



Disability Council NSW

**Response to the NSW Disability
Inclusion Plan Discussion Paper**

January 2015

General comments

Council appreciates the opportunity to provide input to the development of a NSW Disability Inclusion Plan (DIP). The DIP is of critical importance to people with disability as it is the key mechanism by which the NSW Government will drive improvements to programs and services that will ultimately enable a significant difference to people's quality of life. The DIP sets the tone and objectives for the Disability Inclusion Action Plans (DIAPs) and will also influence the community and private sector as partners in creating a more inclusive society.

Council believes the discussion paper falls short on meeting these expectations.

The biggest concern Council has with the paper is that there are a number of essential components which are missing or unclear. This puts the Government at risk of creating an impression that it does not take the DIP seriously. Specifically the elements which need focus are:

- 1 The vision and high level outcomes the DIP aims to deliver are not clear.
- 2 Details of how the DIP will be monitored and evaluated, which has a serious impact on the creditability of the DIP and Government's commitment to inclusion, should be defined.
- 3 Timeframes for the potential actions need to be added. A large number of actions are too nebulous such as:

Use the available levers and influence of government to encourage organisations dealing with the NSW Government to adopt inclusive principles and practices such as those outlined in the NSW Disability Inclusion Act. (p9 Action 3)

- 4 There is no commitment of resource to support the implementation of meaningful changes.
- 5 The linkage between the NSW Implementation Plan and the DIP is unclear. The discussion paper states that the DIP will replace the Implementation plan. It is unclear what has been achieved by the Implementation Plan which has a timeframe for 2012-2014 and what will be carried over to the DIP or DIAPs.
- 6 It is unclear that what benchmarks will be used to measure achievements.
- 7 There is no clarity in the governance structure that gives confidence that the objectives of the DIP are under proper stewardship within the NSW Government. It is also unclear how the evolving Plan and its progress report will be accessible to the general community and importantly to people with disability with various needs and circumstances.

Setting a vision

Council believes that the DIP is the place for a grand statement of intent by the Government that it will fight for, implement and defend a society which is inclusive of **all** its citizens. Such a statement is in itself an act of leadership. It also holds

government and its agencies to account for their subsequent actions, or failure to act. Such a statement is missing from the discussion paper.

The DIP could also be a valuable tool to outline overall parameters for progress on DIAPs. As an example, an overarching aim to have all local council offices accessible by 2020. The DIP could be used to outline an end-point vision for everyday experience in an inclusive society.

Council is concerned that the discussion paper contains no narrative about where the DIP has come from and next steps. For example, a statement on what an inclusive NSW will look like and how people with disability are likely to experience life in NSW in 2018 and beyond would be helpful.

Monitoring and accountability

The biggest failure of the discussion paper is that it does not address how Government will carry out the three most critical aspects of the action planning process: monitoring, reporting and being accountable. It is deeply disturbing that the discussion paper attributes all three roles to the Disability Council, which is an advisory group consists of up to 12 individuals. Even though the Council is supported by a small Secretariat it is thoroughly unfeasible, and a misinterpretation of Council's role under the legislation, for an advisory body to monitor the progress of the entire NSW Government. It seems that the Government is 'shirking' its responsibility for these important tasks. Council's concerns are shared by others who attended the consultation workshops and community groups Council has spoken to, who see this as Government 'buck passing'.

There is no doubt that Council will continue to play a role in advising Government on inclusion policy, including on the content and implementation of the DIP and DIAPs in accordance with its functions under the *Disability Inclusion Act*. However, this in no way abrogates the need for FACS to develop a feasible governance structure for monitoring the DIP.

Implementation

Council has made a number of requests for a copy of the Implementation Plan Status Report but this has not yet been provided. The weblink to a status report on the DIP webpage doesn't work despite the fact that FACS has been made aware of this. Council is concerned that there is a lack of transparency in the way the Implementation Plan has been tracked. It is unclear how this will be addressed in terms of reporting on the DIP and DIAPs.

The discussion paper reads as if this DIP is only relevant for 4 years until responsibility for individualised funding is transitioned to the Commonwealth. The diagram on page 6 gives the same impression. The paper is fairly ambiguous in terms of whether the NSW Government has a long term commitment to the DIP. There is also no linkage made between the DIP and the Government's long term strategies or plans.

Council would like to ensure that any change made to the DIP, as it will be a "dynamic" living document, only happens after consultation with people with

disability. Council does not want to see commitments removed because they become hard to do.

Broader focuses and clearer language

The paper comments on an evolving disability landscape including the transition to the National Disability Insurance Scheme (NDIS). Council believes that it should be made clear that inclusion planning is about NSW Government commitments to make mainstream services inclusive and it is essential to emphasise this commitment regardless of the NDIS.

Council has no particular objection to the focus areas. However, they should incorporate the six outcome areas of the National Disability Strategy (NDS). The NDS is Australia's long term strategy to meet its obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and the NSW Government is bound by the same obligations. Services such as education, health, housing and justice are essential areas under the control of government and they are the indicators commonly used to measure quality of life. Council believes that these outcome areas are not optional and the NSW Government should not step away from the UNCRPD by considering these areas are no longer its responsibility and/or its priority.

Further, Council is concerned that the tone of the paper is too bureaucratic. It would be a welcome change if the DIP can 'walk the talk' and be written in a way that is accessible for everyone. This means each action should be clearly explained in terms of why, what, how, when and who (responsible individuals or bodies).

Consultation

It is crucial that consultation on the DIP be the benchmark for consultations in an inclusive community. FACS as the lead agency responsible for developing the DIP and DIAP guidelines is expected to walk the talk and demonstrate best practice. Council is deeply concerned of the consultation process on the discussion paper. It was poorly planned, rushed, inequitable and ad hoc. Members who attended the public consultations observed that there was not enough time for meaningful discussion which significantly limited the value of the process. Further, Council was disappointed that the discussion paper was not provided in alternative formats or community languages, and that consultations in regional areas were not advertised.

It is disappointing that such a process was allowed to eventuate despite Council's ongoing advice to FACS on the importance of proper consultation with the community. Similar criticism was raised by people with disability and community groups in relation to the consultation process on the NDS NSW Implementation Plan. Some of which were contained in Council's recent Community Feedback Report and a copy was given to FACS in the hope that it would inform the DIP process. The negative reaction FACS received during the consultation period was foreseeable, and could've been avoided, given past experiences and external advice. Council commends the extension of timeframe in response to feedback. However, mechanisms should be put in place to ensure the same mistakes are not repeated in future.

Focus areas and potential actions

Leading the way

Council is unclear in what way the potential actions show leadership and what practical changes will they bring. People with disability are eager for real actions and less talk. For example, there is existing research available to support the economic benefits of greater inclusion of people with disability. Instead of doing more research, perhaps the DIP can focus on more practical strategies of using what we know to affect change.

Some of the actions are vague in terms of wording. For example;

Ensure appropriate checks and measures are in place to report on the progress of implementation and respond to these reviews in a timely manner.

It is unclear what constitutes appropriate and what is considered a timely manner. It's impossible to measure progress and hold anyone accountable to this action.

Council has a strong objection to public funds being used by Government to purchase goods and services from Australian Disability Employment (ADE) services which are currently practicing unlawful discrimination and exploitation of people with disability. Council would like to see the NSW Government take leadership and stop purchasing from ADE until people with disability receive fair pay for their work.

Council would like to see the DIP identifying more pressure points for influencing the private sector. Such pressure points could include insisting contractors for government and local councils have a disability inclusion policy and demonstrated commitment to employment of people with disability; or not accepting housing development applications without 20% universal design and 10% low-cost housing included.

Liveable communities

Greater clarity and wording is needed to demonstrate that although there is commonality of needs among people with disability, older people and carers, significant differences also exist and at times these groups have conflicting interests. For example, the mobility parking scheme established to provide people with disability equitable access is at risk of being modified to meet the needs of older people who are now the vast majority of permit holders. This may lead to an increased disadvantage for people with disability, including loss of employment for those who relying on the scheme for accessing work.

The needs of people with disability are complex, diverse and not static. The needs of people with disability also change in different life stages. For example, a liveable community for people with disability would include early childhood intervention, accessible schools, inclusive employment, support for developing relationships, sex and sexual expression, parenting, behavioural support and diversion programs for people encountering the justice system, just to list a few. Council would not want to see these areas ignored as they are not shared by other population groups.

Council would like to see the full adoption of universal design in planning and building included in the DIP as an action with clear timeframes to assess progress. This allows the Government and local councils to show leadership and get buy in from the private sector. Most legislation and standards required to support this are already in place but have historically lacked focus and support

Council would like to see a combination of short, medium and long term strategies. It is also unclear how will people with disability be involved in identifying local strategies, driving priorities and designing pilots.

The DIP is also the place for strong Government commitments on significant and complex policy issues. For example, under liveable communities government can look at addressing the housing needs of people with disability who are currently in group accommodation. The NDIS will not cover housing costs which means people with disability will be forced to remain in congregated living environments. This goes against the intent of achieving inclusion for all.

Employment

Council supports the inclusion of employment as a focus area. However, the potential actions do not match the need for practical strategies. The Government has spent many years examining and identifying the extent of the problem, people with disability are waiting to hear what the Government will **do** to address it. Some of the practical suggestions Government might like to consider include:

1. Introducing a quota for employment of people with disability in the Government Service;
2. Implementing affirmative action policies and practices in recruitment;
3. Avoiding assessment tools that disadvantage people with disability such as online cognitive testing;
4. Mandatory disability awareness training for recruitment managers; and
5. Guaranteeing applicants with disability an interview as suggested in the Public Service Commission's recently released report "Disabling the Barriers".

Systems and processes

In general, Council feels that the that potential actions in the discussion paper fall short of what is needed to adequately address the inclusion issues which have identified by people with disability. Many of the barriers should be well understood by Government and the focus needs to be on actions and outcomes.

For example, in the area of health, the Australian Institute of Health and Welfare (AIHW) report *Health of Australians with disability: health status and risk factors*¹ identified that almost half (46%) of people aged 15–64 years with severe or profound disability reported poor or fair health, compared to 5% for those without disability. The most recent report *Deaths in Care: people with disabilities Vol.2* (May 2013)² noted that just over one-quarter of the people in disability services and half of those

¹ Health of Australians with disability: health status and risk factors (Bulletin 83: November 2010) <http://www.aihw.gov.au/publication-detail/?id=6442472401>.

² <http://www.ombo.nsw.gov.au/news-and-publications/publications/annual-reports/reviewable-deaths-vol-1/report-of-reviewable-deaths-in-2010-and-2011-volume-2-deaths-of-people-with-disabilities-in-care>

in licensed boarding houses with recurrent respiratory illness who died in 2010 and 2011 had **not** seen a respiratory specialist at any point.

The significant links between disability, poor health and chronic disease reported by the AIHW and the NSW Ombudsman suggest failures within mainstream government, community and specialist systems in terms of addressing the health needs of people with disability. Australia has an obligation under the UNCRPD to improve the health outcomes of people with disability and this can not be done solely by the Ministry of Health in their DIAP. This calls for a clear objective in the DIP to address barriers in systems and processes that prevent people with disability equitable access to healthcare.

Priority populations

In the introduction section, the discussion paper states that it was developed based on past consultations. However, sections relating to the specific population groups showed very little evidence of consultation. There is limited appreciation of their unique issues and how they connect to the broader social justice and equity context. Calling these groups 'priority groups' is ironic as it's clear that the needs of these groups are being overlooked yet again which perpetuates their continual disadvantage.

What is common to these groups is not being given the same level of consideration as their counterparts. For example, women with disability are 37.3 per cent more likely to experience violence from a partner than women without disability and there is a lack of accessible refuge for women with disability escaping from domestic violence; three out of four people from CALD backgrounds with disability miss out on accessing disability support simply because of their cultural and linguistic backgrounds; similar barriers exist in the Aboriginal communities; and many children with disability are excluded from a school education and some children remain in respite centres long term due to lack of in home care options. What these groups need is a commitment to overturn the past injustice and discrimination and purposeful actions to enforce their rights so that there is a more level playing field.

Council would like to see actions for these groups integrated in each of the focus areas. There should be short, medium and long term goals established for the NSW Government to work towards. For example:

1. Ensure a proportion of the liveable communities projects target these disadvantaged groups.
2. Encourage funded organisations to adopt a Community Language Allowance Scheme through funding agreements.
3. Take actions against forced and/or unlawful sterilisation of women with disability.
4. Eliminate prejudice against women with disability's right to motherhood
5. Ensure parenting support programs are available to parents with disability.
6. Ensure all women's refuges are accessible.

It's essential to recognise that these groups also have rights under other international conventions or government policies. Council would like to see strong linkages established between the DIP and obligations and initiatives under the

Convention on the Rights of the Child, Convention on the Elimination of all Forms of Discrimination against Women and the NSW Government's Multicultural Policies and Services Program.