Queensland Advocacy Incorporated

Our mission is to promote, protect and defend, through advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

Systems and Individual Advocacy for vulnerable People with Disability

National Disability Strategy

Submission by
Queensland Advocacy Incorporated

Department of Social Services

October 2020

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QAI endorses the objectives, and promotes the principles, of the Convention on the Rights of Persons with Disabilities.
Patron: His Excellency The Honorable Paul de Jersey AC

About Queensland Advocacy Incorporated

Queensland Advocacy Incorporated (**QAI**) is an independent, community-based systems and individual advocacy organisation and a community legal service for people with disability. Our mission is to promote, protect and defend, through systems and individual advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland. QAI's board is comprised of a majority of persons with disability, whose wisdom and lived experience of disability is our foundation and guide.

QAI has an exemplary track record of effective systems advocacy, with thirty years' experience advocating for systems change, through campaigns directed to attitudinal, law and policy reform and by supporting the development of a range of advocacy initiatives in this state. We have provided, for over a decade, highly in-demand individual advocacy through our individual advocacy services – the Human Rights Legal Service, the Mental Health Legal Service and the Justice Support Program and, more recently, the National Disability Insurance Scheme Appeals Support Program, Decision Support Pilot Program, Disability Royal Commission Advocacy Program and Education Advocacy Service. Our individual advocacy experience informs our understanding, and prioritisation, of systemic advocacy issues.

QAI's recommendations

QAI recommends:

1. The addition of the word 'all' before 'people with disability' in the proposed vision for the Strategy, so that it aims to achieve '*An inclusive Australian society that enables <u>all</u> people with disability to fulfil their potential as equal members of the community'.*
2. The inclusion of a *person-centred approach* to the 'Involve and engage' guiding principle, where policy processes engage with and listen to people with disability at all stages, people with disability are provided accessible information and opportunities for feedback and where implementation is person-centred and takes into account the needs and wishes of individuals.
3. The removal of '*where possible'* in relation to the 'Design universally' guiding principle, removing any ambiguity and ensuring it is a minimum standard of practice.
4. The return to the previous Strategy's order of outcome areas, with 'economic security' listed as the third not first policy domain.
5. Accept and adopt proposals for a federal Human Rights Act to extend the human rights protections now afforded to all Queenslanders to every single Australian, removing disparities in access to justice between state and territory jurisdictions and ensuring a coherent approach to implementation of the Strategy and Australia's obligations under the CRPD.
6. Adoption of the Senate Committee's recommendation that the government develop best practice guidelines for consultation with people with disability.
7. The development of a multi-layered plan to address community attitudes at the personal, organisation and government levels.
8. The development of mandatory disability action plans in all jurisdictions.

9. The creation of an Office of Disability Strategy to act as a coordinating agency for the Strategy under the auspice of the Disability Reform Council. Ensure the Office of Disability Strategy can integrate the key findings from the Disability Royal Commission into the Strategy over the coming years.
10. Further clarification regarding the interface between the NDIS and mainstream services. Update the current publicly available information to ensure the content is easy to understand, including the development of Easy Read versions.
11. Widening the scope of the Strategy to encompass non-government entities. For example, place greater emphasis on addressing media bias toward people with disability, seek to remove barriers to employment created by employers, continued and increased funding for individual disability advocacy services and community legal services, and working to ensure the dominance of the social model of disability and the supported decision-making model in the health setting.
12. Biannual, mandatory reporting by all levels of governments regarding progress against an outcomes framework to be developed in consultation with people with disability. QAI considers the International Day of People with Disability a suitable milestone on which to report progress. QAI further recommends that governments be required to issue ‘statements of compatibility’ when creating new policies, to signify compliance with the Strategy’s vision and guidance principles.
13. Consultation of people with disability on the development of all Targeted Action Plans, with clarification as to whether state and territory jurisdictions will have tailored targets under the outcomes framework to reflect varying levels of progress under the six domains. Regular program evaluations to become mandatory for states and territories. Collaboration with non-government entities to develop industry specific Targeted Action Plans is also recommended.
14. The employment of people with disability at all levels of government decision-making to ensure people with disability are actively involved in the delivery of the Strategy. A well-funded and well-resourced disability advocacy sector is integral to this.

Introduction

QAI welcomes the opportunity to make a submission in response to the Department of Social Services’ position paper regarding the new National Disability Strategy (‘the Strategy’). As a human rights organisation devoted to the interests of people with disability, QAI has naturally held a strong interest in the Strategy over the last decade. In March 2017, QAI held a state-wide forum, ‘*Walk the Talk: Realising the 2010-2020 National Disability Strategy and our human rights promises*’ to examine Australia’s progress under the previous Strategy. The results, together with our many years' worth of direct experience supporting people with disability, inform this submission.

QAI acknowledges the significance of the Strategy, not just in enshrining the principles of the Convention on the Rights of Persons with Disabilities ('CRPD') into the Australian policy landscape but as a means of creating a fully inclusive society where all people with disability fulfil their potential and live as equal members of the community. Policies that fail to incorporate the fundamental principles of the CRPD must be replaced with measures that embody the values of inherent dignity, non-discrimination, inclusion, participation and equality. Whilst progress has undeniably been made, with the Strategy representing a commendable first step in taking a whole-of-government approach to policy making under the CRPD, people with disability continue to suffer systemic oppression and experience poorer outcomes compared to people without disability.[1] In our individual advocacy services, QAI continues to bear witness to the unacceptable exclusion and human rights violations of people with disability in our community. For many of our clients, the messages of the '*Shut Out: The Experience of People with Disabilities and their Families in Australia*' report continue to ring true. The goals of the Strategy are therefore yet to be realised. The new Strategy must contain a greater emphasis on implementation and accountability if meaningful change beyond the rhetoric of the Strategy's goals is to be achieved. We must think creatively if we are committed to elevating the needs of people with disability in government decision-making. And we must be serious about holding stakeholders to account. Critical to this is ensuring the voices of people with disability are heard and remain at the forefront of all discussions.

The human rights, social and economic imperatives that underpin the Strategy could not be more relevant to today's climate. The current Covid-19 pandemic emphasises the vulnerability of people with disability and highlights the need for a coordinated approach to policy making that prioritises the needs of societies most marginalised populations. The challenges associated with the ongoing rollout of the National Disability Insurance Scheme (NDIS) cannot continue to divert attention away from realising the Strategy's goals. Moving into the next decade, the new Strategy must learn from its predecessor by including tangible changes to policy-making that demand disability-inclusive practices. It must address the challenge of inconsistent outcomes for people with disability across state and territory jurisdictions. And it must incorporate the pending outcomes from the Disability Royal Commission – potentially the most significant opportunity for meaningful systemic change for people with disability that Australia has ever seen.

QAI makes the following submissions in response to the position paper.

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[1] Council of Australian Governments (2011) *National Disability Strategy 2010-2020;* *https://www.dss.gov.au/sites/default/files/documents/05_2012/national_disability_strategy_2010_2020.pdf*

Question 1 – Do you have any comments on the Vision and Outcome areas being proposed for the new Strategy?

Translating the Strategy's vision for the lives of people with disability into reality is not a simple task. It requires determination to carry the original intent through to its realisation. QAI agrees with the proposed vision of '*An inclusive Australian society that enables people with disability to fulfil their potential as equal members of the community*', however submits that the word '*all'* be included before '*people with disability*' so that the vision undeniably applies to '*all people with disability*'. This is in keeping with the language used throughout the position paper and previous Strategy. It implies the Strategy will not be realised until everyone with a disability enjoys equal participation in Australian life and draws attention to the need to understand the diverse needs of people with disability, acknowledging a one-size fits all approach will not suffice.

QAI supports the continued use of the six outcome areas listed in the previous Strategy. These areas encompass key aspects of the lives of people with disability and represent the domains where leadership, inclusion and systemic change is most required. However, QAI notes the change in order of the listed outcome areas, with *economic security* now listed as the first domain as opposed to the third. QAI wonders if this suggests an implied hierarchy of concerns that reflects the ideological value base of the political party in power rather than the needs of the disability community. A Senate Inquiry in 2017 termed inclusive and accessible communities as a 'threshold issue'; that is, a necessary first step before outcomes in the other domains can be achieved.[2] It was also a key priority raised by the disability community in the Shut-Out report.[3] QAI considers that 'inclusive and accessible communities' should therefore remain the first policy area listed in the Strategy. Whilst the order of the policy areas in the Strategy is unlikely to affect the achievement of its goals, it is nonetheless a symbolic gesture that acknowledges the significance of the concepts of inclusiveness and accessibility to all of the Strategy's domains and it fulfils the government's stated intention to follow through with prioritising the concerns that have been identified by the disability community.

QAI supports a continued focus on rights protection, justice and legislation. Our '*Walk the talk*' forum found a lack of coherence both between and within levels of government at the state and territory level and called for greater reporting and monitoring around this.[4] The stark differences between jurisdictions is most clearly illustrated by the varying degree of human

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[2] Community Affairs References Committee (2017) *Delivery of Outcomes under the National Disability Strategy 2010-2020 to build inclusive and accessible communities, p2* https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/AccessibleCommunities/Report

[3] Ibid

[4] Queensland Advocacy Incorporated (2017) *Report and Outcomes from the Forum, Walk the Talk: Realising the 2010-2020 National Disability Strategy and our human rights promises*.

rights protection provided by states and territories. Designed as a key mechanism to address human rights violations caused by power imbalances between service systems and individuals, access to justice through human rights legislation in Australia is dependent upon where the person with disability lives (with legislative human rights protection currently only enacted in the ACT, Victoria and Queensland). The need for a comprehensive review of state and territory human rights and discrimination legislative protections was identified in the *Shut-Out* report back in 2008. The creation of a new National Disability Strategy is therefore a timely opportunity to implement this recommendation and developxtend the human rights protection (recently extended to all Queenslanders) to every Australian. As well as responding to the needs of the disability community, this would address Australia's somewhat piecemeal compliance with the CRPD and ensure Australia's obligations under international law are fulfilled.

Question 2 – What do you think about the Guiding Principles being proposed?

QAI agrees notionally with the suggested guiding principles set out in the position paper. We commend the use of clear, direct language that asks policy-makers specific questions in relation to the policy-making process. We note this is an improvement from the previous strategy which instead listed general aspirations for policy-making without translating them into meaningful questions for policy-makers. We believe implementation of the Strategy will only improve when tangible requirements of policy-makers are made clear and non-negotiable. However, QAI notes the absence of *'person-centred*' as a listed guiding principle. QAI is of the position that this is a fundamental principle which cannot be left out. By referencing a 'person-centred' approach, the Strategy requires government decision-makers to ensure policies, programs and services for people with disability are designed by and with people with disability to effectively respond to the needs and wishes of individuals. This recognises the right of people with disability to access individualised support that is tailored to meet their unique situation. People with disability are a heterogeneous group with diverse needs and this must be understood by those designing policy as well as the wider community. This also recognises the importance of self-determination of people with disability and the need for cultural change among service providers to address paternalistic practices that prevent the views and wishes of people with disability being at the centre of their service delivery. QAI therefore recommends the addition of a 'person-centred approach' to the *'Involve and engage'* guiding principle, where policy processes 'engage with and listen to people with disability at all stages, people with disability are provided accessible information and opportunities for feedback and where implementation is person-centred and takes into account the needs and wishes of individuals'.

QAI makes the following further comments in relation to the guiding principles:

Involve and engage

QAI urges the government to commit to ensuring people with disability are meaningfully involved and engaged with policy development processes. This is a consistent message from the disability sector and specific measures that allow for meaningful engagement must be designed and incorporated into day to day practice at the decision-making level if this is to be achieved. QAI agrees with the recommendation of the Senate Committee that suggested the development of best practice guidelines for consultation processes with people with disability and their community. Specific recommendations regarding frequency and mode of consultation are required in order to ensure people with disability are not consulted as a tokenistic gesture but have meaningful opportunities to affect change at the policy level. The Social Policy Research Centre found in their review of the Strategy that "...engagement methods such as public forums, roundtables and conferences to link people, agencies and business together to form partnerships could facilitate further cooperation to achieve Strategy goals".[5] The Strategy must incorporate recommendations from dedicated reviews and inquiries or else they become meaningless. To reflect the government's commitment to meaningful engagement, people with disability must be employed in key roles across all aspects from policy-making to decision-making. The continued and increased funding of individual and systemic advocacy services is also critical to ensuring the voices of people with disability are heard at every level of decision-making.

Design universally

QAI believes that the principles of universal design must be applied to all policy-making and therefore recommends the removal of the words '*where possible*' to remove any ambiguity. The social model of disability states that it is environmental barriers that create inaccessible communities for people with disability, rather than their impairment. QAI asserts that the strong focus on physical accessibility in the previous Strategy detracts from consideration of environmental barriers faced by people with disability other than physical disability, such as those experienced by people living with cognitive impairment, psychosocial and intellectual disability. For example, barriers to accessible technology include complex navigations and layout, complex sentences and word choice, lack of visual information to aid understanding

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[5] Social Policy Research Centre UNSW Sydney (2019) *Review of implementation of the National Disability Strategy 2010-2020,* p3, https://www.dss.gov.au/sites/default/files/documents/04_2019/review-implementation-national-disability-strategy-2010-2020-final-report.pdf

and an inability to mute audio and stop moving content.[6] Indeed accessibility in technology is a prominent issue given the integration of technology into modern life and the benefits it can provide to all people with disability.[7] Other environmental barriers include levels of noise, lighting, and overcrowding. The National Employment Services Association defines accessibility as the "...global ease of use of the physical and technological environment and clarity of communications, both in their form and their content".[8] It is this kind of understanding of accessibility and universal design that must underpin the new Strategy. If we are to truly create a fully inclusive society where all people with disability fulfil their potential as equal members of the community, we must *mandate* the development of policies that meet the needs of everyone, not just the majority and the principles of universal design must become a minimum standard rather than the ideal outcome.

Engage the broader community

Creating an inclusive society is everyone's responsibility. Without a whole-of-community approach, people with disability will continue to encounter discrimination and be denied the opportunity to truly fulfil their potential. However, such a broad concept requires a specific and targeted approach. QAI supports the development of partnerships between sectors to facilitate inter-sector collaboration. For example, the training of health professionals to identify when a patient has a discrimination issue so they can refer them to legal aid/community legal centres accordingly, or the development of health justice partnerships which overcome barriers for people subject to involuntary treatment in the mental health system.[9]

QAI agrees with the government's stated intention to clearly define the roles and responsibilities of stakeholders within the community and to focus on changing attitudes to remove ableism. Ensuring stakeholders are held to account when obligations under the Strategy are not fulfilled is an important aspect of this.

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[6] Shadi Abou Zahra (2017) 'Diverse Abilities and Barriers in How People with Disabilities Use the Web', *Web Accessibility Initiative,* https://www.w3.org/WAI/people-use-web/abilities-barriers/#cognitive.

[7] Shadi Abou Zahra, 'Diverse Abilities and Barriers in How People with Disabilities Use the Web', *Web Accessibility Initiative* (Web Page, 15 May 2017) < https://www.w3.org/WAI/people-use-web/abilities-barriers/#cognitive>.

[8] Community Affairs References Committee (2017) *Delivery of Outcomes under the National Disability Strategy 2010-2020 to build inclusive and accessible,* p7 *communities;* *https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/AccessibleCommunities/Report*

[9] Community Legal Centres Queensland (2019) "*Evidence and Analysis of Legal Need*" https://communitylegalqld.org.au/sites/default/files/downloads/pages/evidence_and_analysis_of_legal_need_v3.pdf

Address barriers faced by priority populations

QAI is pleased to see the new Strategy is proposing to acknowledge intersectional disadvantage experienced by priority populations. In other words, recognising the diversity among people with disability and how individual characteristics of race, gender, ethnicity, sexuality and age can elevate the vulnerability of certain groups within the community and the subsequent need for policies, programs and services to acknowledge and respond to this.

In a 2015 Survey of Disability, Ageing and Carers, one quarter of Aboriginal and Torres Strait Islander people had a disability.[10] The rate of disability among Aboriginal and Torres Strait Islander communities is higher than non-Aboriginal and Torres Strait Islander communities as a result of inadequate health care and nutrition, substance abuse, removal from traditional community structures, trauma and exposure to violence.[11] The experience of Aboriginal and Torres Strait Islander people with disability is unique and current support systems fail to accommodate this. Culturally appropriate support services for our First Australians are therefore essential. Individuals with lived experience as a member of the Aboriginal and Torres Strait Islander community with a disability are best suited to advocate and communicate about issues specific to their community and must be consulted when decisions, policies and plans that will involve or impact Aboriginal and Torres Strait Islander people with disability are being developed.

Moreover, women with disability continue to experience extremely high prevalence rates of domestic and family violence compared to the general population.[12] Domestic violence is a barrier which impedes women with disability from accessing community supports both inside and outside of the home. Access to *accessible* legal services is a key mechanism to try and address the overrepresentation of women with disability and indeed people of all genders with disability among domestic and family violence statistics. Barriers such as cost and communication constraints associated with illiteracy and/or impairment continue to impede the successful use of subsidised or free community legal services. QAI supports the delivery of legal services that are disability-aware and which appropriately accommodate the needs of people with disability. For example, legal services which provide information and advice in accessible formats such as Easy English text and/or picture alternatives.

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[10] 'Disability support for Indigenous Australians', *Australian Institute of Health and Welfare* (Web Page, 11 September 2019) < https://www.aihw.gov.au/reports/australias-welfare/disability-support-for-indigenous-australians>.

[11] Jens Korff, 'Aboriginal people with Disability' (Web Page, 15 July 2020) < https://www.creativespirits.info/aboriginalculture/health/aboriginal-people-with-disability>.

[12] Department of Child Safety, Youth and Women; Department of Youth Justice, "*Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland",* 2015 https://www.csyw.qld.gov.au/resources/campaign/end-violence/about/dfv-report-vol-one.pdf

Support carers and supporters

The stated intention to recognise the role played by carers and informal supports is a welcome addition to the new Strategy. With only 10-15% of people with disability in Australia accessing funded supports through the NDIS, the majority of people with disability rely heavily upon their informal support networks.[13] The increasing prevalence of disability in our community due to our ageing population and policies of deinstitutionalisation continue to elevate the role of carers and will see this trend increase over time. Yet the experiences of carers are markedly different depending upon which service system the person they are supporting is accessing. Despite the challenges frequently associated with NDIS funding mechanisms, many would argue that the funding constraints within the aged care sector are far more limiting. Respite services for example, must be paid out of a generic home care package in the aged care sector whilst if determined a reasonable and necessary support under the NDIS, funding is allocated on a needs-basis without reducing the funding available for other support needs. Greater alignment is therefore needed between the two service systems that sit side by side and yet differ noticeably in their philosophical underpinnings. In order to truly address the needs of carers and supporters, age must not become another factor upon which people with disability and their carers are discriminated against.

Conversely, policy-makers must not lose sight of the vulnerability of people with disability and the propensity for abuse, neglect and exploitation to occur within informal support arrangements. Individuals with impaired decision-making capacity are particularly vulnerable to exploitation and government bodies must not abdicate their responsibilities through increasing reliance on carers and informal support networks which have limited oversight and accountability mechanisms.

Question 3 – What is your view on the proposal for the new Strategy to have a stronger emphasis on improving community attitudes?

QAI agrees that a stronger emphasis on improving community attitudes is needed. The paternalistic, degrading and patronising attitudes of the Australian community must be eradicated if people with disability are to be viewed as citizens, peers, consumers and friends.[14] The inaccurate stereotypes and negative expectations that ableism continues to harmfully perpetuate must be challenged if people with disability are to fully realise their human rights under the CRPD. Strong leadership is needed from the government who must

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[13] Australian Institute of Health and Welfare (2019) *People with Disability in Australian,* https://www.aihw.gov.au/getmedia/3bc5f549-216e-4199-9a82-fba1bba9208f/aihw-dis-74.pdf.aspx?inline=true

[14] Denise Thompson et al., ‘Community attitudes to people with disability: scoping project’ (Occasional Paper No. 39, Social Policy Research Centre, Disability Studies and Research Centre, University of New South Wales, February 2012).

lead by example and demonstrate truly inclusive practices at all levels of decision-making. It is acknowledged however that change within government structures alone will not suffice. Attitudinal change is required at the personal, organisational *and* government level.[15] In their review of policies designed to remove pervasive negative attitudes of people with disability, Fisher and Purcel found that success was dependent upon various indicators, such as multi-pronged and long-term information and awareness campaigns, direct contact with people with disability in a supportive environment, education and training about disability (teacher and employer training) and legislation to enforce anti-discrimination measures.[16] Essentially, critical to changing attitudes is ensuring greater visibility of people with disability in our community. The community must understand that disability is a normal and valuable part of humanity and not condone ostracization or negative attitudes. Discriminatory attitudes are learned at a young age and so the removal of segregated educational practices and access to an inclusive education for people with disability should be prioritised. Improvement in community attitudes will also address disproportionate levels of unemployment among people with disability, and vice versa.[17] QAI therefore supports a stronger focus on improving community attitudes but calls upon the government to detail a multi-pronged approach that targets attitudinal change across all levels of society.

Question 4 – 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?

Without doubt, there must be a greater focus on improving the implementation of the new Strategy. QAI supports clarity on the relationship between government structures and agrees that clearly outlining the roles and responsibilities of all stakeholders is a non-negotiable starting point to achieving successful implementation of the Strategy. It is widely agreed that a whole-of-government approach is needed, and yet there remains gross inconsistencies between state and territory governments as to the development of jurisdiction-specific disability action plans.[18] This inconsistency must be addressed and the development of disability action plans made a mandatory requirement for all jurisdictions. A whole-of-government approach can also only be effective when there are clearly defined leadership roles. The Senate Inquiry of 2017 stated that responsibility must not fall solely upon the

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[15] Karen Fisher & Christiane Purcal (2017) *Policies to change attitudes to people with disabilities,* Scandanavian Journal of Disability Research, 19(2)

[16] Ibid

[17] PriceWaterHouse Coopers, Disability Expectations: Investing in a Better Life, a Stronger Australia, 2011.

[18] Social Policy Research Centre UNSW Sydney (2019) *Review of implementation of the National Disability Strategy 2010-2020*, https://www.dss.gov.au/sites/default/files/documents/04_2019/review-implementation-national-disability-strategy-2010-2020-final-report.pdf

Department of Social Services, whose focus is already stretched across its various portfolios and through which the Strategy will inevitably be viewed as a welfare measure.[19] Rather, the Strategy must be viewed through a human rights lens by a specifically created agency who has overall responsibility for the coordination and implementation of the Strategy. Accordingly, QAI supports the Senate Committee's recommendation for the development of an Office of Disability Strategy to sit under the auspice of the Disability Reform Council to have overarching responsibility for coordinating the delivery of the Strategy across all levels of government.[20] The Office of Disability Strategy could also have responsibility for integrating the findings from the Disability Royal Commission into the Strategy's six outcome domains and ensuring that the learnings from the Commission are not wasted or delayed until the development of the next Strategy. QAI further concurs with the Senate Committee's request for the consultation of people with disability at each stage of the development and implementation of the Office of Disability Strategy if created. QAI asserts the need for people with disability to occupy key roles in the Office of Disability Strategy itself in order to ensure the voices of people with disability remain central to decision-making regarding the policies that impact upon them. Only when responsibilities are clearly assigned, and overall accountability properly ensured will service provision be of a quality that meets the needs of all people with disability.

The ever-evolving interface between the NDIS and mainstream services must also be addressed. The government's proposal to link to publicly available information that summarises the role of the NDIS and the roles and responsibilities agreed between governments as well as 'the Principles to Determine the Responsibilities of the NDIS and Other Service Systems and accompanying Applied Principles and Tables of Service' implies that these agreements do not require reviewing. QAI believes that the development of the new Strategy is a timely opportunity to revise these agreements, particularly in light of the ever-growing body of jurisprudence coming from the Administrative Appeals Tribunal (AAT).

Whilst the introduction of the NDIS has undoubtedly brought much needed reform to the disability sector, it is still in its infancy and is still only accessible to a small minority of Australians living with disability. It was also never intended to replace support available through mainstream services, where systemic abuse of people with disability has historically occurred. The need for clarity around the obligations of mainstream services to uphold the rights enshrined under the CRPD is therefore imperative to the success of the Strategy which must meet the needs of *all* Australians with disability. Through our NDIS appeals advocacy service, QAI has witnessed countless situations where people with disability have become

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[19] Community Affairs References Committee (2017) *Delivery of Outcomes under the National Disability Strategy 2010-2020 to build inclusive and accessible communities;* *https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/AccessibleCommunities/Report*

[20] Ibid

subject to funding disputes between state and federal agencies seeking to assert limitations on their respective obligations to provide support to people with disability. The slow, bureaucratic processes that typically ensue mean that the person is often left without access to vital services whilst they struggle to navigate their way through a system marred by complexity and idiosyncrasies. Whilst the interface between the NDIS and health system has been clarified to some extent with the publication of further guidelines in October 2019, funding disputes continue to plague other service areas such as child safety and education. Review and further clarification around the interface between these government departments and their stand-alone responsibilities under the Strategy is desperately needed. It further evidences the need for a federal Human Rights Act to ensure mandatory and consistent implementation of the Strategy and the CRPD across all of Australia.

QAI takes the position that the publicly available information that the new Strategy is intending to promote is difficult to access and interpret in its current format. Professionals and participants alike have reported difficulties understanding the language used in these documents, if located at all. This information is vital to ensuring that people with disability are accessing the relevant services and supports that are available to them. It is recommended that the content of these documents is updated and improved to ensure they are easily understood, including the development of Easy Read versions. It is also recommended that they clarify a key finding from the AAT; that if a reasonable and necessary support is not available under a mainstream service, it cannot be said to be more appropriately funded by that mainstream service and must therefore be provided by the NDIA.[21]

Question 5 – How do you think the Strategy should represent the role that the non-government sector plays in improving outcomes for people with disability?

In keeping with the whole-of-community approach required to achieve a fully inclusive society, QAI supports clarification in the new Strategy regarding the important role played by non-government entities, namely, the media, employers, advocacy organisations, community legal centres and the health setting.

QAI is troubled by the media bias that is evident towards people with disability. The media play an undeniable role in influencing the attitudes and behaviours of the general public. Concerningly, people with disability continue to be inaccurately depicted either as objects of pity, defective, inferior, unable to achieve success, victims, villains or a burden on society.[22]

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[21] *Burchell and National Disability Insurance Agency* [2019] AATA 1256 (4 June 2019)

[22] Kim Stewart, Christina Spurgeon, Niki Edwards, 'Media participation by people with disability and the relevance of Australian community broadcasting in the digital era' (2019) 9 (October) *3CMedia* 44; 'Disability stereotypes in the media', *Aruma* (Blog post) < https://www.aruma.com.au/about-us/blog/run-forest-run-disability-stereotypes-in-the-media/>.

Whilst often admittedly unconscious, this bias perpetuates harmful stereotypes and bullying of people with disability and prevents progress towards achieving the fully inclusive society envisioned under the Strategy. QAI supports the increased employment of people with disability within the media and increased visibility and representation of stories of people with lived experience of disability. People with disability have the right to be appropriately represented in the media and only through accurate storytelling and reporting will the voices of people with disability be heard and attitudinal barriers overcome.

The underrepresentation of people with disability in employment is well-known. People with disability face several barriers to employment including discrimination, a lack of availability of jobs, difficulties accessing education and training, a lack of reasonable adjustments or accommodations and a lack of accessible transport or technology.[23] The barriers to employing people with disability as reported by employers are similarly well-known, such as poor awareness of legal obligations, low confidence in supporting employees with disability, limited resources and difficulty providing appropriate accommodations for employees with disability.[24] Despite the plethora of benefits associated with employing people with disability, including higher productivity levels, better retention rates, increased diversity in skills and attributes and fewer workplace injuries,[25] this information is not understood by the open labour market and unemployment levels of people with disability continue to thwart their capacity to meet their full potential. QAI therefore supports the introduction of further measures to address the continued barriers created by employers preventing people with disability from accessing the workforce. For example, the development of Disability Employment Standards as a form of subordinate legislation under the *Disability Discrimination Act 1992* (Cth) to set minimum, legally enforceable standards of practice expected of employers to ensure that they are upholding their obligations under the Strategy and are helping to create a fully inclusive society for everyone.

The role of independent advocacy organisations continues to be vital for people with disability in ensuring their fundamental rights and freedoms are upheld and their ability to fully participate as equal members of society is protected. The benefits of effective independent advocacy are not limited to the individuals accessing the services but extend to the broader community. Indeed, for each dollar invested into independent disability advocacy services,

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[23] Australian Human Rights Commission, ‘Barriers to employment’, Australian Human Rights Commission (Webpage) https://humanrights.gov.au/our-work/9-barriers-employment.

[24] Ibid.

[25] Diversity Council Australia, ‘Submission to Willing to Work: National Inquiry into Employment Discrimination Against Older Australians and Australians with Disability’, *Diversity Council Australia* (Webpage, December 2015) < https://www.dca.org.au/sites/default/files/submission_no_210_-_diversity_council_australia_-_organisation_age_disability.pdf>; Graffam J, Shinkfield A, Smith K and Polzin U (2002) ‘Employer benefits and costs of employing a person with a disability’, *Journal of Vocational Rehabilitation*, vol 17 pp 251-263; Graffam J, Shinkfield A, Smith K and Polzin U (1998) *Making it work; Employer outcomes when employing a person with a disability,* Melbourne; Institute of Disability Studies, Deakin University.

$3.50 is generated.[26] This cost-benefit analysis reinforces the value for money represented by continued investment in independent disability advocacy services. Although disability advocates create change in the lives of many people with disability, research tells us that people with disability continue to experience poorer outcomes compared to people without disability. The need for fully resourced and effective advocacy services throughout the life of the new Strategy is therefore imperative, with advocacy organisations playing a key role in holding stakeholders to account.

Community legal services will play a similarly important role in upholding the rights and obligations set down by the new Strategy. Interrelated disadvantages such as discrimination, unemployment and isolation from the community can increase the legal needs of people with disability.[27] The barriers faced in accessing community legal services such as poor health, low literacy, poor communication and poor awareness of legal rights can further hinder a person‘s access to justice. Specific measures designed to increase the accessibility of affordable community legal services will thus ensure a person with disability has access to legal advice and/or representation to confront the power imbalances invariably reflected in their involvement with the law. QAI emphasises the need for ongoing and increased funding for accessible community legal services as a priority in the new Strategy.

Finally, the health setting is familiar to many people with disability. Unfortunately, so is the continued prevalence of attitudes and practices reminiscent of the medical model of disability supposedly disbanded in our community. The use of terms such as ‘diseased’ minimises the value of an individual’s inherent worth and perpetuates negative stereotypes and low expectations of people with disability across their lifespan. This then fosters paternalistic practices which typically restrict the choice, control and freedom of people with disability, resulting in poorer health outcomes and unfavourable treatment.[28] For example, the negative expectations conveyed to expectant parents potentially carrying a child with a disability or later in life, the forced sterilisation of women with intellectual disability. Greater emphasis must be placed on ensuring the social model of disability continues to rise in its dominance in the health setting. Rather than viewing people with disability as ‘diseased’ or ‘defective’, the social model views environmental barriers as the largest impediment to equality rather than the person’s impairment. In promoting the social model of disability, the CRPD places responsibility on governments, communities and institutions to promote inclusion and equal opportunity for all people with disability. Integral to realising this in the health setting will be ensuring the model of supported decision-making is fully implemented and that health

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[26] Disability Advocacy Network Australia, "Independent Cost Benefit Analysis Of Australia’s Independent Disability Advocacy Agencies", Independentadvocacy.Org.Au (Webpage, 2020) <https://independentadvocacy.org.au/upload/files/CBA-IndependentAdvocacy_Summary-pdf.pdf>.

[27] Community Legal Centres Queensland Inc., *Evidence & Analysis of Legal Need* (Consultation paper, June 2019).

[28] Lauren Krnjacki et al, "Disability-Based Discrimination And Health: Findings From An Australian-Based Population Study" (2017) 42(2) Australian and New Zealand Journal of Public Health. https://onlinelibrary.wiley.com/doi/epdf/10.1111/1753-6405.12735

professionals exhibit flexibility by ensuring people with disability are afforded the opportunity and support to realise their right to self-determination when it comes to decision-making.

Question 6 – 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?

QAI endorses the government's proposal to include an outcomes framework in the new Strategy, outlining key indicators and measures to be achieved by programs and services in each of the six domains. By clearly assigning roles and responsibilities to all stakeholders with associated measurable targets, holding stakeholders to account under the new Strategy will theoretically be a simpler task. This addresses concerns voiced throughout the previous Strategy, including those of the Social Policy Research Centre, which concluded in their 2019 review that the lack of a systematic approach to implementation was a key shortfall to its success.[29] It is essential however, that people with disability are involved in the development of the outcomes framework and its associated performance indicators. Its development must also be guided by research that has been conducted with inclusive and accessible practices.

QAI supports biannual reporting by states and territories regarding progress under the new Strategy and its outcomes framework. Reporting must require more than a 'commitment' from governments and should be made mandatory. There must also be consistency in the reporting process. If all jurisdictions are reporting on the same indicators and in the same timeframes, the disparities between outcomes for people with disability that exist between states and territories will be more apparent and therefore highlight where further investment is needed. Inclusion of people with disability in progress tracking must be applied at all stages to ensure the viability of the Strategy, and this will be assisted with the employment of people with disability to the Office of Disability Strategy if created. QAI welcomes the sharing of information regarding the Strategy's progress with the public as a means of increasing awareness of the Strategy as well as involving the broader community in its endeavours. QAI considers the International Day of People with Disability as a potentially suitable milestone on which to release key information regarding progress made and areas for further improvement. QAI also considers it important to share information regarding failures by governments and community stakeholders to uphold their obligations under the Strategy. Further, QAI recommends that governments issue 'statements of compatibility' when creating new policies or programs that are compatible and compliant with the Strategy's vision and its guiding principles. QAI considers that without the introduction of creative measures that

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[29] Social Policy Research Centre UNSW Sydney (2019) *Review of implementation of the National Disability Strategy 2010-2020*, https://www.dss.gov.au/sites/default/files/documents/04_2019/review-implementation-national-disability-strategy-2010-2020-final-report.pdf

impose tangible requirements on decision-makers and key stakeholders, meaningful change for people with disability will remain elusive.

Question 7 – 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?

QAI supports the development of Targeted Action Plans which focus on improvements in specific areas within defined periods of time. QAI recommends that consultation of people with disability is expressly compelled on all Targeted Action Plans to ensure that they meet the needs and expectations of the disability community. QAI questions and calls for clarity on whether outcome measures under Targeted Action Plans will be tailored to each state and territory. A single national plan with uniform outcome targets would fail to recognise the different progress states and territories have made in relation to the six outcome areas. QAI hopes that this will be clarified through the newly proposed National Disability Data Asset (NDDA). QAI further suggests that the 'commitment' sought from governments to undertake regular policy and program evaluations should be made stronger and become mandatory. QAI calls on the government to ensure that the Targeted Action Plans remain flexible enough to adapt to and incorporate the pending outcomes from the Disability Royal Commission. The government should also reach out to non-government stakeholders and assist them in developing their own Targeted Action Plans, reflecting the whole-of-community approach desperately needed in the new Strategy.

Question 8 – How could the proposed Engagement Plan ensure people with disability, and the disability community, are involved in the delivery and monitoring of the next Strategy?

QAI endorses the government's proposal to include an Engagement Plan in the new Strategy that commits to ensuring people with disability are actively involved in shaping future disability policies, programs and services. However, this *must* be genuine and not tokenistic. As referenced previously, QAI agrees with the recommendation of the Senate Committee in 2017 that suggested the development of best practice guidelines for the consultation of people with disability and their community, including recommendations around mode of consultation and frequency. The development of these guidelines could be assisted by a specific consultation process in which the views and preferences of the disability community are ascertained.

The involvement of people with disability in the delivery of the Strategy will also be achieved through the employment of people with disability at all levels of decision-making, so they can work collaboratively with government, advocacy organisations and the community in monitoring the implementation of the new Strategy and its Targeted Action Plans. This includes employing people with disability to work in the proposed Office of Disability Strategy.

Finally, a well-funded and well-resourced disability advocacy sector is critical to ensuring the voices of people with disability continue to be heard at all levels. Not only are outcomes achieved on an individual basis, where a person with disability is supported to uphold their rights and stakeholders are held to account through informal resolution processes or adversarial pathways, but on a systems level, where change is achieved through the lobbying of decision-makers and the raising of important perspectives from a cohort so often overlooked. Because an inclusive society benefits everyone, not only people with disability.

Conclusion

QAI thanks the Department of Social Services for the opportunity to contribute to this consultation process. We are happy to provide further information or clarification of any of the matters raised in this submission upon request.