

Wednesday 4 September 2024

The Hon Kate Washington MP
Minister for Disability Inclusion

Re: NSW Disability Advocacy Network's collective position on the NSW Governments' response to the Disability Royal Commission Final Report

Dear Minister,

NSW Disability Advocacy organisations met in August 2024 to discuss the NSW Government's response to the Disability Royal Commission.

This letter outlines the collective concerns of the NSW Disability Advocacy sector, highlights the positive, well received sections of the Government's response, the concerns, what the sector is disappointed about and proposes clear recommendations for a new approach by Government. We are sending you this letter ahead of the Sector Roundtable taking place on 10th September to inform the discussions we will have together.

Collective thoughts of the NSW Disability Advocacy Sector

The Disability Royal Commission (DRC) report made 131 recommendations to the NSW Government. Of these, ten were accepted in full, three in part, and eighty-two were accepted in principle.

We welcome the NSW Government's commitment to an ongoing partnership with people with disabilities and its pledge to report on progress against the Royal Commission recommendations every six months. However, the overall sentiment from NSW Disability Organisations so far is that the response has been disappointing and that we would have liked to see the NSW Government accept more of the recommendations and publish clear plans for next steps and timings for implementation.

The withdrawal of the Commonwealth funded Information, Linkages, and Capacity Building (ILC) program has impacted many NSW Disability Advocacy organisations, leading to significant cuts across the sector. While we appreciate the NSW Government's rollover of the Disability Advocacy Partnership Funding (DAFP), most organisations are already operating beyond capacity, with many relying on waiting lists. We have concerns around foundational supports as there is no clarity yet about what these supports will look like. Now that the NDIS Bill passed and the NDIS is undergoing reform, we have concerns that this could leave a gap in the disability service and support market.

Considering the uncertainty and upcoming changes in the disability sector, we remain hopeful these changes will be positive and note that the NSW Government refer to the response published on 31st July 2024 as an 'initial step' in an ongoing program to drive lasting change. However, we will need more information and engagement from the government to provide reassurance to our members. NDAN members seek clearer timelines and concrete next steps in the NSW Government's response to the Royal Commission's recommendations. There are existing services and supports that can be harnessed so the Government doesn't have to start from scratch.

Health

Equity of access to health continues to be a problem area for many people with disability in NSW. We welcome that the NSW Government recognises that people with disability have a right to receive high-quality health care, that adaptations and supports may need to be tailored to individual needs and that access to information and communications should be on an equal basis with those without disabilities. However, we would have liked the NSW Government's response to better reflect the intersectionality between health and disability.

Restrictive Practices

We welcome the NSW Government's commitment to reducing the use of restrictive practices and, where possible, eliminating the use of restrictive practices against people with disability. However, recommendation 6.35 was 'subject to further consideration'. While the government has accepted the need for a review of legislation and enhanced data collection, current measures do not address the immediate use of these practices.

NDAN recommends that the government set clear timelines for defining and regulating restrictive practices, limiting their use and by introducing criminal penalties for abuse of these practices against people with disabilities. We would like to see more data on restrictive practices and better training practices in trauma-informed care for professionals working in areas where there is seclusion and isolation practices in operation.

Housing

Housing is a key issue affecting people with disabilities in NSW, as identified by NDAN. We welcome that the NSW Government is committed to ending 'no grounds' terminations in our state and look forward to seeing this legislation tabled in the NSW Parliament. However, the NSW Government has not yet committed to adopting the National Construction Code Livable Housing Design Standards, which would be a systemic solution to improving accessible housing across the state. Both the DRC and the NDIS Review Report recommended that the NSW Government sign the National Construction Code, and the failure to do beyond public housing so is an ongoing missed opportunity to radically improve accessible housing options, at a time when governments are investing heavily in building new homes.

Public Service Employment Targets

According to the 2021 Census and the ABS's 2018 Disability, Ageing and Carers Survey the employment rate for people with disabilities in NSW is about 47.8%, compared to around 79.4% for people without disabilities. We welcome the NSW Government's acknowledgement that public services have a crucial role as leaders in modelling best practice inclusion that can positively influence other employers and workplaces, especially since the NSW Government is the largest employer in Australia and NSW.

However, recommendation 7.18 was 'Subject to Further Consideration' and NDAN members would have liked the NSW Government to increase recruitment targets for people with disabilities in the public service and outline plans to meet this target in addition to disaggregated targets. Increasing the meaningful employment of people with disabilities will yield economic benefits and support more people to achieve their aspirations.

Disability Rights Act

We welcome that the NSW Government is strongly committed to upholding the rights of people with disability and is 'closely considering recommendations to achieve this'. We note that recommendations made by the Royal Commission and the NDIS Review are being considered alongside the recently published findings and recommendations of the Parliamentary Joint Committee on Human Rights' Inquiry into Australia's Human Rights Framework.

NDAN also acknowledges that a Disability Rights Act is a Commonwealth issue. However, we would have liked to see the NSW Government take a strong stance in favour of this recommendation (or a recommendation in favour of human rights legislation more broadly). A Disability Rights Act or Human Rights Act could help uphold and invest in the rights of people with disabilities and create significant systemic change across society.

Guardianship Reform

Recommendations related to guardianship reform and supported decision-making are under further consideration, and some NDAN members have participated in the Guardianship Reform Working Group. We welcome the commitment that advice of the Working Group will be used to support further consideration of relevant recommendations. However, there is concern about the lack of a firm commitment to this reform, and further clarification on the government's intentions and accompanying timelines is requested.

Accessible Information

We welcome the NSW Government accepting the recommendation for accessible information yet note this is only in principle. NDAN seeks clarity on why it was not accepted in full and would like to see more detail on how this recommendation will be implemented.

Education

Getting education right for people with disabilities is key to supporting people with disabilities to thrive in society. Education is key to securing employment, a home and fulfilling aspirations.

We note that the NSW Government is 'committed to inclusive education' and collaborating with other governments to develop a National Roadmap to Inclusive Education for students with disability. We wish to stress that co design with people with disability and advocates needs to be a priority here to understand the nuances of education requirements across different cohorts of people with disabilities.

Regional and remote communities

Consideration of the additional concerns regarding the challenges faced by regional and remote communities in New South Wales, particularly First Nations communities, where access to essential supports for people with disability is already severely limited and increasingly at risk. The complex issues surrounding disability housing, health services, restrictive practices, and access to crucial information are further exacerbated in these areas, highlighting the urgent need for these to be prioritised, in these areas. Ensuring equitable access to supports and addressing these barriers is critical to ensuring quality of life for people with disability in these communities.

Next Steps

NDAN understands that the term "accepted in principle" does not imply rejection but indicates consideration of alternate implementation strategies. However, the lack of detail about these alternate strategies and how they differ from the DRC's recommendations is a concern. NDAN requests a clearer breakdown of the government's plans moving forward.

NDAN's collective recommendations for next steps following the NSW Government's response to the DRC report.

The NDAN are subject matter experts in disability both professionally and through personal lived experience. NDAN members want to support the Minister for Disability Inclusion to represent the interests of the people our organisations support.

NDAN agreed to the following recommendations each of which we will actively support the Minister to achieve. We want to work as a team with the Minister by providing advice, guidance and support.

Recommendation 1 – Apply to NSW Treasury for additional resources.

In response to the DRC (and NDIS Review, Foundational Support Strategy and the review of the Australian Disability Strategy) we can support the Minister for Disability Inclusion by ensuring the Minister has the evidence needed to apply for additional resources from NSW Treasury where agreed.

Recommendation 2 – A structured approach to consultation and co-design of disability policy and services.

The disability advocacy sector would like to be involved in developing the Government's approach to consultation and co-design. It appears that the government and advocacy sector define these terms differently.

The disability advocacy sector can help the Government draft a consultation and co-design plan that provides a structured way forward for the government. This would enhance policy and services for people with disabilities and create better outcomes for everyone.

We want to ensure that people with disability are given choice and control over their own lives. People in the disability community are continually stuck in a cycle of complaints without seeing systemic changes and we want to work with you to change this and take this once in a lifetime opportunity to transform the lives of people with disabilities in NSW for the better.

We look forward to working with you and discussing these issues as the Sector Roundtable on 10th September 2024.

Kind regards,



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