

The *Paper* acknowledges “All levels of government (Commonwealth, state and territory and local governments) have a key role in driving change. It is proposed that the new Strategy seeks to enhance government accountability by:

- clearly describing the roles and responsibilities of government, including that of the NDIS; ;
- measuring outcomes
- reporting on outcomes;
- committing to the collection of relevant data to enable effective monitoring and reporting; and
- having a coordinated approach to the evaluation of policies and programs.”

No question is posed with regard to this sections’ linking of accountability to outcomes, however, PDA is wary of the notion that the systemic and personal barriers faced by people with disability can be overcome by the attainment of a number of ‘outcomes’. ‘Outcomes’, in government policy documents are asserted as clearly articulated measurable consequences of the policies’ actions, and while these will certainly be beneficial to those people with disability participating in specific programs, it will not necessarily translate to broad benefit to all people with disability.

In keeping with the advice we provided in response to the Outcome Area Discussion Workshop we participate in on 30 October, PDA believes the NDS’s utility and effectiveness needs to be looked for in Australian Bureau of Statistics (ABS) and other cross demographic data sets that allow key indicators of wellbeing – life expectancy, education level, employment status⁴, income levels, relationship status, disease rates, etc – to be compared between people with disability, other cohorts, and the Australian population as a whole.

Proposed articulation of Roles and Responsibility

The *Paper* gave quite a bit of detail regarding how the new NDS would apportion roles and responsibilities between federal government agencies, jurisdictional governments and the private sector.

How do you think that clearly outlining what each government is responsible for could make it easier for people with disability to access the supports and services they need?

PDA understands assigning responsibility to the different levels of government across Australia is important so that everyone knows who is responsible for delivering the support and services people with disability need. Having said that PDA would also like the NDS to enshrine a no-wrong-door approach that entails a commitment to assist constituents with disability connect with responsible service providers in a meaningful and need-meeting way.

For example, if a person with a disability attends a NDIS office and requests support in dealing with the complications of diabetes, obesity, or other health conditions that may not be specifically covered by the NDIS, he or she should be assisted to connect with a health service provider in such a way that appropriate treatment and advice is assured. Many people with disability are used to being referred on to others

⁴ Specifically, open employment. For a variety of reasons that are well known to the Department of Social Services and the National Disability Insurance Agency, employment in Australian Disability Enterprises does not deliver the same social status, income and autonomy that open employment does.

(with a name, address and phone number) when they approach (the ‘wrong’) services and this can be a very frustrating experience.

How do you think the Strategy should represent the role that the non-government sector plays in improving outcomes for people with disability?

(Examples of the non-government sector include big, medium and small businesses, community organisations, employees of these businesses, private research, investment organisations and individuals.)

PDA believes the NDS needs to have a sub-strategy covering how the government will enlist the private sector in lifting their game in terms of meeting the needs of customers with disability. To complement this, we would also like the NDS to commit the Federal and jurisdictional governments to significant legal reform in terms of properly outlawing all forms of discrimination against people with disability.

Human rights legislation in Australia is largely ineffectual. Its reactive and complaints driven approach to resolving issues places a heavy responsibility on the victims (and their under-supported supporters) to make their case against those who have imposed discriminatory practices on them. The usual respondents of discrimination complaints – governments, employers, and mainstream services – have natural advantages in the adversarial contexts in which complaints are ultimately determined. Chief amongst these are the “unjustifiable hardship” provisions⁵ that provide ready-made excuses for service providers who are unwilling to invest in accessibility improvements.

To address this, the legal weight of human rights legislation needs to be bolstered so that those guilty of discrimination are properly and publicly compelled to stop their discriminatory practices and appropriately compensate their victims.

PDA would also like the Australian Human Rights Commission and its jurisdictional counterparts to be empowered with active investigation and discretionary prosecution powers similar to those given to numerous other ‘Commissions’.

Reporting

The *Paper* notes that “Public reporting is fundamental to government transparency and accountability.” PDA agrees, and in the current political climate where there are frequent public calls for easier scrutiny of government programs, it’s vital that the NDS’s goals, methods and results are clear for all Australians to see.

What kind of information on the Strategy’s progress should governments make available to the public and how often should this information be made available?

PDA believes reports on the progress of the NDS and the initiatives undertaken to implement it need to be key events in the mainstream media’s news and current affairs programming on a regular basis.

⁵ Such as Section 11 of the Commonwealth *Disability Discrimination Act 1992*

Damian Griffis, CEO of the First People's Disability Network⁶, made an excellent suggestion: that an official report, similar to the *Closing the Gap Report*⁷, be an ongoing responsibility of the Prime Minister and his or her government. The Annual *Closing the Gap Report* is a robust and extensive treatise⁸ that documents what, if any, improvements government programs have made to the lives of First Nations people in Australia each year, and the legislative requirement for the Prime Minister to personally deliver and talk to the information it contains ensures public scrutiny and pressure for ongoing improvements.

We also feel it is important for truly independent appraisals to be made of the NDS when it comes up for its next review. Highly-priced consultants should be avoided in this process as it is never clear, in these situations, if the report is an honest appraisal or a promotional spiel. Instead, PDA would like to see the Productivity Commission again assess the NDS before its next review.

Targeted Action Plans

The *Paper* recommends 'Targeted Action Plans' as an implementation strategy for the NDS "to better facilitate improved outcomes for all people with disability over the life of the new Strategy". It is claimed "they will articulate and focus the attention and efforts of governments and private, community, and not-for-profit sectors."

The *Paper* claims this would be "an action-oriented approach to implementation," and that "Targeted Action Plans would allow a more intensive focus on achieving specific deliverables to drive real change within shorter timeframes."

What do you think of the proposal to have Targeted Action Plans that focus on making improvements in specific areas within a defined period of time (for example within one, two or three years)?

PDA does not believe that 'real change' can be delivered in short time frames regardless of the investment of time, effort and goodwill a government can bring to bare.

The NDIS, for example has improved the lives of many people with disability. It has invested billions of dollars in disability support and will, if maintained, result in real change. However, the majority of Australians with disability are ineligible for enrolment in the scheme as participants and many of those that are, are still subjected to institutional practices such as congregated housing (in group homes and aged care settings) and shared support arrangements. Real change, for these people has not yet been achieved, and the real change in the lives of most participants would be undone if the NDIS were an element of a Targeted Action Plan with a short timeframe.

PDA believes the NDS needs to focus on addressing the long term systemic disadvantage that people with disability in Australia have had to deal with since the arrival of the First Fleet. It needs to address this by setting long-term benchmarks –

⁶ <https://fpdn.org.au/board-members-staff/>

⁷ <https://ctgreport.niaa.gov.au/>

⁸ The 2020 report is 108 pages long.

like employment parity, proportionate representation on boards, in local government authorities, and in parliaments, full public and private compliance with all Disability Standards by 202X, etc – and building long term commitment-based partnerships between all levels of government, and the private and community sectors to drive change on an ongoing basis.

'Targeted Action Plans' are not going to accomplish this. If we were cynical we would suggest they are proposed and promoted for political purposes so that achievements can be claimed in the next election campaign. People with disability deserve better than this.

As noted earlier, PDA would like to see evaluation of the NDS focus on the comparison of key wellbeing statistics of people with disability, other identifiable populations, and the Australian population as a whole.

Engagement Plan

It is proposed that the new Strategy 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.

How could the proposed Engagement Plan ensure people with disability, and the disability community, are involved in the delivery and monitoring

PDA agrees that the NDS's Engagement Plan needs actively involve people with disability in its program development, implementation and evaluation. If our suggestion of including **Proportionate Representation** in the Strategy's Outcome areas, we would expect to see its programs lead by example by appointing people with a broad range of impairments to key leadership roles.

During the early days of the COVID-19 Pandemic, PDA was pleased to see the Department of Social Services (DSS) establish its Disability Support Services Committee that met regularly via teleconference to give representatives from DSS, the National Disability Insurance Agency (NDIA), the NDIS Quality and Safeguards Commission and other government entities the opportunity to hear and respond to the problem being faced people with disability as presented by their representative organisations.

PDA has applauded DSS for setting up these meetings and coordinating responses to address the issues presented promptly. We have also suggested that the meetings be continued so that other issues both emergent and long-standing can receive the same treatment. We therefore recommend that the new NDS establish a similar committee with the addition of jurisdictional representatives to provide feedback from people with disability on the programs that will be developed to realise the NDS's Vision.

About Us

Physical Disability Australia (PDA) is a national peak membership-based representative organisation run by people with physical disability for people with physical disability. PDA was founded 21 years ago and we have over 1,000 members from all Australian States and Territories. Our purpose is to:

- Encourage all levels of government to enable and provide every Australian living with a physical disability with opportunities to realise their full potential;
- Embrace and promote difference and diversity for an inclusive society; and
- Work with governments, industry and the community to promote the rights, responsibilities, issues and participation of people with physical disability.

In Conclusion

We thank you again for the opportunity to provide input into the development of a new NDS for Australia, and we look forward to further opportunities to assist with its promotion and implementation.

Yours Sincerely,



Liz Reid
President and Director (NT)
Physical Disability Australia



Simon Burchill
Manager
Physical Disability Australia