

**A New Act to Replace the Disability  
Services Act 1986:  
A joint submission from Disability  
Representative Organisations**

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## **Acknowledgements and style note**

The organisations contributing to this submission acknowledge all the individuals who lent their time and expertise to its development. This submission would not have been possible without these efforts.

This submission is written in person first language (i.e. person/people with disability) to match the language commonly used by the Australian Government.

The submission was prepared with the assistance of the Coordinator, Secretariat on National Systemic Advocacy.

The authors, organisations and individuals supporting this submission acknowledge the Traditional Owners of the lands on which this submission was developed.

## Signatories to this submission

The following organisations and individuals endorse this submission. Those listed below contributed during the development of this submission. All organisations and individuals that endorse this submission are listed here: [www.dana.org.au/a-new-act](http://www.dana.org.au/a-new-act)

### Organisations

- Allied Health Professions Australia
- Antipoverty Centre
- Australian Council of Social Service
- Australian Federation of Disability Organisations
- Children and Young People with Disability Australia
- Darwin Community Legal Service
- Disability Advocacy Network Australia
- Down Syndrome Australia
- Family Advocacy
- First Peoples Disability Network
- Inclusion Australia
- Inclusion Designlab, Inclusion Melbourne
- Melbourne Disability Institute, University of Melbourne
- National Ethnic Disability Alliance
- People With Disabilities (WA) Inc.
- People with Disability Australia
- Public Interest Advocacy Centre
- Queensland Advocacy for Inclusion
- Women with Disabilities Australia

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## Introduction

The proposal to repeal and replace the *Disability Services Act 1986* (the Act) represents a significant opportunity to provide the vision and direction for the rights of people with disability in Australia for years to come.

The Act was progressive for its time, based on the views of people with disability and their families following a substantial period of consultation and development. We highlight that the Act's positioning of supported employment at the time was a topic of debate.<sup>1</sup>

The Act is now outdated, pre-dating key legislative and policy reforms like the passing of the *Disability Discrimination Act 1992*, inception of the *United Nations Convention on the Rights of Persons with Disabilities* (UN CRPD), and the introduction of the National Disability Insurance Scheme (NDIS).

Repeal of the Act provides the opportunity to modernise the conceptual understandings in the new legislative framework. This should make sure that there is a strong drive towards people with disability living their lives as equal citizens, engaging in education, employment, social, political, spiritual and cultural pursuits alongside their peers.

Disability Representative Organisations (DROs) and other individuals and organisations supporting this submission welcome the opportunity to provide input into the Department of Social Services (DSS) consultation on a New Act to Replace the *Disability Services Act 1986*.

This submission is made by the following DROs:

- Australian Federation of Disability Organisations (AFDO)
- Children and Young People with Disability Australia (CYDA)
- Disability Advocacy Network Australia (DANA)
- First Peoples Disability Network (FPDN)
- Inclusion Australia (IA)
- National Ethnic Disability Alliance (NEDA)
- People with Disability Australia (PWDA)
- Women with Disabilities Australia (WWDA)

This submission outlines key issues for consideration in the conceptualisation and drafting of the new Act. These issues are:

1. Use the new Act for transformative change for people with disability as rights-holders within an inclusive Australian society
2. Put people with disability at the centre of the new Act through co-design and ongoing governance/oversight

3. Make sure everything funded or enabled under the new Act advances the rights of people with disability as equal citizens
4. Make sure the new Act recognises the strength and diversity of people with disability
5. Use the new Act to drive cohesive interaction between it and other legislation and policy reform agendas and responsibilities
6. Make sure relevant recommendations of previous Reviews are reflected and implemented

This submission has been made by these organisations based on their collective expertise and experience. Many individuals who contributed to this submission bring their own lived experience of disability. However, the timelines for this consultation did not enable consultation with the broader membership of these organisations nor the wider community of people with disability. Working with people with disability and DROs should be a key feature of the development and implementation of the new Act from now on.

The submission draws on significant expertise of a range of individuals from across civil society and academia, with a breadth and depth of lived experience and knowledge about key areas including the rights of people with disability, legislation, employment and advocacy.

Each of the organisations involved in this submission recognise the significant opportunity the replacement of the Act represents. We look forward to working with the Department of Social Services to ensure the new Act is based on the voices of people with disability to make it the strongest Act it can be, setting the framework for years to come.

## List of recommendations

- **Recommendation 1:** Articulate the human rights-based principles and additional guarantees and principles that underpin the Act, and ensure there are mechanisms to monitor adherence
- **Recommendation 2:** Use the legislation for transformative change for people with disability as rights holders within an inclusive Australian society
- **Recommendation 3:** Retain capacity to influence, shape and fund services, supports and initiatives for all people with disability
- **Recommendation 4:** Put people with disability at the centre of the new Act through co-design and ongoing governance/oversight, including people with disability in closed settings (such as prisons) and disability group homes
- **Recommendation 5:** Have a committee of people with disability to oversee the implementation and monitoring of the new Act
- **Recommendation 6:** Make sure the new Act ends all mechanisms for segregated settings
- **Recommendation 7:** Make sure the new Act ensures the right of people with disability to advocacy, supported decision making, legal assistance and equality before the law
- **Recommendation 8:** Make sure the new Act provides appropriate support for people with disability in places of detention, including youth justice, prisons and immigration detention
- **Recommendation 9:** Make sure the new Act requires high levels of service quality, prevents violence against people with disability and ends restrictive practices
- **Recommendation 10:** Make sure the new Act promotes inclusive mainstream and/or universal services, including employment, housing and education
- **Recommendation 11:** Make sure the new Act provides for accessible public information and information in the format and language required by an individual
- **Recommendation 12:** Make sure the new Act appreciates and responds to people's intersectional identities and diverse experiences of disability
- **Recommendation 13:** Make sure the new Act commits to investment in the development of a community-controlled First Nations disability sector
- **Recommendation 14:** Make sure everything funded or facilitated under the new Act is trauma informed and culturally safe
- **Recommendation 15:** Use the legislation to drive cohesive interaction between it and other legislation and policy reform agendas and responsibilities, compelling government to bear responsibility for multi-system integration and coordination
- **Recommendation 16:** Make sure relevant recommendations of previous Reviews are reflected and implemented

## About the Disability Representative Organisations

[\*\*Australian Federation of Disability Organisations \(AFDO\)\*\*](#) is a cross-disability representative organisation, and the national voice representing people with disability in Australia.

[\*\*Children and Young People with Disability Australia \(CYDA\)\*\*](#) is a national peak body that represents children and young people (aged 0-25) with disability.

[\*\*Disability Advocacy Network Australia \(DANA\)\*\*](#) is the national representative body for a network of advocacy organisations throughout Australia.

[\*\*First Peoples Disability Network \(FPDN\)\*\*](#) is a national human rights organisation of, and for, Australia's First Peoples with disability, their families, and communities, governed by First Peoples with lived experience of disability.

[\*\*Inclusion Australia \(IA\)\*\*](#) is the national representative body for people with an intellectual disability and their families.

[\*\*National Disability Ethnic Alliance \(NEDA\)\*\*](#) is a cross-national peak organisation that supports and advocates for the interests and rights of people with a disability from non-English speaking backgrounds (NESB), their families, and carers throughout Australia.

[\*\*People with Disability Australia \(PWDA\)\*\*](#) is a national disability rights and advocacy organisation made up of, and led by, people with disability.

[\*\*Women with Disabilities Australia \(WWDA\)\*\*](#) is the national Disabled People's Organisation for women, girls, feminine identifying and non-binary people with disabilities in Australia.

# Key issues to address for the new Act

## Over-arching principles

The following principles apply to this submission and should be central in re-conceptualising the new Act:

- the **UN CRPD** is the guiding instrument for enacting and upholding the rights of people with disability in Australia
- all legislation and policies that affect people with disability must be underpinned by a **human rights-based** approach
- **leadership, co-production** and **co-design** by people with disability is central to the development and implementation of legislation
- the **diversity of people** with disability is respected and upheld
- **respect for intersectionality** is crucial for strong legislation and improved outcomes for people with disability as individuals and communities
- **locational/geographic diversity** should be understood, and disadvantage mitigated

**Recommendation 1:** Articulate the human rights-based principles and additional guarantees and principles that underpin the Act, and ensure there are mechanisms to monitor adherence

## **1. Use the new Act for transformative change for people with disability as rights-holders**

The proposed Act is an opportunity to use legislation to transform Australian society so that it is truly inclusive of people with disability and advances their rights. The Act should strive to be the last specific Act of its kind because it will no longer be required. This can be achieved by mainstreaming obligations for upholding the rights under the UN CRPD into other relevant legislation, making this ‘disability specific’ legislation obsolete.

The new Act must embed the principles of the UN CRPD and progress the major systemic and structural change needed to realise the purpose of the Convention (Article 1) of *“promot[ing], protect[ing] and ensur[ing] the full enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their human dignity”*.

The new Act must also set the basis for realising the UN CRPD vision and associated Articles by codifying the rights, duties, positive obligations and enforcement mechanisms required to realise these rights. The Act should seek to enshrine the UN CRPD in domestic law (rather than just give effect to the UN CRPD) and also consider removing the interpretative clause (currently 3(2)) about limited resources. We do not consider this clause being required in statute. These changes should ensure that policies, programs and supports that affect people with disability are aligned with the UN CRPD at every level.

Transformational change is required to implement the UN CRPD and make progress that has not been made under the current Act.<sup>2</sup> This change is also required to address the power imbalances, structural barriers and inherent ableism experienced by people with disability in Australia.<sup>3</sup>

The new Act must shift from impairments and ‘service users’ to focus on the person, the primacy of their agency, autonomy and personhood and the right to belong and be connected in the world. New language is required to reflect this change, and the Act should have this vocabulary (e.g. voice, choice, control).<sup>4</sup>

People with disability should be positioned as co-designers of future service models and their regulatory regimes within communities that uphold core citizenship rights. The piecemeal removal of barriers within existing systems will not provide the substantive change required to advance the rights of people with disability.

The new Act should set and drive the vision for change for years to come based on the aspirations of people with disability and realising the UN CRPD. The objects and principles of the new legislation must be underpinned and focused on the rights of people with disability.

The new Act should be broader than disability-related services and supports. It should codify measures to change structures, attitudes and behaviours that discriminate against, stigmatise and marginalise people with disability. The Act should also proactively promote and support the inclusion of people with disability across the Australian community<sup>5</sup> and ensure there are no gaps in services and supports.

The new Act should also incorporate and strengthen important elements of the current Act including:

- being progressive, based on co-design and incorporating monitoring, evaluation and review to make sure it is leading the way in shaping positive outcomes for people with disability
- meaningfully and practically supporting equality and ending all forms of segregation<sup>6</sup>
- not discriminating against people with disability based on age or any other attribute
- guaranteeing access to disability supports and services for people with disability, regardless of citizenship status
- providing the architecture for funding in all areas not covered in other legislation, such as advocacy, legal assistance, employment and research and development
- providing for standards, quality and safeguards for the areas it funds (including advocacy, legal assistance and employment).

In developing the new Act with people with disability, the Australian Government could also consider how people with disability want the wrongs under the current Act (and legislation before it) to be acknowledged and addressed.<sup>7</sup>

**Recommendation 2:** Use the legislation for transformative change for people with disability as rights holders within an inclusive Australian society

**Recommendation 3:** Retain capacity to influence, shape and fund services, supports and initiatives for all people with disability

## **2. Put people with disability at the centre of the new Act through co-design and ongoing governance/oversight**

Co-design with people with disability should be central to the development, implementation and monitoring and evaluation of the new Act. The current Act was developed through a comprehensive consultation and engagement process with people with disability and their families. The repeal and replacement of the new Act must provide the same opportunity and put those impacted by legislation or policy development at the centre of its design.

Several human rights instruments and reports obligate governments to include people with disability in the initial design, development and ongoing monitoring of legislation.<sup>8</sup>

According to the information provided by the DSS,<sup>9</sup> the timeline for the consultation on the Bill is anticipated to be two to four weeks. The signatories of this document believe this is inadequate. The proposed schedule does not allow sufficient time for consultation, let alone time and resourcing for co-design of the Bill with people with disability.

This is the first time the Act has been reviewed in nearly 40 years. We urge the Department of Social Services to allow time for genuine co-design with people with disability with resourcing that recognises the role of Disability Representative Organisations in this process.<sup>10</sup> The benefits of resourcing this role were recently recognised by the Minister for the NDIS: *“proper resourcing of Disability Representative Organisations, [as it] provides broad benefit, including improving the ability to listen to diverse communities, foster open dialogue and provide regular opportunities to relay their expertise”*.<sup>11</sup>

The new Act could also compel all governments, entities and services funded or facilitated under it to use co-design for all legislation, policy and service design. This would build on the work started by the Disability Royal Commission and the National Disability Insurance Agency (NDIA) who have made recent efforts to have high levels of engagement and co-design with people with disability.

Co-design should be embedded throughout the life of the proposed Bill. It should be an ongoing process in which meaningful participation is across every aspect of legislation from inception to conclusion, including building in monitoring mechanisms. There should be shared understanding between those involved about the meaning of co-design, the process used and an approach and timeframe that makes sure no one is excluded. Specific attention should be given to working with people with intellectual disability, First Nations people, people with communication access needs and people who live in closed settings<sup>12</sup> (such as places of detention) and group

homes. All timeframes and co-design approaches must recognise that different people have different access needs and time is needed to build trust and understanding with all involved.

By involving people with disability in the creation, ongoing implementation and monitoring of the new Act, there will be specific consideration of their unique circumstances. This will reduce the need for amendments and subsequent systemic advocacy required when legislation is not fit-for-purpose.

**Make sure there is oversight by people with disability**

Monitoring and evaluation of the new Act will ensure that the UN CRPD is being enacted in Australia. People with disability should be central to this process in an advisory or governance arrangement where theirs is the majority voice in decision making. To make sure effective monitoring, evaluation and reporting can be undertaken, progress and outcomes reporting of services, supports and initiatives funded under, and enabled by, this Act should be publicly available.

**Recommendation 4:** Put people with disability at the centre of the new Act through co-design and ongoing governance/oversight, including people with disability in settings (such as prisons) and disability group homes

**Recommendation 5:** Have a committee of people with disability to oversee the implementation and monitoring of the new Act

### **3. Make sure everything funded or enabled under the new Act advances the rights of people with disability as equal citizens**

The Australian Government must make sure that everything funded or enabled through the new Act advances the rights of people with disability. These rights must not be inadvertently degraded or compromised through interpretation or implementation.

Describing services and support categories broadly is beneficial provided these are directed towards the general inclusion and upholding of rights of people with disability. The services and supports must also be appropriately provided for under this legislation with a view to integrating them into mainstream legislation which creates obligations on those mainstream systems and services (for example, employment, education, housing, prevention of violence etc).

In line with international human rights principles, the new Act should end segregation in all areas of life.<sup>13</sup> Areas of particular concern to those involved with this submission are employment, housing, supported decision making and advocacy, access to legal assistance, equality before the law, preventing and responding to violence, education, and information.

#### **End segregated employment and improve economic inclusion**

There have been substantial changes to the economy and industrial relations systems across Australia in the past two decades and more. However, employment rates for people with disability have barely shifted over that time. Considerable structural and attitudinal barriers continue to exist, and government policy and initiatives have had little impact to break them down or improve opportunities. This means that people with disability are largely excluded from meaningful economic opportunities. This increases the involvement of people with disability in the social security system which is insecure and below the poverty line. This perpetuates the cycle of endemic poverty experienced by many people with disability.

Many people with disability are excluded from employment or work in segregated environments for sub-minimum wages (as little as \$2.67 per hour).<sup>14</sup> This segregation and underpayment is actively enabled through the current legislative and policy environment. It is not, however, in keeping with the expectations under legislation such as the *Modern Slavery Act 2018*. The Australian Government should consider the intersection between employment segregated based on disability and modern slavery law.<sup>15</sup>

The Act positions employment for people with disability as a social policy measure (s7 of the Act specifically legislates 'supported employment services',<sup>16</sup> now known as Australian Disability Enterprises or ADEs) rather than an employment measure.

The Act also positions ADEs as an important part of community integration.<sup>17</sup> This most often impacts people with an intellectual disability who are seen as inherently 'less productive'.

This is contrary to Australia's commitments under the UN CRPD, which says that people with disability have the right "to work, on an equal basis with others" and which includes the opportunity to work in an "environment that is open, inclusive and accessible".<sup>18</sup> Australia's maintenance of a segregated and inequitable wage and employment system has drawn attention from the United Nations Committee on the Rights of Persons with Disabilities and others.<sup>19</sup>

To be consistent with human rights principles and Australia's international legal obligations, a new Act must not authorise or endorse any employment supports or environments that segregate and isolate people with disability. Nor can it allow people with disability to be paid below minimum wage for their work, including within prisons. The Australian Government must make sure the new Act ends provisions that exploit the labour of people with disability.

As well as this, the new Act must recognise the evidence about effective and inclusive employment supports and environments, so that the Australian employment service system can learn from good international practice and respond to individuals' needs and circumstances. There is significant international evidence about effective policy and practice approaches for inclusive employment, such as customised employment<sup>20</sup> and the Employment First policy approach in the United States.<sup>21</sup> The development of a new Act in Australia provides a unique opportunity for the Australian Government to consider legislative support for, and enablement of, evidence-based approaches like customised employment.<sup>22</sup>

The Act must allow space for the reform of employment services (currently the Disability Employment Services program or DES) which is currently being reviewed by the Australian Government. The UN Committee has already recommended reform to DES, in its 2019 review of Australia's work to realise the rights of people with disability through the UN CRPD.<sup>23</sup>

Customised employment must be a core feature of the new model. These services must be genuinely inclusive and person-centred. Customised employment must focus on supporting appropriate, accessible and sustainable employment outcomes for people with disability, rather than promoting segregation or focusing on providers' interests at the expense of 'service users'. People with disability must be given equitable opportunities rather than the current focus on under/low paid 'volunteering' or 'work experience' which is common. Many of the organisations and individuals contributing to this submission have provided substantial input to the Department on DES reform in recent years.

## **End segregated housing and improve accessible housing options**

The UN CRPD<sup>24</sup> states that people with disability have the right to choose where and with who they live on an equal basis with others. However, many people with disability are living in inadequate accommodation and are unable to genuinely choose where and with whom they live. A new Act should contribute to closing residential institutional environments that segregate people with disability and instead facilitate the development of genuine, community-based housing and support choices for people with disability. The new Act must also contribute to ensuring that people with disability have genuine choice and control in choosing their place of residence, with whom they live and the services they receive in their homes.<sup>25</sup>

## **Reinforce rights to supported decision making and advocacy**

People with disability have the right to make their own decisions. Long-term denial of rights and disenfranchisement of people with disability requires structural and attitudinal change and resourcing to address. The new Act should provide for supported decision making that enables people with disability to express their will, preferences, and rights to the greatest extent possible. The new Act should also end substitute decision making arrangements that unreasonably deny these rights. Provisions for funding and facilitating supported decision making should also be included in the new Act.

In 2019, the United Nations Committee on the Rights of Persons with Disabilities recommended that Australia ensure people with disability *“are able to access continuous, sustainable and adequately resourced individual and independent advocacy programmes...”*<sup>26</sup>

Individual and systemic advocacy and supported decision making are important for promoting safety and quality in disability services, upholding human rights, and advancing inclusion. Despite recognition of this role, funding for individual and systemic advocacy for people with disability has not increased since the introduction of the NDIS to match the greater demand.<sup>27</sup> This means disability advocacy organisations cannot currently meet demand or need amongst people with disability due to chronic under-funding and other barriers preventing access.<sup>28</sup> Continued investment in advocacy is required to make sure people with disability have access to skilled and informed advocates when required.

## **Uphold rights to equality before the law**

A new Act should reinforce the rights of people with disability to equal recognition before the law. The new Act should ensure access to the supports a person with disability might need to exercise their legal rights. This includes the provision of legal

services to promote and protect legal rights, as well as access to appropriate disability services and supports in places of detention.

It is critical the new Act's interaction with State and Territory criminal justice systems is clearly articulated, given the ongoing human rights violations experienced by people with disability. This is disproportionately the case for First Nations people and people with cognitive impairment within police custody, prisons, youth detention centres, and forensic mental health units.

The criminal justice system in Australia continues to be inappropriately used as a default care provider for First Nations people with disability and people with cognitive impairment, who have been forced into the criminal justice system early in life in the absence of alternative pathways. Pathways into and around the criminal justice system for many First Nations people with disability, especially those with psychosocial disability and cognitive impairment, are embedded and entrenched by the absence of coherent frameworks for holistic disability, education, housing and human services support.<sup>29</sup>

A new Act that meaningfully embeds intersectionality must work to rectify this, and ensure First Nations community-controlled service provision over criminalisation and incarceration.

### **Prevent and respond to violence against people with disability**

The new Act should prioritise the prevention of violence, abuse and neglect of people with disability in all its forms. It should also recognise that people with disability, and in particular, women and gender diverse people with disability experience significantly higher rates of all forms of violence than the general population. This includes individual, organisational, and institutional violence.

The new Act should change the paradigm from 'safeguarding' to violence prevention, so that violence against people with disability is understood as equivalent to any other member of society. This brings with it the requirement for mainstream responses to violence when it occurs. The Act should also compel cross-government collaboration to ensure that violence prevention and response services are inclusive of, and receptive to, the specific needs of different cohorts of people with disability, including women and gender diverse, First Nations, and culturally and linguistically diverse (CaLD) people with disability.

The new Act also represents the opportunity to end the use and legality of restrictive practices. This includes substitute decision making, compulsory treatment and a range of practices within the medical sphere, such as overuse of psychotropic medication and inappropriate behaviour support practices.<sup>30</sup>

The current arrangements relating to quality of service provision and violence are not focused on upholding the rights of people with disability. They are fragmented and difficult to understand and navigate. Further, the onus is on people with disability to take action or complain when things go wrong.<sup>31</sup>

The onus for high quality services or supports should be on the provider (whether mainstream or specialist) and not the person with disability. Organisational measures for quality and prevention of violence should include independent auditing and complaints processes which are fit-for-purpose, carefully designed and easily accessible. Standards for service providers need to be enforceable to ensure accountability. Consideration should be given to measures in the new Act that encourage or incentivise all parties (governments, businesses, services, community organisations) to commit to change and the UN CRPD. Consideration should also be given to the right of advocates to access services to uphold the rights of people with disability.<sup>32</sup>

Any attempt at regulatory alignment should make sure that high standards are required, retaining any unique standards based on the type of service, support or provider. Regulatory arrangements should avoid the adoption of lower standards for the sake of alignment.

For specialist disability services, the new Act must squarely address the reality that the service industry for people with disability in Australia is a multi-billion-dollar sector, which includes not-for-profit and for-profit services. The new Act must help balance any for-profit motive of services and businesses with their potential to work for justice for people with disability. This is all the more reason to carefully develop regulation with people with disability.

The Australian Government should also consider whether the new Act will provide individuals with enforceable rights to services (including advocacy and legal assistance). The new Act should also consider enforceable rights to complain, including fair and accessible complaints processes, and redress where services are substandard or violent.<sup>33</sup>

### **Promote inclusive education**

In relation to education, the Australian Government has suggested the following object for the new Act:

*ii. increasing independence and seeking meaningful opportunities for employment, education, and development*

Research evidence consistently demonstrates that children and young people with disability fare less well than their peers in education. “School aged students with disability are segregated, suspended, and expelled at higher rates. Over the last

fifteen years, the highest level of educational attainment for people with disability . . . remains lower than children and young people without disability. These inequities can have lifelong implications”<sup>34</sup>.

To ensure that policies, programs and supports that affect people with disability are aligned with the principles of the UN CRPD at every level, we recommend that the new Act recognises the importance of:

- embedding the rights of students as set out in the UN CRPD by aligning with ‘Driving change: A roadmap for achieving inclusive education in Australia’<sup>35</sup>
- realising inclusive education to ensure all students with disability are fully included in their education; and
- demobilising segregated education.

### **Provide access to information**

Whilst the current Act focuses on information services, Australia does not have legally binding information and communications standards that require information to be fully accessible.<sup>36</sup> As recommended by the UN CRPD<sup>37</sup>, all information intended for the general public should be provided in accessible formats and technologies, in a timely manner and without additional cost. This should include community languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as augmentative and alternative modes of communication. The Australian Government should make provision for this requirement in relevant Acts relating to information and communications, failing that, provide for this in any new Act.

### **Approval of additional eligible services**

The power to approve additional eligible services (s9) should be retained under the new Act and based on understanding of gaps and needs directly from people with disability. The aim of this power should be to remove those gaps in services. Consideration should be directed towards ensuring that these services are provided through the most appropriate legislation or entity (State Government etc) over time. For example, we note that there are significant gaps for people with disability who are not supported by the NDIS in accessing assistive technology and home modifications. Many people are forced to part or fully fund equipment themselves, continue using equipment that is no longer safe or fit for purpose, or simply go without.

**Recommendation 6:** Make sure the new Act ends all mechanisms for segregated settings

**Recommendation 7:** Make sure the new Act ensures the right of people with disability to advocacy, supported decision making, legal assistance and equality before the law

**Recommendation 8:** Make sure the new Act provides appropriate support for people with disability in places of detention, including youth justice, prisons and immigration detention

**Recommendation 9:** Make sure the new Act requires high levels of service quality, prevents violence against people with disability and ends restrictive practices

**Recommendation 10:** Make sure the new Act promotes inclusive mainstream and/or universal services, including employment, housing and education

**Recommendation 11:** Make sure the new Act provides for accessible public information and information in the format and language required by an individual

#### 4. Make sure the Act recognises the strength and diversity of people with disability

The *Disability Services Act 1986* does not recognise the voice, strength, and diversity of people with disability.

The new Act must make sure that this is rectified through recognition of intersectionality, specifically:

- **diversity of disability**, with people having a range of conditions or impairments which impact the realisation of rights or experiences of marginalisation, including intellectual disability, dual diagnosis, chronic illness, psychosocial disability, and invisible disability.
- **the strength of people with disability as advocates**, with their own voices which should be central in this legislation and its development process.
- **First Nations people**, who continue to sit at the periphery of the disability services sector, regularly being prevented from accessing the supports they should be entitled to.
- **multiculturalism and diversity**, recognising that culturally and linguistically diverse (CaLD) communities in Australia speak over 300 Languages Other Than English (LOTE) and are diverse in both cultural and religious practices. These communities experience multiple disadvantages and rarely have opportunities to lead organisations for their communities.
- **gender and sexual diversity**, with people with disability identifying with a range of sexual orientation, gender identity, and sex characteristics which must be recognised and their rights upheld.<sup>38</sup> Further, services and supports for people with disability are not currently gendered and must shift to promote the autonomy and preferences of the person with disability.
- **age**, with unique experiences as people age and needing recognition of the particular approaches required for children, young people, and older people.
- **locational/geographic diversity**, recognising that people with disability who live in regional, rural, remote and very remote areas have the same rights as others and should not experience discrimination or sub-standard services based on their location.

The recognition and expression of human diversity and intersectionality is in line with multiple articles of the UN CRPD and the new Act should facilitate this. The new Act should also recognise that individuals and communities may need information, education or support and service approaches (including outreach) tailored to meet their needs. Funded entities should also have to demonstrate how they are recognising and responding to the intersectional backgrounds and diversity of people with disability.

## First Nations People with Disability

Due to the intersectional inequality and ongoing human rights violations experienced by many First Peoples, it is critical that the rights of First Nations people with disability are addressed with clear and intentional focus by a new Act. This is in order to achieve some justice for those who have been denied their rights for too long.

In the vast majority of public discourse, from government policy to social media, journalism and activism, and even the United Nations fora, First Nations people are consistently relegated to the fringes. Mirroring the social reality, First Nations people with disability appear only as footnotes that address but one half of their reality at a time – either as a First Nations person or someone with a disability. As Dr Scott Avery states:

*“An Aboriginal or Torres Strait Islander person with disability is a member of two communities; one pertaining to their identity as an Indigenous person and another pertaining to their disability. Addressing one aspect of a person’s rights in isolation from the composite rights can leave them excluded from another aspect of society important to their sense of identity.”<sup>39</sup>*

Any new Act must recognise this and have the levers to advance the rights of First Nations people with disability, holistically and at the intersection. Intersectional inequality is often overlooked in policy development, with separate and unconnected policies being developed for people with disability and for First Peoples, in turn failing to meet the specific needs of First Nations people with disability. The new Act should guide all legislation and subsequent policy and service design to avoid, and recognise and address, intersectional inequality.

The new Act must also prioritise the needs of First Nations people with disability and recognise disability as a cross-cutting outcome across key initiatives such as:

- ‘The National Agreement on Closing the Gap,’ including the National Agreement’s ‘Disability Sector Strengthening Plan’ (DSSP) where disability intersects with key areas such as health, education, housing and justice.
- ‘The Voice’ enabling First Nations people to provide advice to the federal Parliament on legislation, policies and initiatives that impact their lives.

We note that the First Nations disability community, including First Peoples Disability Network Australia, have long advocated for the development of a community controlled First Nations disability sector in all States and Territories. Investment in such a sector, especially in rural and remote communities, would see cultural and community inclusion act as a segue to economic inclusion. This would address a range of other concerns including:

- increasing engagement with disability services (NDIS and other)

- increasing disability-specific support across employment, justice, housing, and education
- increasing capacity building and expertise across disability for Aboriginal and Torres Strait Islander services; and
- meeting Closing the Gap outcomes and targets.

Investment in such a sector can be actioned through:

- funding from government to set up and grow First Nations community-controlled disability service providers and disability advocacy services; and
- funding to support existing First Nations advocacy, legal assistance and disability services to expand their scope in creating and supporting a community-controlled sector.

The new Act also needs to have a specific focus on First Nations people informing policy and legislation around disability. This can be done through:

- First Nations disability advisory groups
- a commitment to two-way governance<sup>40</sup>
- ongoing engagement and partnership with the First Nations disability community; and
- partnering with peak First Nations community-controlled organisations.

**Recommendation 12:** Make sure the new Act appreciates and responds to people’s intersectional identities and diverse experiences of disability

**Recommendation 13:** Make sure the new Act commits to investment in the development of a community-controlled First Nations disability sector

**Recommendation 14:** Make sure everything funded or facilitated under the new Act is trauma informed and culturally safe

## **5. Use the new Act to drive cohesive interaction between it and other legislation and policy reform agendas and responsibilities**

Every jurisdiction has legislation providing for the funding of disability services.<sup>41</sup> In several jurisdictions, these laws are under review to determine their purpose.

Some of these reviews have resulted in processes to develop legislation focused on strengthening government commitments to more inclusive communities, ensuring high quality services and promoting rights of people with disability.<sup>42</sup>

In this context, the Australian Government should lead and be clear about:

- the purpose of any new Act (as discussed above); and
- the interaction between a new Act and other Commonwealth and State and Territory legislation.

The new Act provides the opportunity to review the interaction between legislation at Commonwealth and State and Territory levels and set expectations about these interactions to uphold obligations under the UN CRPD. These expectations should include:

- requiring new legislation, policies, funded services, and supports to have a statement of compatibility with human rights. This includes screening to ensure that proposed measures or approaches do not segregate people with disability from mainstream contexts and opportunities.<sup>43</sup>
- compelling all funded entities to be rights-based and person-centred.
- obligating coordination between funded entities to meet the requirements of the person with disability, rather than the individual being responsible for coordination.
- making sure that there are no holes in legislation and the provision of funded services and supports that mean that some people with disability will ‘fall through the gaps’.<sup>44</sup> This is a more likely scenario than potential duplication of services and/or supports.
- compelling all funded entities to provide equitable services, regardless of factors such as location, disability, or living arrangement.
- requiring transparent monitoring and evaluation of services, supports, and initiatives enabled or funded under the new Act.

We also note that the proposed repeal and replacement of the *Disability Services Act 1986* has implications for other policy reform agendas, both directly and indirectly. There should be clear consideration of the relevant legislation and policy work (including National Plans and Closing the Gap) in intersecting policy areas that relate to the new Act. For example, there is a direct correlation between this proposed

legislation and the policy work about employment, economic inclusion, advocacy, First Nations rights and cultural and linguistic diversity.<sup>45</sup> The proposed legislation, as we have discussed, should also provide a vision and shape approaches and attitudes towards people with disability into the future. All these pieces need to align to have positive benefits for people with disability by reinforcing and advancing their rights.

**Recommendation 15:** Use the legislation to drive cohesive interaction between it and other legislation and policy reform agendas and responsibilities, compelling government to bear responsibility for multi-system integration and coordination

## **6. Make sure relevant recommendations of previous Reviews are reflected and implemented**

There are many recommendations from a range of previous inquiries and reviews that have not been implemented or have only been partially or inadequately realised in Commonwealth legislation. There are also relevant concluding observations from the United Nations (UN) Committee on the Rights of Persons with Disabilities,<sup>46</sup> and recommendations from thematic reports of the UN Special Rapporteur on the rights of persons with disabilities.<sup>47</sup>

Significantly, there are a range of recommendations from the 1995 Report of the Australian Law Reform Commission (ALRC) that have never been actioned.<sup>48</sup> To the extent these recommendations remain relevant in the considerably changed legislative landscape of 2023, they should be incorporated into the new Act or into other relevant legislation.

More recently, the ALRC inquiry into “Equality, Capacity and Disability in Commonwealth Laws” in 2014 made substantial policy and law reform recommendations to implement and realise the equal rights of people with disability to make decisions in Australia.<sup>49</sup> There has been only minimal reforms to some legislation arising from this report’s recommendations.<sup>50</sup>

There are also recommendations of successive Royal Commissions which need to be enabled and implemented through this and other legislation. This includes recommendations from the Royal Commissions into:

- Aboriginal Deaths in Custody
- Aged Care Quality and Safety,<sup>51</sup> and
- Violence, Abuse, Neglect and Exploitation of People with Disability.

Enabling improved coordination is also an important principle. However, focusing on the risks of “duplication” misses the gaps in support. We see people with disability seeking support and services from overstretched organisations, sectors, and systems. People are not able to access the supports they need more often than having multiple options for support. Furthermore, people with disability having choice of available supports so they can select options that best suit their needs and preferences leads to a range of positive outcomes for the individual and community. Legislative reforms should be focused on addressing current gaps in the supports available to people with disability rather than on “avoiding duplication”.

**Recommendation 16:** Make sure relevant recommendations of previous Reviews are reflected and implemented

## **Conclusion**

The individuals and organisations that support this submission welcome the opportunity to provide this feedback to inform the shaping of a new Act.

As outlined, this represents a significant opportunity to provide the legislative framework that shapes a society that upholds and furthers the rights and inclusion of people with disability for decades to come.

This new Act is not just about the rights of people with disability. It is about developing a richer society strengthened by inclusive pathways into our communal life. It should not be just about disability services but set the platform for this broader societal change.

To do this, people with disability must be at the centre of the whole process with timeframes that allow them to imagine what this future looks like and ensure it is delivered.

The Disability Representative Organisations and others who endorse this submission look forward to working with the Department of Social Services to make this happen.

## Endnotes

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<sup>1</sup> We understand that the Act's positioning of supported employment was controversial at the time and that the voices of providers prevailed.

<sup>2</sup> Ron McCallum (2020), [The United Nations Convention on the Rights of Persons with Disabilities - An Assessment of Australia's Level of Compliance](#), report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, p.13. All the Articles of the UN CRPD are crucial to creating communities which are inclusive of people with disability who are able to exercise their rights. Article 19 establishes the need to transform services in the 21st Century to ensure the effective exercise of the right to live independently and be included in the community for persons with disabilities.

<sup>3</sup> This ableism has been illustrated most recently by the Royal Commission into Violence, Neglect and Exploitation of People with Disability. This Royal Commission has examined and highlighted the inequality, discrimination and segregation experienced by people with disability.<sup>3</sup> We note that power imbalances, structural barriers and experiences of ableism can be particularly acute for people with disability who are further marginalised, including First Nations peoples and people with cognitive impairment or communication access needs.

<sup>4</sup> United Nations Human Rights Council, [Transformation of Services for Persons with Disabilities](#), Report of the Special Rapporteur on the Rights of Persons with Disabilities, (No A/HRC/52/32, United Nations General Assembly, 28 December 2022), accessed 1 February 2023.

<sup>5</sup> Article 8.

<sup>6</sup> 'Segregation' is the action or state of setting someone apart from others. All laws, rules and processes must not separate out a particular group of people in a way that negatively impacts or reduces their human rights. Rather, any measures should allow for targeted supports and approaches towards realising those human rights.

<sup>7</sup> The *Disability Services Act 1986* enabled significant segregation and harm to people with disability through practices such as segregation in institutions. People with disability have called for official acknowledgement of, and redress for, these and other practices. See for example information from the [Council for Intellectual Disability](#) and University of Technology Sydney, [Remembering Disability Institutions](#), accessed 30 January 2023.

<sup>8</sup> See, for example, Article 4.3 of the UN CRPD; Clause 2 of the 2017 report published by the Special Rapporteur on the [Rights of Persons with Disabilities: Access to rights-based support for persons with disabilities](#): "Persons with disabilities and their representative organizations should participate in all decision-making processes concerning this system, including design, implementation and monitoring"; Plan for Engagement with People with a Disability under Australia's Disability Strategy 2021 – 2031, Principle 4, p.46: "The development of Good Practice Guidelines for the Engagement of People with Disability. The Guidelines will facilitate improvements in the engagement and inclusion of people with disability in community consultation, policy development and government decision-making."

<sup>9</sup> Department of Social Services (DSS) Lunchtime seminar - New Act to replace the Disability Services Act 1986.

<sup>10</sup> The need to provide specific resourcing for co-design was recently recognised by Government through the allocation of funding to DROs to work with people with disability on co-design work with the NDIA. See The Hon Bill Shorten MP (January 2023), [Funding boost for co-design in the disability sector](#), Media release, Department of Social Services, accessed 18 January 2023.

<sup>11</sup> The Hon Bill Shorten MP (January 2023), [Funding boost for co-design in the disability sector](#), Media release, Department of Social Services, accessed 18 January 2023.

<sup>12</sup> The term 'closed settings' is used to refer to settings where freedom of movement is legally curtailed such as prison and detention. It is important to note that freedom of movement of people with disability is sometimes restricted in other settings through restrictive practices, which this submission argues must be stopped.

<sup>13</sup> See joint Position Paper by national Disability Representative Organisations (2020) [Segregation of people with disability is discrimination and must end: 42 disability rights and advocacy organisations call for an end to the segregation of disabled people in Australia - Disabled People's Organisations Australia \(DPO Australia\)](#)

<sup>14</sup> Payment of sub-minimum wages is authorised via the Supported Employment Services Award and the Supported Wage System. More information can be found at:

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<https://www.fairwork.gov.au/employment-conditions/awards/awards-summary/ma000103-summary> and <https://www.jobaccess.gov.au/supported-wage-system-sws>.

<sup>15</sup> For a discussion about modern slavery and the rights of people with disability to work, see Steele, L. (2023, forthcoming), 'Ending Disability Segregated Employment: "Modern Slavery" Law and Disabled People's Human Right to Work' *International Journal of Law in Context*.

<sup>16</sup> *Disability Services Act 1986* (Cth) s 7 'supported employment services'.

<sup>17</sup> Steele, L. (2023, forthcoming) 'Law and Disability 'Supported' Employment in Australia: The Case for Ending Segregation, Discrimination, Exploitation and Violence of People with Disability at Work', *Monash University Law Review*, 49(1).

<sup>18</sup> See [UN CRPD Article 27](#), accessed 30 January 2023.

(<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-27-work-and-employment.html>). General Comment 8 also explicitly recognises the need to end segregated work based on disability.

<sup>19</sup> Committee on the Rights of Persons with Disabilities, Concluding observations on the combined second and third periodic reports of Australia, CRPD/C/AUS/CO/2-3, 15 October 2019. McCallum, R. (2020), report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, pp132-136. [The United Nations Convention on the Rights of Persons with Disabilities - An Assessment of Australia's Level of Compliance](#), report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, pp.132-136.

<sup>20</sup> Customised employment has been codified in the United States via the [Workforce Innovation and Opportunity Act 2014](#), accessed 30 January 2023 (<https://www.dol.gov/agencies/eta/wioa>). To promote inclusive employment further, the [Transformation to Competitive Integrated Employment Act](#) was introduced into the US Senate in November 2021, accessed 30 January 2023, (<https://www.congress.gov/bill/117th-congress/senate-bill/3238>).

<sup>21</sup> Office of Disability Employment Policy, [Employment First](#), accessed 30 January 2023 (<https://www.dol.gov/agencies/odep/initiatives/employment-first>).

<sup>22</sup> Inclusion Australia, with support from PWDA, is currently finalising development of a flagship report on inclusive employment for people with an intellectual disability. This report includes international case studies, qualitative and quantitative analysis, and research papers outlining the barriers facing people with an intellectual disability in employment and identifying a range of solutions. This report will be publicly available by the end of February 2023 at the following URL: <https://www.inclusionaustralia.org.au/project/inclusive-employment-project/>.

<sup>23</sup> Committee on the Rights of Persons with Disabilities (15 October 2019), [Concluding observations on the combined second and third periodic reports of Australia](#), CRPD/C/AUS/CO/2-3.

<sup>24</sup> Article 19.

<sup>25</sup> People with Disability Australia, Disability Advocacy Network Australia and Inclusion Australia have previously made a joint statement about the need for secure, safe and accessible housing for people with disability. See [Australians with disability need action to remove barriers to secure, safe and accessible housing](#) dated 26 August 2022, accessed 8 February 2023 ([https://pwd.org.au/wp-content/uploads/2022/08/PH-26\\_PWDA-IA-DANA\\_Joint-Statement\\_26.8.22.pdf](https://pwd.org.au/wp-content/uploads/2022/08/PH-26_PWDA-IA-DANA_Joint-Statement_26.8.22.pdf)).

<sup>26</sup> Committee on the Rights of Persons With Disabilities (15 October 2019), [Concluding observations on the combined second and third periodic reports of Australia](#), 22nd sess, UN Doc CRPD/C/AUS/CO/2-3 [6].

<sup>27</sup> At the Commonwealth Government level, the majority of disability advocacy is funded through the Department of Social Services' National Disability Advocacy Program and Disability Representative Organisations Program.

<sup>28</sup> See further: Disability Advocacy Network Australia (2022), [Independent Disability Advocacy – DANA Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#).

<sup>29</sup> First Peoples Disability Justice Consortium (April 2016), [Aboriginal and Torres Strait Islander Perspectives on the recurrent and indefinite detention of people with cognitive and psychiatric impairment](#), [https://fpdn.org.au/wp-content/uploads/2016/09/Senate-Inquiry-Indefinite-Detention-Submission\\_Final.pdf](https://fpdn.org.au/wp-content/uploads/2016/09/Senate-Inquiry-Indefinite-Detention-Submission_Final.pdf).

<sup>30</sup> For more on presentation of violence and ending restrictive practices see Women With Disabilities Australia (WWDA) (2021). [Response to Restrictive Practices Issues Paper of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#), July 2021, WWDA: Hobart, Tasmania.

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<sup>31</sup> Wadiwel, D., Spivakovsky, C, Steele, L. (2022) [Complaint mechanisms: Reporting pathways for violence, abuse, neglect and exploitation](#) - Research Report commissioned by the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. Disability Advocacy Network Australia (2022b) [Rights, Safety, Quality – Voices of Advocacy](#). People with Disability Australia (2021) [Safeguards help marginalised people with disability - Submission responding to the Disability Royal Commission's Safeguards and Quality Issues Paper](#). People with Disabilities WA (2021) [Submission – Issues Paper: Safeguards and quality](#), pp.27-30. Leadership Plus (2021), [Unsafe at any speed – A submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Re: Safeguards and Quality](#), pp.5-8.

<sup>32</sup> See further: Disability Advocacy Network Australia (2022), [Independent Disability Advocacy – DANA Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#), p.20.

<sup>33</sup> Note that Article 19 of the UN CRPD, its general comment and the recent guidelines on deinstitutionalisation provide a useful framework for services. See United Nations Committee on the Rights of with Disabilities (September 2022), [CRPD/C/5: Guidelines on deinstitutionalization, including in emergencies \(2022\)](#), United Nations, accessed 18 January 2023.

<sup>34</sup> Dickinson, H., Smith, C., Yates, S., Faulkner, A. (2022), [Taking the first step in an inclusive life – experiences of Australian early childhood education and care](#), Report prepared for Children and Young People with Disability Australia (CYDA), Melbourne, p.2.

<sup>35</sup> Australian Coalition for Inclusive Education (2020), [Driving change: A roadmap for achieving inclusive education in Australia](#), accessed 19 January 2022.

<sup>36</sup> This was noted by the United Nations Committee on the Rights of Persons with Disabilities in its concluding observations on the combined second and third reports of Australia with reference to Article 21. See United Nations (2019), [Committee on the Rights of Persons with Disabilities: Concluding observations on the combined second and third reports of Australia](#), accessed 17 January 2023.

<sup>37</sup> UN CRPD, Article 21.

<sup>38</sup> People with disability can be discriminated against based on their sexual orientation, gender identity and sex characteristics. The right to live a full life as a proud LGBTIQ+ person is the expression of multiple articles of the United Nations Convention on the Rights of Persons with Disabilities. Resources such as those by Inclusion Melbourne and Rainbow Health Victoria are designed to raise awareness about, and change practices for, LGBTIQ+ people with disability. See Parsons M, Despott N and Power R (2021). [Our Rainbow Lives](#). Melbourne: Inclusion Melbourne and Rainbow Health Victoria.

<sup>39</sup> First Peoples Disability Consortium, 2016, Aboriginal and Torres Strait Islander perspectives on the recurrent and indefinite detention of people with cognitive and psychiatric impairment: A Submission to the Senate Inquiry on the Indefinite Detention of People with Cognitive and Psychiatric Impairment.

<sup>40</sup> Two-way governance is a term used to describe how Indigenous and non-Indigenous laws are brought together in the governance systems of Indigenous organisations. Two-way governance uses both Indigenous and non-Indigenous governance practices to establish decision-making processes: <https://nativetitle.org.au/learn/pbcs-making-it-work/about-governance/two-way-governance>

<sup>41</sup> Australian Government Solicitor (2020), [Research Report: Report on the key elements of the legislative framework affecting people with disability](#), Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, p.55.

<sup>42</sup> See for example reviews and consultations by Governments of Tasmania, Victoria and Queensland. Tasmanian Government (November 2022), [New disability legislation to be drafted](#), Tasmanian Government, accessed 18 January 2023; Victorian Government (2022), [Disability Inclusion Bill Exposure Draft](#), Victorian Government, accessed 18 January 2023; Queensland Government (2022), [Reshaping the Disability Services Act 2006](#), Queensland Government, accessed 18 January 2023.

<sup>43</sup> This shift from mainstream to specialist disability context can be both intentional and unintentional. Some examples include assessments of risk and 'capacity' which can lead to responses by specialist systems (Guardianship etc) which are not required. Insufficient responses to disability by mainstream services can also lead to over-representation in other settings such as out-of-home care and justice.

<sup>44</sup> Many sources raise issues of gaps in support for people with disability, often in the interface between the National Disability Insurance Scheme (NDIS) and other mainstream service systems and also in the ability of mainstream systems to cater for the needs of people with disability, whether or

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not they are NDIS participants. See for example, support for people with disability who interact with the justice system Doyle C, Dodd S, Dickinson H, Yates S and Buick F (2022), [There's not just a gap, there's a chasm: The boundaries between Australian disability services and prisons](#), University of New South Wales and Australian Catholic University.

<sup>45</sup> These pieces of legislative and policy reform include Closing the Gap, the direction for Disability Employment Services, National Disability Advocacy Framework and initiatives such as the Multicultural Access and Equity Policy Guide.

<sup>46</sup> Committee on the Rights of Persons With Disabilities, [Concluding observations on the second and third combined reports of Australia](#), UN Doc CRPD/C/AUS/CO/2-3, 22nd sess, (15 October 2019) [5], [6], [11], [12], [13], [14], [24], [26], [39]-[41]. Committee on the Rights of Persons With Disabilities, [Concluding observations on the initial report of Australia, adopted by the Committee at its tenth session](#) (2–13 September 2013), 10th sess, 118th mtg, UN Doc CRPD/C/AUS/CO/1 (21 October 2013) [24]-[30], [32], [38], [50], [54], [56].

<sup>47</sup> United Nations (UN) Special Rapporteur on the rights of persons with disabilities (2017), [Report on the rights of persons with disabilities – Access to rights based supports for persons with disabilities](#), delivered to UN Human Rights Council, 34th Session, Agenda item 3, UN Doc A/HRC/34/58, (27 February 2017), pp.14-15, 21.

<sup>48</sup> Australian Law Reform Commission (1996), [Making Rights Count: Services for People with a Disability \(ALRC Report 79\)](#). Australian Law Reform Commission (n.d.) [Implementation](#), ALRC, accessed 18 January 2023.

<sup>49</sup> Australian Law Reform Commission (2014), [Equality, Capacity and Disability in Commonwealth Laws \(ALRC Report 124\)](#), pp.11-21.

<sup>50</sup> Australian Law Reform Commission (n.d.), [Implementation](#), ALRC, accessed 18 January 2023.

<sup>51</sup> See, for example, Recommendations 72 and 125 from the Royal Commission into Aged Care Quality and Safety about Equity for people with disability receiving aged care. Royal Commission into Aged Care Quality and Safety (2021), [Final Report – List of Recommendations](#), accessed 19 January 2023.