



Queensland Advocacy Incorporated

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

Systems and Individual Advocacy for vulnerable People with Disability

Promoting Inclusion

Submission by Queensland Advocacy Incorporated

Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

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QAI endorses the objectives, and promotes the principles, of the Convention on the Rights of Persons with Disabilities.

Patron: His Excellency The Honorable Paul de Jersey AC

About Queensland Advocacy Incorporated

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

QAI has been engaged in systems advocacy for over thirty years, advocating for change through campaigns directed at attitudinal, law and policy reform. QAI has also supported the development of a range of advocacy initiatives in this state. For over a decade, QAI has provided highly in-demand individual advocacy services: the Human Rights Legal Service, the Mental Health Legal Service and Justice Support Program and more recently, the National Disability Insurance Scheme Appeals Support Program, Decision Support Pilot Program, Disability Royal Commission Advocacy Program, Education Advocacy Service and Social Work Service. Our individual advocacy experience informs our understanding and prioritisation of systemic advocacy issues.

QAI's recommendations

QAI recommends:

- Inclusion is about accessing the things that people without disability take for granted, such as having a home to live in, a job, access to healthcare, access to education and a chance to enjoy the company of friends and family and participate in recreational activities. It is more than merely being present in the community. It is about having autonomy, being respected, being valued, having opportunities to contribute to society in meaningful ways and having a sense of belonging.
- Inclusion is the realisation of these goals in an environment that is fully accessible and accommodating of the needs of all people with disability. It requires the absence of barriers to inclusion that are external to the individual and their disability.
- Adhering to Australia's legal obligations under the Convention on the Rights of Persons with Disabilities (CRPD) is essential, with learnings from the universal periodic review, shadow reporting and general comment mechanisms all providing insight into areas where Australia's implementation is presently lacking.
- The (CRPD) requires States Parties to achieve this through universal design, the elimination of obstacles to accessibility, the provision of reasonable accommodation and assistive technology, the elimination of discrimination and equal recognition before



the law.

- The CRPD also necessitates the inclusion of people with disability at the policy-making level, requiring their active participation in public life and requiring they be consulted in the development, implementation and monitoring processes of the Convention and related domestic policies.
- If implemented properly, the NDIS can offer some people with disability (approximately the 10% of people with disability who are eligible for the NDIS) a way to effectively participate in their community. Participants can enjoy a life characterised by autonomy, choice, control and a sense of value and belonging that are integral to inclusion, and which mitigate against the risks of violence, abuse, neglect and exploitation.
- Targeted measures designed to change attitudes towards people with disability are required.
- Governments should reconsider the assumptions, values and beliefs underlying their current policies. Governments must role model the self-reflection required at all levels of the community if government, non-government and private sector organisations, together with individuals, families and communities, are to embrace people with disability and facilitate their genuine inclusion.
- Meaningful action is needed. Dismantling the policies of segregation in education, employment and housing is necessary and signifies the level of reform that is required. Funding a sustainable advocacy sector; introducing a redress scheme following the Disability Royal Commission; implementing the National Preventative Mechanism under the Optional Protocol to the Convention Against Torture (OPCAT) with dedicated legislation and mandatory reporting obligations; and continued education and training on supported decision-making will all contribute to the paradigm shift that is required to change attitudes, alter practices and ultimately facilitate the inclusion of all people with disability in our society.

Introduction

QAI welcomes the Royal Commission's commitment to examining what can be done to create a more inclusive society for people with disability. As a human rights organisation dedicated to promoting and advancing the rights and interests of the most vulnerable Queenslanders with disability, QAI considers an inclusive society to be an essential prerequisite for people with disability to enjoy their human rights and fundamental freedoms. Indeed its realisation lies at the very core of our work. Whilst progress has undeniably been made over many decades, with deinstitutionalisation and Australia's ratification of the Convention on the Rights of Persons with



Disabilities (CRPD) constituting significant milestones, many social, attitudinal and environmental barriers that exclude people with disability remain. People with disability continue to suffer violence, abuse and neglect in closed settings where they are physically removed from the wider community, and continue to experience prejudice and discrimination as a result of the negative attitudes fostered by ongoing policies of segregation. This submission will argue that concerted action to dismantle remaining policies of segregation is required at the policy level if we are to achieve a society that is not just physically but ideologically inclusive of people of all abilities. Despite the rising dominance of the social model of disability, remnants of the medical model linger in many contemporary laws, policies and practices. We are still to experience the social transformation that is the promise of the CRPD¹, yet its contents provide the blueprint we need for promoting the inclusion of people with disability and it must therefore be fully implemented if we are to realise its full potential.

What is inclusion?

People with lived experience of disability have described inclusion as living in a society ‘where we have the confidence and self-esteem to speak our mind and have the opportunities that everyone has’.² Inclusion is about accessing the things that people without disability take for granted, such as having a home to live in, a job, access to healthcare, access to education and a chance to enjoy the company of friends and family and participate in recreational activities.³ This is echoed by the United Nations, who describe inclusive environments as those in which ‘persons with disabilities are empowered to live independently, are integrated in their community, access information and participate in learning, work and social activities’.⁴ It is more than merely being present in the community. It is about having autonomy, being respected, being valued, having opportunities to contribute to society in meaningful ways and having a sense of belonging.⁵ It is grounded in the notion that impairment is a normal part of human diversity, and its presence does not diminish an individual’s inherent dignity nor their entitlement to human rights and fundamental freedoms.⁶

Central to promoting inclusion is the concept of accessibility. According to the United Nations, ‘to be considered accessible and therefore inclusive, a place, space, item or service needs to be

¹ Kayess, R. & Sands, T. (2020) *Convention on the Rights of Persons with Disabilities: Shining a light on Social Transformation*. Sydney: UNSW Social Policy Research Centre, p9

² Shut Out: The Experience of People with Disabilities and their Families in Australia (2009) https://www.dss.gov.au/sites/default/files/documents/05_2012/nds_report.pdf p iv

³ Ibid, p9

⁴ Promoting inclusive environments for the full implementation of the Convention on the Rights of Persons with Disabilities – Note by the Secretariat, United Nations (2020); CRPD/CSP/2020/4 - E - CRPD/CSP/2020/4 -Desktop (undocs.org)_p2

⁵ Parliament of Victoria, Family and Community Development Committee, *Inquiry into Social Inclusion and Victorians with Disability*, Final Report (September 2014) p vi

⁶ Kayess, R. & Sands, T. (2020) *Convention on the Rights of Persons with Disabilities: Shining a light on Social Transformation*. Sydney: UNSW Social Policy Research Centre



usable by persons with disabilities'.⁷ In other words, there must be a 'global ease of use of the physical and technological environment and clarity of communications, both in their form and their content'.⁸ Various barriers make environments inaccessible and prevent people with disability from participating equally in society. The diverse needs of people with disability are such that barriers extend beyond physical limitations of the environment and include considerations such as the level of noise, lighting or crowding that might present challenges for people with intellectual, cognitive or psychosocial disability. Similarly, barriers such as complex layout and navigations can challenge some people with disability accessing information technology.

Inclusion is therefore the realisation of these goals in an environment that is fully accessible and accommodating of the needs of all people with disability. It requires the absence of barriers to inclusion that are external to the individual and their disability. It reflects the widely endorsed social model of disability that considers 'impairment' to be a personal characteristic and conceptualises 'disability' as a social construct caused by inaccessible environments that result in inequality, discrimination, and segregation of people with disability.⁹

The right to inclusion is now enshrined in Article 19 of the CRPD which recognises the equal right of all persons with disabilities to live in the community, with choices equal to others.¹⁰ This includes choosing their place of residence and having access to a range of support services that are responsive to their needs. The Convention requires States Parties to achieve this through 'universal design, the elimination of obstacles to accessibility, the provision of reasonable accommodation and assistive technology, the elimination of discrimination and equal recognition before the law'.¹¹ It also necessitates the inclusion of people with disability at the policy-making level, requiring their active participation in public life and requiring they be consulted in the development, implementation and monitoring processes of the Convention and related domestic policies.¹² Australia can therefore understand, promote and achieve the full inclusion of people with disability by adhering to the principles of the social model of disability and by fully implementing the requirements of the CRPD.

⁷ Promoting inclusive environments for the full implementation of the Convention on the Rights of Persons with Disabilities – Note by the Secretariat, United Nations (2020); CRPD/CSP/2020/4 - E - CRPD/CSP/2020/4 -Desktop (undocs.org)_p 4

⁸ National Employment Services Association, as referenced by Community Affairs References Committee (2017) *Delivery of Outcomes under the National Disability Strategy 2010-20 to build inclusive accessible communities*; https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/AccessibleCommunities/Report p7

⁹ Kayess, R. & Sands, T. (2020) *Convention on the Rights of Persons with Disabilities: Shining a light on Social Transformation*. Sydney: UNSW Social Policy Research Centre

¹⁰ *Convention on the Rights of Persons with Disabilities*; Article 19

¹¹ Promoting inclusive environments for the full implementation of the Convention on the Rights of Persons with Disabilities – Note by the Secretariat, United Nations (2020) CRPD/CSP/2020/4 - E - CRPD/CSP/2020/4 -Desktop (undocs.org) p 2

¹² *Convention on the Rights of Persons with Disabilities*; Article 33, Article 4



What are the barriers to an inclusive society for people with disability?

Despite improvements linked to the National Disability Strategy and National Disability Insurance Scheme (NDIS), exclusionary practices are still very much evident today, covering ‘every aspect of civil, political, economic, social and cultural rights, including education, health, housing, transport, family life, culture and leisure, justice, political participation and the exercise of legal capacity’.¹³

To understand how people with disability are excluded from society, QAI adopts a Social Role Valorisation (SRV) framework to conceptualise the devaluation and ongoing marginalisation of people with disability. According to SRV, people with disability are excluded and denied access to a ‘good, ordinary life’ (a life full of richness and meaning) because they hold a devalued status. In other words, they have characteristics linked to their impairment that are not typically valued by the wider community, such as being dependent on others or looking different, and are consequently perceived negatively. These negative perceptions influence how people with disability are treated, with stereotypes leading to their rejection and segregation from the wider community. These perceptions are then reinforced through language and imagery and by people with disability internalising the messages around them and adopting the roles they are given.¹⁴ This can occur even within disability service settings, where people may be grouped together, branded, have reduced autonomy or forced to engage in activities that contribute to rather than counteract their devalued status.¹⁵ These harmful experiences, referred to as ‘wounds’, are more likely to occur to people with a devalued status and will have greater impact on people with a devalued status due to their pre-existing vulnerability and likely absence of protective factors that mitigate against the impact of negative life experiences. SRV therefore proposes that to support the inclusion and acquisition of a ‘good, ordinary’ life for people with disability, and to change the negative perceptions that influence how they are treated, people with disability must be supported to acquire socially valued roles. That is, acquire the identity, expectations, status and respect that accompanies socially valued roles, using ‘culturally valued means’. This is achieved by enhancing the competency and imagery of the person within the role by using means that are used by people with a valued status and through conscious adherence to certain ‘role communicators’.¹⁶ This will then lead to greater societal participation and acquisition of valued relationships and ultimately the inclusion of people with disability within our society.

¹³ Kayess, R. & Sands, T. (2020) *Convention on the Rights of Persons with Disabilities: Shining a light on Social Transformation*. Sydney: UNSW Social Policy Research Centre, p 21

¹⁴ Sherwin, J (2021) *Submission in response to the rights and attitudes paper, Royal Commission into violence, abuse, neglect and exploitation of people with disability*;

<https://disability.royalcommission.gov.au/system/files/submission/ISS.001.00211.PDF>

¹⁵ Armstrong, J (2020) *Submission to Royal Commission into Violence, Abuse, Neglect and the Exploitation of People with Disability*;

http://www.asrva.org.au/uploads/1/2/6/7/126742284/johm_armstrong_submission_to_royal_commission_on_abuse.pdf

¹⁶ Osburn, J (2006) *An Overview of Social Role Valorization Theory*. The SRV Journal, 1(1), 4-13



People with disability can acquire a devalued status from a very young age. **Education** is the first formal introduction a child has to a society that either embraces difference and welcomes people with disability through models of inclusion or marginalises people with disability and differentiates people based upon diagnoses. The right to an inclusive education in Article 24 of the CRPD acknowledges the vital importance of education to the full development of human potential and a person's sense of dignity and self-worth. Education settings that segregate students with disability perpetuate negative stereotypes, lead to poorer educational outcomes for students with disability, condition students with disability for a lifetime of exclusion and leave people with disability ill-equipped for adult life. They deny students with disability the opportunity to interact with peers who live without disability, denying the chance to learn skills from them, develop social connections, form friendships and achieve the sense of belonging that is the very essence of inclusion. Segregated educational settings also deny students without disability the many benefits that learning in a diverse environment alongside peers with disability bring.

If we are to achieve the attitudinal change required to promote the inclusion of people with disability, we must ensure disability is normalised as part of the human condition. This must occur during early childhood, where societal values are learned. QAI therefore considers that promoting the inclusion of people with disability ultimately requires the disbandment of the segregated model of education. The Australian Collective for Inclusive Education (ACIE) has produced a roadmap for achieving inclusive education in Australia, including a step-by-step approach to phasing out segregated education.¹⁷ The roadmap outlines six core pillars where efforts for change should be focused and provides a comprehensive list of short, medium and long-term outcome measures that will track progress over a ten-year period. As a member of ACIE, QAI endorses the roadmap and recommends the Royal Commission adopt its recommendations.

The exclusion of people with disability continues after they leave the education system and begin searching for work. Specifically, Australian Disability Enterprises (ADEs) and productivity-based wage assessment tools constitute considerable barriers to the full inclusion and participation of people with disability in the **open workforce**. These archaic institutional approaches perpetuate low expectations of and for people with disability and ignore their capacity to positively contribute to the workplace. While ADEs may have had benevolent origins, in reality ADEs function as day centres for people with disability in areas where there are limited other supports or services. Theoretically, ADEs operate as training centres that move employees with disability into open employment. However, this theory is not reflected in reality.¹⁸ In some instances, ADEs are highly productive and compete on the open market against other businesses yet continue to pay inadequate wages to their employees with disabilities. Rather than incentivising people with disability into the workforce, ADEs and the supported wage system demean the contribution of

¹⁷ Australian Coalition for Inclusive Education, *Driving change: A Roadmap for achieving inclusive education in Australia*, February 2021

¹⁸ Australian Human Rights Commission (2016) *Willing to Work: National Inquiry into Employment Discrimination against Older Australians and Australians with Disability*, p242



employees with disability through grossly insufficient remuneration and the confinement of workers to a small and undervalued sector of the labour market.

QAI considers that the retention of segregated employment settings will sustain harmful stereotypes about people with disability and preconceived notions of their capabilities. Research consistently demonstrates that a lack of familiarity with people with disability causes prejudicial attitudes regarding their skills and abilities.¹⁹ Maintaining separate places of employment for people with and without disability will therefore hinder the success of efforts to improve community attitudes. The operation of ADEs and supported wage schemes also violates a person with disability's right to work on an equal basis with others, as enshrined under Article 27 of the CRPD. The psychological hurt inflicted on people with disability by schemes that openly discriminate and literally undervalue their contribution through inferior remuneration must be addressed.

Despite formal policies of deinstitutionalisation, many people with disability continue to live in segregated settings and remain excluded from mainstream housing.²⁰ **Group homes** accommodate around 17,000 people in Australia. QAI refers to group or congregated housing as any place where a person is forced to share their care with another person where this is not the decision of the person with disability. This includes large residential facilities, boarding houses, hostels, long-stay health facilities, small group homes or Supported Independent Living (SIL) arrangements under the NDIS. People with disability living in these settings are required to share much of their lives, including living space, communal bathrooms, communal living areas and/or their personal supports. Although the *Disability Services Act 2006* (Qld) requires the separation of housing from service provision,²¹ the congregation of people with disability in substandard facilities with inadequate supports is still common.

New language aimed at increasing the appeal of congregated living has not altered the reality of group homes. 'Supported Independent Living' and 'Specialist Disability Accommodation' are new terms under the NDIS designed to positively rebrand institutionalised living arrangements. Yet the fresh labelling has not heralded a new approach to shared living arrangements, in which practices of abuse, exploitation and neglect, in addition to the denial of choice and control, have perpetuated. This is the case notwithstanding the stated vision of the NDIS to return choice and control to people with disability, and the (predominantly retrospective) oversight provided by the NDIS Quality and Safeguards Commission.

Removing the right to live how, where, and with whom a person chooses exacerbates the exclusion, power imbalance and inequitable life experiences of vulnerable people with disability. Yet this right is denied too often. Common practices of government departments, clinicians and

¹⁹ Kantar Public (2017) 'Building Employer Demand: Literature Review';

https://www.dss.gov.au/sites/default/files/documents/03_2021/building-employer-demand-literature-review.pdf

²⁰ Weisel, I & Bigby, C (2015) *Movement on Shifting Sands: Deinstitutionalisation and People with Intellectual Disability in Australia, 1974–2014*, Urban Policy and Research, 33:2, 178-194

²¹ *Disability Services Act 2006* (Qld), s28



service providers deem instead that a person's level of support needs should be the determining factor of where or how a person should live. This is typically applied to people who are labelled as having 'complex' support needs, when many of the complexities may be imposed by the people and systems around them who fail to understand or support the person adequately.

Long waiting lists for public housing, unaffordable private rentals, inaccessible buildings and a lack of appropriate individualised support options forces people to continue residing in congregated housing due to insufficient alternatives. These barriers must therefore be addressed if people with disability are to be included in our community and their right to live in a home of their own, in a location of their choice and with whom they wish to reside, to be realised.

A person with disability may also experience exclusion within the **health setting**. Paternalistic practices of healthcare professionals continue to view people with disability as deviating from 'bodily, cognitive and mental norms that require care, treatment and protection'.²² Whilst optimising health and wellbeing is important, practices that problematise 'differences' that need to be 'cured' remain prevalent and can occur in situations where the person is not included in decision-making. For example, forced and coerced sterilisation, the use of chemical restraint and the prescribing of anti-libidinal medication, all of which take place without the informed consent of the person with disability.

A healthcare provider's ability to communicate effectively and understand the diverse needs of people with disability is integral to the inclusion of people with disability in the health setting. The extent to which a person is listened to, and their views and preferences incorporated into their healthcare, is critical. Whether the person has choice and control over who their healthcare provider is, and whether the healthcare professional is alert to power imbalances between patients and support workers who may be speaking on behalf of the person with disability, are also important considerations. They can all constitute barriers to the inclusion of people with disability in health settings but equally illuminate where efforts should be focused to reduce the abuse, neglect and exploitation of vulnerable people in these settings. When people with disability have autonomy over decision-making regarding their healthcare, greater understanding of and compliance with treatment plans occur, resulting in optimised health and wellbeing.

Barriers to exercising autonomy in decision-making and **legal capacity** are experienced by people with disability in multiple settings. Under Article 12 of the CRPD, people with disability have a right to equal recognition before the law through supported decision-making, a right that is fundamental to the realisation of inclusive communities.²³ However, legislation such as the *Guardianship and Administration Act 2000* (Qld) does not compel supported decision-making and continues to facilitate a substitute decision-making model. A determination that an individual lacks legal capacity has significant consequences on their life, including their right to initiate,

²² Kayess, R. & Sands, T. (2020) *Convention on the Rights of Persons with Disabilities: Shining a light on Social Transformation*. Sydney: UNSW Social Policy Research Centre, p1

²³ Promoting inclusive environments for the full implementation of the Convention on the Rights of Persons with Disabilities – Note by the Secretariat, United Nations (2020) CRPD/CSP/2020/4 - E - CRPD/CSP/2020/4 -Desktop (undocs.org)



pursue, and defend, legal action. QAI is aware of various practices in the community that frequently deny this right. For example, the rising number of applications for guardianship and administration appointments to Queensland's Civil and Administrative Tribunal (QCAT) by NDIS service providers, many of which are unsubstantiated and are occurring in situations where the provider has a conflict of interest and seeks financial gain from a participant's NDIS funding package. Whilst this appears to be an unintended consequence of the rollout of the NDIS, it is nevertheless a deeply concerning trend that has significant human rights implications for people with disability and their inclusion within the community. A detailed account of this human rights violation is available in QAI's previous submission to the Royal Commission.²⁴

A lack of adherence to a supported decision-making framework is similarly evident in other contexts. For example, the use of **Restrictive Practices** as a form of behaviour control for individuals who are considered to exhibit 'behaviours of concern', often occur in situations where efforts to understand the individual and the message behind their behaviour are inadequate. Indeed there are numerous reasons why Restrictive Practices may be utilised, many of which do not stem from the individual concerned, such as a lack of functional assessments and effective Positive Behaviour Support Plans, inadequate safeguards and insufficient resources.²⁵ This means that a person's autonomy is denied in circumstances where Restrictive Practices are not a measure of last resort, rendering them illegal, immoral and constituting behaviour that if applied to a person without disability, would be viewed as criminal conduct. QAI has provided an in-depth account of the use of Restrictive Practices and their correlation to increased abuse, neglect and exploitation of people with disability in a previous submission to the Royal Commission.²⁶ Suffice to say that the ongoing use of Restrictive Practices in situations where they do not constitute a last resort mechanism is an act of violence and abuse in itself, and unjustly denies an individual their legal capacity which is central to their inclusion within society.

Multiple barriers to inclusion are experienced by people with disability in the **criminal justice system**. In addition to the literal exclusion reflected by the overrepresentation of people with disability in prisons, people with disability experience a range of challenges that increase their likelihood of interacting with, and remaining in, the criminal justice system.²⁷ The criminalisation of disability that ensues leads to people with disability becoming enmeshed in a system that is ill-equipped to support their needs and can prolong their incarceration, often indefinitely. Factors such as misconceptions regarding disability, inaccessible court processes, inadequate access to support whilst in prison and an underutilisation of discretionary powers to divert suspected offenders with disability away from the criminal justice system, all represent significant barriers to their inclusion. The lack of therapeutic habilitation and rehabilitation for people with disability

²⁴ Queensland Advocacy Incorporated (2021) *Increasing applications for Guardianship and Administration Appointments in the NDIS*

²⁵ Queensland Advocacy Incorporated (2020) *Restrictive Practices*; <https://qai.org.au/2020/12/10/restrictive-practices/>

²⁶ Ibid

²⁷ McCausland, R and Baldry, E (2017) *I feel like I failed him by ringing the police: Criminalising disability in Australia*, *Punishment & Society*, 19(3), 290



within the criminal justice system also creates additional barriers to inclusion upon exiting the system. A paradigm shift from punitive to restorative justice is particularly critical for people with disability, to ensure that their capacity is supported during any period of incarceration and increase the likelihood that they will successfully reintegrate into society.

People with disability also continue to experience exclusion due to barriers in the physical environment. For example, inaccessible buildings that do not have ramps or doorways wide enough to facilitate wheelchair access. QAI supports the submission of the Australian Network for Universal Housing Design (ANUHD) and their position that the inclusion of people with disability cannot be achieved without the adoption of universal design in all home and human environments.²⁸ Whilst discrimination laws provide standards for public premises, spaces and transport, they are insufficient and thus all places, including private homes, need to be universally designed.²⁹ Indeed the principles of **universal design** must become a mandatory, minimum standard rather than ideal outcome. This includes ensuring that people with disability have access to affordable **transport** that will adequately accommodate their mobility requirements and support needs, without which the capacity of people with disability to access the community and engage in social, educational, employment and recreational opportunities, is limited. Further, universal design principles benefit everyone, not just people with disability. For example, the recent decision of Building Ministers to legislate a minimum level of accessibility standards into the National Construction Code will help not just people with mobility impairments, but also older people, families using pushchairs and people temporarily using mobility aids due to injury.

Inaccessible communication methods also present barriers to people with disability seeking inclusion in the community. QAI supports the 'Ideal Accessible Communications Roadmap' developed by the Australian Communications Consumer Action Network (ACCAN).³⁰ This roadmap outlines a series of actions that can be taken to ensure people with accessibility needs have full and equal access to all communications technologies and services. For example, actions regarding the National Relay Service (NRS), creating inclusive online environments and making accessible devices affordable.

Behind all of these barriers lie paternalistic, degrading and patronising attitudes towards people with disability that must be eradicated if they are to be viewed as citizens, peers, colleagues, consumers and friends.³¹ According to Fisher and Purcel, attitudinal change is required at the personal, organisational and government level, with success dependent upon various factors,

²⁸ Australian Network for Universal Housing Design (2021) *Submission to the Royal Commission: Promoting Inclusion, Australian Network for Universal Housing Design*, [anuhd-submission-to-the-disability-royal-commission-promoting-inclusion-final.pdf](https://www.anuhd.org.au/wp-content/uploads/2021/06/anuhd-submission-to-the-disability-royal-commission-promoting-inclusion-final.pdf) (wordpress.com) p5

²⁹ *Ibid*, p8

³⁰ Australian Communications Consumer Action Network (2020) *Ideal Accessible Communications in Australia*; <http://accan.org.au/Ideal%20Accessible%20Communications%20Roadmap.pdf>

³¹ Denise Thompson et al. (2012) *Community attitudes to people with disability: scoping project* (Occasional Paper No. 39, Social Policy Research Centre, Disability Studies and Research Centre, University of New South Wales)



including multi-pronged and long-term information and awareness campaigns, direct contact with people with disability, education and training and anti-discrimination legislation that is enforceable with appropriate sanctions for non-compliance.³² Essentially, critical to changing attitudes is ensuring greater visibility of people with disability in our community and viewing disability as a normal and valuable part of humanity.

QAI also acknowledges the additional barriers experienced by Aboriginal and Torres Strait Islander Australians with disability as well as those of other marginalised populations, such as culturally and linguistically diverse Australians living with disability and members of the LGBTIQ+ community living with disability. The **intersectional disadvantage** experienced by these groups has a significant impact on their inclusion within the wider community and any measures designed to mitigate their exclusion must therefore address the causes and consequences of ableism, as well as racism, xenophobia and homophobia.

How can an inclusive society support the right of people with disability to live free from violence, abuse, neglect and exploitation?

The exclusion of people with disability is directly correlated with an increased risk of violence, abuse, neglect and exploitation. People who are isolated and separated from the wider community are subject to less safeguards and protective oversight 'from the gaze of citizens' and are therefore more vulnerable to acts of abuse and violence.³³ The denial of a person's autonomy also increases their dependence on others which can increase the risk of violence.³⁴ When people with disability are perceived positively and treated equally, they are less likely to be vulnerable to exploitation. Actions that 'deplete the humanness of individuals with a disability' increase the likelihood of violence, abuse, neglect and exploitation.³⁵ The full implementation of the CRPD and the rights contained therein is therefore critical to fulfilling the right of people with disability to live free from all forms of violence, abuse, neglect and exploitation.³⁶

Australia has certainly made progress towards this end. The implementation of the National Disability Strategy 2010-20 and the introduction of the NDIS has undoubtedly improved the lives of many Australians living with disability, who now have access to previously unobtainable yet

³² Fisher, K & Purcel, C (2017) *Policies to change attitudes to people with disabilities*, Scandinavian Journal of Disability Research, 19(2)

³³ Sherwin, J (2021) *Submission in response to the rights and attitudes paper, Royal Commission into violence, abuse, neglect and exploitation of people with disability*;

<https://disability.royalcommission.gov.au/system/files/submission/ISS.001.00211.PDF>

³⁴ Promoting inclusive environments for the full implementation of the Convention on the Rights of Persons with Disabilities – Note by the Secretariat, United Nations (2020) CRPD/CSP/2020/4 - E - CRPD/CSP/2020/4 -Desktop (undocs.org)

³⁵ Sherwin, J (2021) *Submission in response to the rights and attitudes paper, Royal Commission into violence, abuse, neglect and exploitation of people with disability*;

<https://disability.royalcommission.gov.au/system/files/submission/ISS.001.00211.PDF>

³⁶ Kayess, R. & Sands, T. (2020) *Convention on the Rights of Persons with Disabilities: Shining a light on Social Transformation*. Sydney: UNSW Social Policy Research Centre, p2



essential **support services** that have fostered their inclusion within the community and thus increased their access to a life free from violence, abuse, neglect and exploitation. However, the implementation of the scheme has not been without its challenges and current proposals for reform indicate intentions to fundamentally alter the nature of the scheme. QAI holds significant concerns regarding Independent Assessments. Despite claims that Independent Assessments will address many of the inequities experienced by people accessing the NDIS, QAI fears that Independent Assessments will erode the person-centred philosophy upon which the NDIS is founded. They will limit choice and control, cause unnecessary harm and distress to people with disability and will provide inaccurate assessments of a person's support needs. They will then arbitrarily curtail a person's right to access individualised 'reasonable and necessary' supports by generating a generic support package based upon their functional limitations as opposed to their individual goals. This deficit-based model represents a significant step backwards in Australia's endeavours to achieve a fully inclusive society and highlights where the medical model of disability continues to influence decision-making at the policy level. At its core, the NDIS is about improving the lives of Australians with disability and this must remain at the forefront of policy reform in this area. If implemented properly, the NDIS can offer some people with disability (approximately the 10% of people with disability who are eligible for the NDIS) a way to effectively participate in their community. Participants can enjoy a life characterised by autonomy, choice, control and a sense of value and belonging that are integral to inclusion, and which mitigate against the risks of violence, abuse, neglect and exploitation. Indeed if implemented properly, it can model how service systems can uphold the rights and inherent dignity of people with disability by providing tailored supports that meet their individual needs, something which other service systems can learn from. Ensuring access to quality and accessible services for people who are ineligible for the NDIS is equally vital, with the majority of people with disability relying upon mainstream and community-based services to meet their needs.

What practical and sustainable steps can government, non-government and private sector organisations take to promote a more inclusive society?

Many steps can be taken to remove the barriers experienced by people with disability to promote a more inclusive society. Adhering to Australia's legal obligations under the CRPD is essential, with learnings from the universal periodic review, shadow reporting and general comment mechanisms all providing insight into areas where Australia's implementation is presently lacking. The implementation of a new National Disability Strategy for 2021-31 also offers a timely opportunity to address some of the failings from the inaugural strategy, such as inconsistent outcomes and a lack of accountability.³⁷ Central to the success of the new National Disability Strategy and indeed all measures designed to promote inclusion of people with disability will be

³⁷ Queensland Advocacy Incorporated (2020) *National Disability Strategy*; <https://qai.org.au/2020/10/30/national-disability-strategy/>



the effective consultation and engagement of people with disability in all levels of decision-making. This requires capacity building of people with disability through supported decision-making, as well as capacity building of other stakeholders to formulate disability inclusive practices and environments.³⁸

Targeted measures designed to change attitudes towards people with disability are also required. Current measures that are successfully helping to shift attitudes can be built upon and expanded, such as the inclusive practices of the ABC who make concerted efforts to cover news items that relate to people with disability. Media outlets have a responsibility to be mindful of the messages they send through their use of imagery and news items. Sherwin argues that messages depicting people with disability in socially valued roles should be presented, along with imagery that promotes the capacity, competence, and contribution of people with disability in order to counter unhelpful stereotypes.³⁹ To change the mindset of citizens, we must build 'interpersonal identification and compassion' between people with and without disability, and this will occur when people with disability acquire and are seen in socially valued roles.⁴⁰

Governments should also reconsider the assumptions, values and beliefs underlying their current policies. To what extent do they reflect a human rights framework? To what extent are they grounded in ableist attitudes and archaic assumptions about the capabilities of people with disability that stem from the medical model? Do they start with a vision of people with disability holding socially valued roles and living a good, ordinary life? Governments must role model the self-reflection required at all levels of the community if government, non-government and private sector organisations, together with individuals, families and communities, are to embrace people with disability and facilitate their genuine inclusion.

Meaningful action demonstrating Australia's rhetoric that it promotes the inclusion of people with disability is therefore needed. Dismantling the policies of segregation in education, employment and housing is necessary and signifies the level of reform that is required. Funding a sustainable **advocacy sector** that ensures people with disability understand their rights, feel safe and enjoy equal treatment under the law, is also essential. Similarly, introducing a **redress scheme** following the conclusion of the Disability Royal Commission will demonstrate the government's commitment to delivering justice to people who have suffered violence, abuse, neglect and exploitation. It will send a clear message that the exclusion of people with disability and subsequent derogation of their rights is unacceptable in contemporary Australian society. Likewise, implementing the National Preventative Mechanism under the Optional Protocol to the Convention Against Torture (**OPCAT**) with dedicated legislation and mandatory reporting obligations will strengthen the safeguards available to people with disability in closed

³⁸ Promoting inclusive environments for the full implementation of the Convention on the Rights of Persons with Disabilities – Note by the Secretariat, United Nations (2020); CRPD/CSP/2020/4 - E - CRPD/CSP/2020/4 -Desktop (undocs.org)

³⁹ Sherwin, J (2021) *Submission in response to the rights and attitudes paper, Royal Commission into violence, abuse, neglect and exploitation of people with disability*;

<https://disability.royalcommission.gov.au/system/files/submission/ISS.001.00211.PDF>

⁴⁰ Ibid



environments who are at risk of suffering cruel, inhuman and degrading treatment. It is imperative that implementation of OPCAT is disability informed and aware and includes a focus on reducing the barriers people with disability face within detention settings. Continued education and training on supported decision-making will also contribute to the paradigm shift that is required to change attitudes, alter practices and ultimately facilitate the inclusion of all people with disability in our society.

Conclusion

QAI thanks the Royal Commission for the opportunity to contribute to this debate and is happy to provide further information or detail upon request.

