

**INQUIRY INTO TRANSITION SUPPORT FOR STUDENTS
WITH ADDITIONAL OR COMPLEX NEEDS AND THEIR
FAMILIES**

Organisation: NSW Commission for Children and Young People

Date received: 2/09/2011



The Director
Standing Committee on Social Issues
Parliament House
Macquarie St
Sydney NSW 2000

Dear Sir/ Madam,

I write to make a submission to the Standing Committee on Social Issues *Inquiry into transition support for students with additional or complex needs* and their families.

The attached submission raises a number of key points, including the importance of adequately resourcing transition planning for students with a disability and the development of transition plans at each educational transition stage identified by this Inquiry for students with a disability as a matter of course. The submission also highlights the importance of the full involvement of students with a disability in transition planning as both a right and a measure likely to ensure better outcomes for students.

The Commission notes that children and young people have previously given evidence to the NSW Parliament directly in the case of the Parliamentary Joint Committee on Children and Young People's *Inquiry into the needs of children aged 9-14 years* undertaken in 2008. The Commission would be willing to assist the Committee in consulting directly with children as part of this Inquiry and to work in partnership with the Department of Education and Communities to develop the appropriate policy responses to support children's participation in transition planning.

For further communications on this matter, the contact person is Mr Gregor Macfie, Director Policy and Research on

Yours sincerely

Megan Mitchell
Commissioner
31 August 2011

Commission for Children and Young People

Submission to Legislative Council Standing Committee on Social Issues *Inquiry into Transitional Support for Students with Additional or Complex Needs*

1. Background

The Terms of Reference, (TOR), of the inquiry are to inquire into and report on programs and services for children with additional and/ or complex needs and their families during transition between stages of education, and in particular:

1. The adequacy and accessibility of appropriate support for children and their families;
2. Best practice approaches to ensure seamless and streamlined assistance during transitions; and,
3. Any other related matters.

The Committee encourages participants to raise issues affecting students with any kind of additional and/or complex need.

The Inquiry will consider four distinct transitions in education:

- into early childhood education for the first time
- from early childhood education to primary school
- from primary to secondary school
- from secondary school to employment, further education, or other post-school options.

This submission addresses the TOR of the inquiry but is structured under the themes of the recommendations below.

2. Role and Work of the Commission

The NSW Government supports the well-being of children and young people through the work of the NSW Commission for Children and Young People (the Commission). The Commission was established in 1999 as an independent statutory authority within Government under the *Commission for Children and Young People Act 1998*.

The Commission works with NSW Government and non-government agencies providing policy advice, undertaking research, supporting the development of child-safe organisations and monitoring the NSW Working with Children Check. The Commission reports to a Parliamentary Joint Committee.

Further information about the work of the Commission can be found at:

www.kids.nsw.gov.au.

3. Summary of Commission Recommendations

That:

Recommendation 1: In conducting this inquiry, the Standing Committee on Social Issues take account of the report and recommendations arising from the:

- Legislative Council General Purpose Standing Committee No 2 *Inquiry into the provision of education to students with a disability or special needs* undertaken in 2009.
- Parliamentary Joint Committee on Children and Young People's *Inquiry into the needs of children aged 9-14 years* undertaken in 2008.

Recommendation 2: This inquiry also assess the adequacy of resources currently provided to both government and non-government education providers to support transition planning for children and young people with a disability with a view to recommending discrete funding for this purpose. This should take into account the availability of a suitably qualified workforce to deliver integrated programs to children and families with complex needs. The resourcing issues need to be considered in the context of the Australian Government's recent announcement that it will introduce a National Disability Insurance Scheme as recommended by the Productivity Commission.

Recommendation 3: The current DEC Disability Criteria be reconsidered so that it reflects a less diagnostic approach and instead has a stronger focus on encouraging a positive educational outcome for children with a disability, by seeking to address problems that may lead to disengagement from learning. Review of the Criteria should be undertaken in consultation with key stakeholders.

Recommendation 4: A lifespan approach with a focus on wellbeing is adopted to respond to the developmental needs of children and young people within the education system, with a particular emphasis on educational transition points, consistent with the commitments under the United Nations *Convention on the Rights of the Child* and other relevant treaties and conventions.

Recommendation 5: Any misalignment between criteria used to assess eligibility for support between the early childhood education and care setting, the school setting and the post-school environment be addressed to enable students and families to transition with greater ease.

Recommendation 6: NSW schools and early childhood education and care services make available to parents and children and young people with a disability, information to assist transition planning in a timely manner and in a format readily accessible to these audiences.

Recommendation 7: Clear legislative and policy directives be developed that mandate the development of an individual plan for all children and young people with a disability who meet the DET Disability Criteria or equivalent: This requirement should:

- Apply to all education and vocational education and training sectors.
- Specifically address transition planning at each of the four educational transitions identified by the Inquiry.
- Be developed in consultation with the child/ young person and family.

- Ensure that the plan is reviewed throughout the child’s career in the early childhood education and care and school settings, particularly at key transition points.
- Involve the establishment of monitoring and reporting mechanisms to ensure that plans are developed and reviewed as proposed.
- Consider the models of legislation currently used in the United States and Scotland that mandate transition planning.

Recommendation 8: Children and young people with a disability are supported to be directly involved in:

- providing evidence to this inquiry
- any future development of legislation and policy that addresses their educational transition needs
- transition planning processes, in particular, the school to post school transition.

4. Introduction

In responding to this inquiry, the Commission will be focusing on children with a disability. The Commission defines disability in the same way as the World Health Organisation, which draws on the *International Classification of Functioning, Disability and Health* (ICF), to refer to disability as “an umbrella term for impairments, activity limitations, and participation restrictions. Disability refers to the negative aspects of the interaction between individuals with a health condition (such as cerebral palsy, Down syndrome, depression) and personal and environmental factors (such as negative attitudes, inaccessible transportation and public buildings, and limited social supports)” (WHO: 2011: 7).

Data on Children with a Disability

A consideration of the data on children with a disability, including prevalence and school and labour force participation, is important background information in understanding the issue of school transitions.

For the Committee’s information, the Commission is producing an online databook in collaboration with the Social Policy Research Centre (SPRC) at the University of New South Wales entitled *A picture of NSW children*.

The databook brings together statistical information from a range of collections about the lives of the 1.6 million children and young people in NSW and can be found at: <http://picture.kids.nsw.gov.au>.

The databook reports that 121,700 children aged 1-17 years in NSW had a disability in 2009 or 8.0% of children in this age range¹. The proportion of children with a disability was higher among children aged 9-14 years (8.7%) compared with those aged 1-8 years (8.1%) and 15-17 years (6.5%). Disability was also more prevalent in males (9.1%) in all age groups, than in females (6.7%). Just over half of children with a disability had a profound or severe limitation (52.2%). A greater proportion of children aged 1-8 years had

¹ The definition of disability used in *A picture of NSW children*, is 'any limitation, restriction or impairment, which has lasted, or is likely to last, for at least six months and restricts everyday activities' and includes a range of physical, psychological or cognitive limitations or impairments (ABS 2004; Muir et al. 2009, cited in CCYP: 2011).

profound or severe disability (57.3%) compared with children aged 9-14 years (31.8%) and 15-17 years (10.9%) (CCYP: 2011).

The Australian Institute of Health and Welfare, (AIHW), reports that the number of people with a disability has increased dramatically between 1981 and 2003, from 1.9 million to 3.9 million. This includes an increase in the number of people with severe or profound core activity limitations from 453,000 to 1.2 million. This has occurred across the population, but has been particularly high in children (AIHW: 2008).

The AIHW reports a rise in the reported prevalence rates of disabling conditions associated with childhood over the 1981-2003 period, such as attention deficit hyperactivity disorder and autism-related disorders, resulting in a substantial increase in the reported number of children with a disability. There was also a substantial increase in the number of children aged under 15 years with severe or profound limitations. The AIHW notes that both higher levels of diagnosis and heightened awareness among parents, educators and health professionals may have contributed to the increase in reporting these conditions (AIHW 2003; AIHW 2006b, cited in AIHW: 2008).

Not only has the proportion of children and young people with a disability increased significantly between 1981 and 2003, the proportion attending school has grown, as has the proportion attending mainstream schools as opposed to special schools. The AIHW reports that the proportion of 5–20 year olds with severe or profound limitations attending school rose from 81% in 1981 to 89% in 2003. School attendance among all 5–20 year olds with a disability rose from 72% in 1981 to 80% in 2003. There has been a trend towards students with severe or profound core activity limitations attending ordinary schools rather than special schools.

The AIHW indicates that people with a disability have lower labour force participation rates than people without a disability. Over the period 1988–2003, participation rates of people with a disability were consistently about 30 percentage points lower for males and 22–25 points lower for females, compared with people without a disability. Participation rates for people with severe or profound limitations were lower again than for people with a disability generally. In addition, while the 2003 unemployment rate of the general population was 5%, the rate for persons with a severe/ profound core activity limitation was 10.1% and for all persons with a disability was 8.5%.

Data included in the *National Disability Strategy* indicates that people with a disability had significantly lower Year 12 completion rates than 15-64 year olds without a disability, (29.6% compared to 49.3% in 2003). The proportion with a Bachelor Degree or higher was also significantly below that of the population as a whole, (Commonwealth of Australia: 2011).

Contextual Issues

The increase in mainstream school attendance of children with a disability is linked with educational and broader social policies that support the rights and inclusion of people with a disability. It also reflects the policy shift away from the deinstitutionalisation of children with a disability and previous segregation from their families. Policies of educational inclusion are also a result of legislation such as the *Disability Discrimination Act 1992*, the development of the *Disability Standards for Education 1995* (which assists education providers to apply the Act) and Australia's ratification of the United Nations *Convention on the Rights of Persons with Disabilities* (CRPD) in 2008.

The Commission supports provision of schooling options that are appropriate to the needs of the child, including adequate access to special schools where required. However it is important that special schools have high quality educational programs, directed towards community integration. The Commission is particularly supportive of the trend towards

inclusion and integration of children with a disability in mainstream schools but recognises that these policies need to be accompanied by adequate resources, including for periods of educational transition. It is also clear that the significant growth in the number of children diagnosed with a disability in recent decades should be accompanied by increased resources to children and young people with a disability in the whole school system.

Achieving successful educational transitions is crucial for the success of vulnerable children at school and later in life. Evidence suggests that a positive transition to primary school, for example, is important for later social and educational outcomes, throughout the child's school career and beyond (Dockett et al: 2011; Janus et al: 2007) . School transitions are a time of change and adjustment for children with complex support needs and their families, involving changes to roles and relationships, moving from the known to the unknown, and changes to the type of services provided to children and the nature of the provider.

Such transitions are a time of additional financial, social and emotional stress for children and families. They can be regarded as a time of both vulnerability and opportunity, as children and families may be both more at risk due to changing service eligibility and lack of service continuity, but also more responsive to assistance from service providers. The provision of adequate and accessible support to children and families is thus crucial at these times (Dockett et al: 2011).

Ask the Children and Inquiry into Children with No-one to Turn To

Consultations that the Commission has undertaken with children, such as those published on the Commission's website in the *Ask the children* series, emphasise the importance of relationships to children in contributing to their well-being: relationships with their families, with parents and with peers. The *Ask the Children* series is available at: <http://www.kids.nsw.gov.au/kids/resources/publications/askchildren.cfm>.

This theme also emerged strongly in an inquiry undertaken by the Commission on children with no-one to turn to, which investigated the type of support needed by vulnerable young people. The report of the inquiry is available at: <http://www.kids.nsw.gov.au/kids/resources/publications.cfm?itemID=7ADD8B9E04446E9506801B0C265BF4B7>. Such research leads the Commission to conclude that strong and supportive relationships are likely to be important in assisting vulnerable children to cope well with educational transitions.

The *Inquiry into children with no-one to turn to* also identified the importance of the transition to primary school, and from primary to secondary school for children with disabilities. The report recommends that schools respond appropriately to the needs of young people at these two key transition points, particularly if there is a lack of family support, and that support to achieve a successful transition may need to extend well beyond the transition event (CCYP: 2002: 81).

The Commission is currently scoping work in the area of childhood injury, in partnership with the NSW Department of Health. It is anticipated that this work may include a consideration of the impact of disabling injury on children and young people.

5. Prior Learnings

The Commission is aware that the Legislative Council General Purpose Standing Committee No. 2 undertook an *Inquiry into the provision of education to students with a disability or special needs* in 2009, and that the report of this inquiry was released in July 2010. The NSW Government response was released in January 2011.

Recommendation 1: *That in conducting this inquiry, the Standing Committee on Social Issues take account of the report and recommendations arising from the:*

- *Legislative Council General Purpose Standing Committee No 2 Inquiry into the provision of education to students with a disability or special needs undertaken in 2009.*
- *Parliamentary Joint Committee on Children and Young People's Inquiry into the needs of children aged 9-14 years undertaken in 2008, (discussed below).*

Adequacy of Funding

The issue of the adequacy of funding and support to students with a disability and special needs within the school system in general was given in-depth consideration in the above Legislative Council inquiry, however the support needs of families and issues of transition do not appear to have been adequately considered. In addition the report of the above Inquiry focused on children with a disability only, rather than children with other additional needs, such as those arising from homelessness and lack of English language skills, for example. The current inquiry can address these gaps.

In regard to the adequacy of appropriate support for children, the General Purpose Standing Committee heard compelling arguments that *“government funding for students with disabilities and special needs was grossly inadequate to allow for the full participation of these students in the education system. This view was expressed in relation to both the government and non-government sectors”*. The Committee called on the NSW Government to *“substantially increase funding for students with disabilities and special needs in NSW Government schools, including Schools for Specific Purposes, to ensure all students have equitable access to education”*. The NSW Government responded that in the last ten years there has been a 144% increase in NSW Government expenditure on students with a disability or special needs attending government schools, from over \$471 million in 2000/01 to more than \$1.150 billion in 2010/11.

However the extent to which this funding is targeted to support educational transitions of children with a disability needs to be determined. Evidence provided by the NSW Teacher's Federation to the Middle Years inquiry suggests that transition planning is something that is primarily undertaken by the classroom teacher in addition to their normal duties.

Recommendation 2: *That this inquiry also assess the adequacy of resources currently provided to both government and non-government education providers to support transition planning for children and young people with a disability with a view to recommending discrete funding for this purpose. This should take into account the availability of a suitably qualified workforce to deliver integrated programs to children and families with complex needs. The resourcing issues need to be considered in the context of the Australian Government's recent announcement that it will introduce a National Disability Insurance Scheme as recommended by the Productivity Commission.*

Department of Education and Communities (DEC) Disability Criteria

Another important issue related to access to services reported by the Legislative Council inquiry was the application of the DEC Disability Criteria as an assessment tool which determines access to funding/ services for a child with a disability within the school system. The Committee argued that this assessment should take account of functional skills, in addition to any diagnosis, in determining whether a child should have access to services. The NSW Government responded that it is currently developing a functional

assessment criteria, although the extent to which it will be taken into account in determining access to services is unclear.

Under the current DEC Disability Criteria, a child must be judged as having a disability (language, physical disability), which *significantly* affects their functioning in order to qualify for services. This definition effectively excludes children who are affected to a mild or moderate degree. In regard to mental health a student must exhibit behaviour that “is characteristic of mental health problems at a level of frequency, duration and intensity that *seriously* affects their educational functioning and emotional wellbeing. The behaviours must be evident in the home, school and community environments” (DET: 2003). Again a child with a mental health problem that had a mild or moderate impact would not be eligible for services.

The Commission is of the view that any assessment of a child’s disability that is used to determine eligibility for services should be outcome based, that is, should attempt to assess whether the child’s disability puts them at risk of disengagement from education, rather than based on a narrow diagnostic criteria. The current criteria appears to exclude children with a disability that affects their functioning to a mild to moderate degree, does not appear to take account of the episodic nature of mental illness, and it is unclear whether it includes learning difficulties such as dyslexia.

Whether a child has access to general services and support for their disability through the school system, access to special schools or support classes in a mainstream school, will have a bearing on the type of support received during transition periods.

***Recommendation 3:** That the current DEC Disability Criteria be reconsidered so that it reflects a less diagnostic approach and instead has a stronger focus on encouraging a positive educational outcome for children with a disability, by seeking to address problems that may lead to disengagement from learning. Review of the Criteria should be undertaken in consultation with key stakeholders.*

Middle Years of Childhood

The middle years of childhood are a current priority for the Commission. In 2008, an inquiry into children and young people aged 9-14 years was undertaken by the NSW Parliamentary Joint Committee on Children and Young People (PJC). In September 2009, the Committee tabled its report, *Children and Young People Aged 9-14 years in NSW: The Missing Middle*. The Committee is the Commission’s oversight body in the NSW Parliament and identified the Commission as having a lead role in coordinating a whole-of-government response to the Committee’s 59 recommendations.

A number of submissions made to the inquiry argued that young people with a disability require additional support and need greater access to a range of services. The transition from primary to high school was also considered in this inquiry, with some reference to transition issues for children with a disability.

Respondents such as the NSW Council of Social Service observed that while the majority of young people manage the transition to secondary school well, a smaller subset find it particularly difficult. This included Aboriginal students, students with a disability, and students in rural areas. While some at-risk students found primary school enjoyable, secondary school was perceived as more difficult, with challenges including changing relationships with peers and teachers. If unaddressed, these challenges could result in at-risk students leaving school early, (NSW Parliament: 2009).

A number of concerns were expressed in submissions to the inquiry about the way in which the transition from primary to secondary school is currently managed. These are outlined below:

- *Need for smaller class sizes:* The NSW Teachers Federation's submission to the inquiry highlighted key changes experienced in the transition from primary to secondary school. The Federation explained that a Year 6 student is accustomed to having one teacher in one classroom for the whole year and a curriculum that is not outwardly defined into separate Key Learning Areas. However when they begin secondary school, children face a variety of teachers and learning environments. The Federation argued that young people making the transition from primary to high school would benefit from smaller class sizes, particularly in Years 7 and 8, as this would enable their learning needs to be better assessed and catered for (NSW Parliament: 2009).
- *Failing to receive information on needs of child:* The Federation also provided correspondence in response to questions by the Parliamentary Committee expressing concern that there was no mention of students with a disability in the DEC policy dealing with transition to Year 7. The Federation believed that as a consequence, teachers were not receiving accurate information about a child's disability for class placement, allocation of resources and to inform teaching practice at a sufficiently early stage. The correspondence argued that "it is too late in Term 3 to find out that a student had been on a special reading program in primary school when the parent is phoned to discuss a student's lack of engagement with the work" (NSW Parliament: 2009: 16).
- *DEC's Transition to Year 7 Program:* In evidence to the Committee, DEC indicated that the transition to Year 7 initiative did not set any specific requirements for the transition of students with a disability, but that funding is provided to schools on the basis that it would be used flexibly to best meet the transition needs of students within their particular school contexts. The NSW Teacher's Federation was highly critical of this approach, referring to this as a "glaring omission in the current policy" (Ibid).
- *Failure to resource transition strategies:* The NSW Teacher's Federation expressed concern about resourcing of transition strategies, arguing that "*transition programs must not rely on teacher goodwill to pick them up as an additional responsibility- it needs to be properly resourced to pay for personnel to implement it, through releasing teachers at both primary and secondary schools to put programs in place, run it, evaluate it and maintain contact with students*" (NSW Parliament: 2009: 19).
- *Committee Comment:* The Parliamentary Committee commented that while a number of transition to high school programs are in place, implementation had been piecemeal and that programs were yet to be implemented across the state. It was anticipated that the expansion of this program to all public secondary schools in 2010 might address this gap, (Ibid).

The Commission is currently working in a number of areas to better understand and respond to middle childhood. This is occurring through building and sharing knowledge about middle childhood. Activities include:

- Producing a seminar series about middle childhood with follow-up policy / discussion papers to be produced following the series.

- Giving a priority focus to out-of-school hours activities for children in middle childhood given the high number of recommendations from the Inquiry that relate to this issue.
- Supporting a NSW Government Working Group on Middle Childhood to better understand the NSW context and progress relevant recommendations from the Inquiry.
- Establishing a NSW Advisory Panel on Middle Childhood to provide advice to the Commission.
- Working with other jurisdictions (state and national) where there is a growing interest in middle childhood.

Further information about the Commission's work in this area is available at:

www.kids.nsw.gov.au/kids/ourwork/middleyears.cfm

6. A Lifespan Approach

In considering the issue of educational transitions for children and young people with a disability, the Commission recommends the following approaches:

- The lifespan approach put forward by NSW Ageing, Disability and Home Care. The "objective of such an approach is to create clear long term pathways for people [with a disability],... having the right interventions at each stage in a person's life to build their strengths and enable them to participate in and contribute to their communities" and a focus on a number of significant stages and transition points (NSW Government: 2010: 22).
- A strengths based approach that recognises the strengths that children and families bring with them to the education system and uses this as a basis for promoting positive engagement with the school and other service providers (Dockett et al: 2011).
- A rights based approach that recognises the importance of the full participation of children with disabilities in decisions which affect them, set out in treaties signed by the Australian Government such as the *Convention on the Rights of Persons with Disabilities* and the *Convention on the Rights of the Child*.

Recommendation 4: That a lifespan approach with a focus on wellbeing is adopted to respond to the developmental needs of children and young people within the education system, with a particular emphasis on educational transition points, consistent with the commitments under the United Nations Convention on the Rights of the Child and other relevant treaties and conventions.

7. Barriers to successful transitions for children and young people with a disability

The Commission does not deliver educational services or programs to children, however it has undertaken a limited literature review in order to respond to TOR 1 and 2. Barriers to successful transitions and best practice approaches are identified. The Commission has also undertaken a scan of transition policies and programs provided by NSW DEC and NSW Ageing, Disability and Home Care (see Appendix 1).

Withdrawal of support at transition points

Research conducted by Dockett et al with NSW children and families with complex support needs identified significant problems in this area. The withdrawal of support at transition

points was described as “a common experience of the families involved in this study”, (Dockett et al: 2011: 26), with a discontinuity in support most often experienced at the time of transition to school. This is because the nature of support varied between prior to school and school settings and different assessment criteria were used in both contexts with resources needing to be sourced from different funding pools and programs. In some cases this meant that children did not qualify for support at school, after receiving it prior to school. Parents also regretted the loss of relationships with existing providers when support ceased and the fact that their children were sometimes placed onto a new waiting list to receive support in a new setting.

One example of lack of support continuity identified by Dockett et al was the Brighter Futures Program, under which most families participating in the study were offered support for approximately 2 yrs, starting when the child was aged 3 yrs. Families were thus no longer eligible at the time of school transition. The authors also noted that support from the Department of Family and Community Services, (FACS), ceased when children started school. At this time new support was accessed through the DEC, using a different model of funding and criteria for support and providing support of a different type. Responsibility for early childhood education and care now lies with DEC. It is possible that this may facilitate greater continuity of service provision for children between the early childhood setting and the school setting.

The problem of lack of compatibility between preschool and school diagnostic definition criteria, which can lead to loss of eligibility to a service, is also identified in an article looking at preschool to primary school transition in the United States (Janus et al: 2007). It is thus a problem that is not confined to the Australian education system. Other commentators discuss the withdrawal of medical equipment on completion of secondary school by children with a disability in Scotland (Newman: 2009).

Recommendation 5: That any misalignment between criteria used to assess eligibility for support between the early childhood education and care setting, the school setting and the post-school environment be addressed to enable students and families to transition with greater ease.

Access barriers

One of the decisions parents need to make in consultation with the school at the point of entry to the school system is whether to send their child to a mainstream or special school (the special school must also decide whether to offer a place). Parents consulted by Dockett et al reported difficulty accessing staff at special schools directly and in some cases found that staff would only speak to them if a professional made an appointment. Knowing which school the child will attend as early as possible is important for children and families to be able to participate in transition programs offered by schools. In some cases parents were unsure which transition program to attend.

The literature also indicates that access to information both by the parent and the child/ young person is crucial to transition processes. Dockett et al found that there was a lack of consistency in how information prior to transition to school was made available. In some cases parents had to visit the school to obtain it, in other cases it was available on the school website. They noted that even when written information was available most parents expressed a preference for talking to someone about this information and asking questions specific to their child.

As part of the transition process, both at school and following it, young people need access to information about services and work options. Newman et al found that in some

cases young people were isolated in the home after completing school, without adequate access to means of communication, such as a telephone, computer and the internet.

Recommendation 6: NSW schools and early childhood education and care services make available to parents and children and young people with a disability, information to assist transition planning in a timely manner and in a format readily accessible to these audiences.

Availability of VET prior to school completion and poor post-school outcomes

The lower labour force participation rate and the higher unemployment rate of people with a disability in both the Australian and international context suggests that they experience barriers in the labour market related to their disability. Davies and Beamish note that in small scale studies in both Australia and the United States, parents, especially those of young adults with a more severe intellectual disability, expressed concern that their children experienced high levels of unemployment, restricted levels of participation in community activities, and a prevalence of continued living with and dependence upon families following school completion.

Recent Australian research by Davies and Beamish conducted in Queensland with parents of children with an intellectual disability, also documents the fact that some young people with an intellectual disability end up working in low wage, part time employment, or may be isolated in the home, without adequate access to community supports. They conclude that young people with an intellectual disability and high support needs have poorer post-school outcomes and are at risk of experiencing poorer quality of life compared to their same-age peers. Their research also demonstrates the strong impact of poor post-school options on the lives of families: for example some parents had to give up work to provide care and support for their child, resulting not only in loss of income but poorer quality of life for the parent. These poor outcomes highlight the importance of effective transition planning for young people in the lead up to and following school completion.

Parents surveyed by Davies and Beamish reported that lack of post-school funding and lack of post-school options were areas of specific concern. Their research indicated that work experience was not available to a third of their children especially those with high support needs. Davies and Beamish note that this finding is of concern because the amount and type of work experience or vocational training experienced by students with a disability while at school has been identified as important predictors of post-school employment (Kohler & Chapman, 1999; Phelps & Hanley-Maxwell, 1997 cited in Davies & Beamish: 2011).

Adequacy of transition policies, procedures and legislation

The Commission has conducted a brief scan of transition policies and procedures of relevance to children with a disability available on the NSW DEC website to attempt to identify any policy gaps. Other relevant NSW and Australian Government policies and plans, and legislation have also been scanned, including transition programs provided by Ageing, Disability and Home Care, FACS.

This scan suggests that there may be a gap in regard to transition policies for children with a disability entering early childhood education and care as no policy or plan to respond to children with a disability was identified. A specific guideline exists to assist primary schools to undertake transition planning for children with a disability entering primary school (*Transition to school for young children with special needs*). However generic DEC transition programs only have been identified in the other two areas (primary school to

secondary school, and secondary school to work), which are not specific to children with a disability.

The Commission has been unable to source a copy of the Transition to Year 7 Program policy or the School to Work Program from the DEC website, and questions how accessible this information is to the public. However it is noted that the report of the middle years inquiry, including DEC evidence, indicates that the former sets no specific requirements for the transition of students with disabilities. The more recent DEC strategy, *Our Middle Years Learners- engaged, resilient, successful*, indicates that transition planning should be undertaken for children with a disability moving from primary to secondary school, however it is unclear if there is an obligation on schools to implement the strategy.

The extent to which the DEC Transition to Work program addresses the needs of students with a disability is also unclear. The *School to Work Program State Annual Report 2009*, indicates that planning transition pathways is one of the specific areas funded, and that the program has a focus on students in Years 9 & 10 and 11 & 12. In 2009 only 4.2% of students with a disability participated in the Transition to Work Program, although around 8% of children and young people in NSW have a disability.

The *Annual Report* outlines a range of initiatives that are used to assist school to work transition planning for students with a disability, noting that work experience, workplace learning, specialist staff and personalised plans are the most frequently used approaches. This wording suggests that personalised plans are not developed in all cases for young people with a disability.

Ageing, Disability and Home Care provide two post-school transition programs for young people, the Transition to Work Program and the Community Participation Program, however these do not commence until the young person has completed Year 12.

The DEC Guidelines, *Transition to School for young children with special learning needs*, indicate that there is an expectation that schools will develop an individual family service plan for each family/ child prior to the child's entry to the school system. However it does not appear that there is a requirement to maintain this plan throughout the child's school career. The NSW Government response to the General Purpose Standing Committee inquiry referred to above indicates that Individual Education Plans (IEPs) are required for Aboriginal students and students in out-of-home-care, but may not be required for students with a disability (an adjusted personalised education program is developed for students with a disability who are working toward different syllabus outcomes than their age/stage peers).

While policies or strategies are in place for most school transitions, there appear to be some inadequacies in regard to transition planning for children with a disability. Specific policies do not appear to exist for all school transitions for this group, and the extent to which their needs are adequately addressed in mainstream/ generic transition plans and policies is difficult to gauge. In addition the Commission has no information on the extent to which implementation of these plans occurs in practice, and how successful transition planning is leading to good outcomes for students with a disability. We are also unaware of the extent to which children and young people are actively involved and fully consulted in the transition planning process. It is suggested that these are important questions for the Inquiry to explore, and that the Committee should request information from DEC in this regard.

The Commission considers it important that NSW DEC develop clear policy directives that ensure transition planning is mandated for children and young people with a disability at each of the four education transitions identified by this Inquiry. Such an approach would be

in line with the *National Disability Strategy 2010 – 2020*, which recommends that Australian governments “identify and establish best practice for transition planning and support through all stages of learning and from education to employment” (Commonwealth of Australia: 2011: 58).

A plan should be required for each child that meets the DEC disability eligibility criteria, commence prior to the child’s entry to the school system and follow the child, with change and review, through the school system and give particular emphasis to school transitions. The plan should be developed in consultation with the child and his/ her family, and other relevant professionals, and not only include any personalised learning program, but also identify any support required and received by the child, and include transition plans for each stage in the educational transition process, particularly the school to post school transition.

There are no provisions in the *NSW Education Act 1990* or the *Disability Discrimination Act*, or any other relevant legislation the Commission is able to identify, which mandate transition planning for children with a disability. The Commission notes that other comparable countries such as the United States and the United Kingdom have legislation which mandates transition planning for young people with a disability preparing to leave school, in recognition of their poor post-school outcomes.

For example, the United States’ *Disabilities Education Act Amendment 1997* mandates provisions of transition services to children with a disability. These must include “instruction related services, community experiences, the development of employment and other post-school adult living objectives, and when appropriate, acquisition of daily living skills” (Hughes: 2001: 84). This legislation also requires that beginning at age 14 (or younger if determined appropriate), a statement of needed transition services, including a statement of interagency responsibilities or any needed linkages, must be included in the student’s transition plan and for transition planning to take into account student preferences and interests.

Similarly, *the Education (Additional Support for Learning) Scotland Act 2004*, introduces a duty on Local Authorities to provide transition planning and support for all young people with additional support needs. The Act requires an education authority to prepare a Coordinated Support Plan for each child with a disability, to prepare for the transition from school and ensure that appropriate support is in place, and to seek and take account of the views of children and young people in preparing this plan, (Newman et al: 2009; *Education (Additional Support for Learning) Scotland Act 2004*, <http://www.legislation.gov.uk/asp/2004/4/contents>).

It is suggested that the Standing Committee undertake a review of legislation of this type and its efficacy and consider the desirability of developing similar legislation for NSW designed to mandate the provision of transitional support to young people with a disability prior to school completion.

Recommendation 7: That clear legislative and policy directives be developed that mandate the development of an individual plan for all children and young people with a disability who meet the DEC Disability Criteria or equivalent: This requirement should:

- *Apply to all education and vocational education and training sectors.*
- *Specifically address transition planning at each of the four educational transitions identified by the Inquiry.*
- *Be developed in consultation with the child/ young person and family.*

- *Ensure that the plan is reviewed throughout the child's career in the early childhood education and care and school settings, particularly at key transition points.*
- *Involve the establishment of monitoring and reporting mechanisms to ensure that plans are developed and reviewed as proposed.*
- *Consider the models of legislation currently used in the United States and Scotland that mandate transition planning.*

A further current national policy initiative that it is important the Inquiry is aware of is the development of a standard national curriculum for Australian students. It will be important that this curriculum has the flexibility to address any different learning needs of students with a disability and that it factors in the need for transition planning, including access to work experience for students with a disability.

The Commission also notes that under the COAG agreed National Quality Framework major reforms are occurring to early childhood education and care services around Australia, many of which come into effect from 1 January 2012. The reforms will involve the introduction of a national curriculum for students in the early childhood education and care setting. It is important that this curriculum take account of the educational needs of children with a disability, and consider the issue of transition planning.

8. Best practice principles and approaches

Involving young people in transition planning

Australian and international research indicates that transition planning, particularly the school to post-school transition, may be undertaken without meaningful involvement of the young person themselves. For example recent Australian research by Davies and Beamish based on interviews with over 200 parents, found that while most parents indicated they had had a good level of involvement in transition planning, 42% indicated that their child had been involved 'not at all or a little'. However other research suggests that involvement of the young person is essential in leading to more positive post-school outcomes, including involvement in work or other activities that interest them (Newman: 2009).

While the Commission has not specifically consulted with children with a disability about transitional support needs, Newman et al, who consulted with 49 Scottish young people with support needs aged 14-25 yrs about transition from secondary school to adult services, found that the "young person's own confidence and ability to influence decisions and their understanding of their additional support needs seemed to affect their personal outcomes". Involvement of young people in planning meetings, where they were able to "make and express their own choices and hopes", was considered crucial. They note that the "overall message coming from young people is that to get transition right we need to listen to young people, whatever their communication needs, and ensure they are central to the planning process" (Newman et al: 2009: 48). Newman et al suggest that there needs to be a standard approach to the transition process which focuses on the individual, considering strengths as well as needs : " young people need to be given ownership of their planning so they are in control, working in partnership, rather than pushed through a process" (Newman et al: 2009: 50).

Recommendation 8: That children and young people with a disability are supported to be directly involved in:

- *providing evidence to this Inquiry*
- *any future development of legislation and policy that addresses their educational transition needs.*
- *transition planning processes, in particular, the school to post school transition*

We note that children have in the past given evidence to a NSW Parliamentary inquiry in the case of the Committee on Children and Young People's *Inquiry into Children and Young People Aged 9-14 years in NSW: The Missing Middle*. The Commission would be willing to assist the Committee in consulting directly with children as part of this Inquiry and to work in partnership with DEC to develop the appropriate policy responses to support children's participation.

Right to autonomy, independence and involvement in decision-making

The Commission considers that the involvement of children and young people with a disability in decision-making that concerns them such as transition planning is crucial both from a rights perspective and from the perspective of ensuring better outcomes for the child. The Commission bases this statement on its fourteen years of experience working with children on issues that concern them.

Since the 1970s the participation of children in decision-making has been the subject of considerable debate and study. Central to much of this discussion are issues of definition and purpose (CCYP: 2003 and Gray, 2002:6–7). While there is no single definition of participation it is most commonly taken to mean "the process of sharing decisions which affect one's life and the life of the community in which one lives" (Hart, 1992:5).

The United Nations *Convention on the Rights of the Child* (CRC) Article 12 enshrines children's participation:

Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

The Commission's interest in participation arises from its legislation. Section 11 (a) of the *Commission for Children and Young People Act 1998* requires the Commission to promote the participation of children in decisions that affect their lives and to encourage government and non-government agencies to seek the participation of children, appropriate to their age and maturity.

The Commission has undertaken extensive work in this area and operates under the following practice principles:

1. Children have the right to participate and should be included in decisions that affect their own lives.
2. Children have critical and unique perspectives on their lives.
3. Children are aware of and value their own knowledge, understandings and insights.
4. Children have developed and potential capacities to investigate, evaluate and act on issues they determine are important to them.
5. Children should be enriched personally through their participation.
6. The participation of a child will benefit both the child and the Commission and add to the knowledge of children and childhood.

Further information about consultations that the Commission has undertaken with children is available at: <http://www.kids.nsw.gov.au/kids/resources/publications/askchildren.cfm>.

Importance of family engagement

Once children start school, one of the main sources of support for children occurs through family engagement with the school. Positive home school relationships are particularly important for families with complex support needs at points of educational transition (Dockett et al: 2011).

Other commentators note that parents of children with special needs in primary school identify four major problems: lack of communication with the school, lack of participation in decisions about their child's education, not feeling welcome in schools and a lack of knowledge on their child's progress. The literature recommends that parents should be involved as much as possible in transition to school to effectively identify and access the services available that are best suited to their child's needs (Janus et al: 2007).

The importance of family engagement in relation to the transition from primary to high school was also highlighted in the NSW Parliamentary inquiry on the middle years. This is meant to be a strong component of DEC's Transition to Year 7 Program.

The literature frequently describes parents of children with a disability as an important source of information and knowledge about their child that should be accessed by the school.

Continuous, integrated support

Reviews of support provided to children with special needs and their families entering the school system conclude that continuous support, integrated services and transdisciplinary approaches are important in promoting positive educational engagement. Dockett et al also argue that there is a need for a suitably qualified workforce to deliver integrated programs to families/ children with complex support needs.

Mentoring and Peer Support

The NSW Parliamentary Inquiry on the middle years heard evidence that mentoring and peer support has been used successfully with students from socio-economically disadvantaged backgrounds entering secondary school by agencies such as Barnardo's.

Transitions do not finish with the start of school

Janus et al argue that "[t]ransition [to school] has to be viewed as an ongoing process in need of periodic checks and reviews after the transfer between systems takes place", with the outcome the child's successful adjustment to school (Janus et al: 2007: 643).

Role of early childhood education and care services

To facilitate transition to primary school for children with a disability, Janus et al argue that preschools need to focus on social competence, including self-help, social interaction and communication and address any language impairments prior to the start of school (Janus et al: 2007).

Adequate timeframe for transition planning

It is important that transition planning takes place well in advance of the transition event, particularly for children with a disability. However this is not always occurring. For example

Janus et al note that a large scale survey in the United States indicated that the most common transition practices for students entering primary school occur after the beginning of the school year. They tend to be group oriented efforts such as open days and written communications to parents, rather than transition practices targeted to the needs of individuals such as home visits. Scottish legislation on transition planning for disabled students requires it to start at least 12 months prior to a child finishing the final year of school.

APPENDIX 1. Scan of policies & procedures relevant to transition planning for children & young people with a disability

DEC policies relevant to children with a disability are available at <http://www.schools.nsw.edu.au/studentsupport/programs/disability.php>

Policies include:

- *Assisting Students with Learning Difficulties*

This policy makes meeting the specific learning needs of students with difficulties in basic areas of learning the responsibility of the school & the class room teacher. The Policy does not specifically address school transitions.

- *Enrolment of Students in Government Schools: A summary and consolidation of Policy, August 1997*

This policy briefly mentions transition to primary school and encourages schools to work with parents and caregivers to facilitate transition planning. School enrolment of children with disabilities is also covered briefly. The policy states that, “when a student with a disability presents for enrolment, it is the responsibility of the principal to ensure that an appraisal of the student’s educational needs is carried out. For some students appraisal will have occurred as part of a planned transition process.” (NSW DET: 1997: 14).

- *Transition to school for children with special needs.*

A comprehensive policy document specifying what a primary school should do when enrolling a student with a disability, including developing a transition to school plan and an individual family service plan. This document is written in a format that makes it easily accessible to parents.

- *Our Middle Years Learners- engaged, resilient, successful- An education strategy for years 5 to 9, 2010-2012*

As part of DEC’s middle years strategy, *Our Middle Years Learners – Engaged, Resilient, Successful*, every public school in NSW is required to establish a primary-secondary transition program. NSW DEC commits to 3.7 “implement individualised transition plans for students with a disability or special education needs,…” (NSW DET: 2010: 12)

- DEC has developed a strategy and series of resources to assist teachers to be aware of transition issues between primary and high school, and to undertake transition planning, <http://www.schools.nsw.edu.au/gotoschool/highschool/transitions/index.php>

These resources do not specifically consider transition issues for children with a disability

- *DEC’s Transition to Year 7* program enables schools to fund initiatives such as:

- establishing high school orientation and induction programs in every New South Wales government primary and secondary school;
- introducing taster classes for Year 6 students, particularly in specialist secondary school science laboratories and design and technology classrooms;
- improving data and information transfer on each student's academic and social strengths and areas for development;
- improving pastoral care programs, including the use of home rooms for Year 7 where appropriate.

DEC indicated in its evidence to the Middle Years inquiry that this program was to be provided in all NSW public secondary and central schools by 2010. On the basis of evidence provided to the Middle Years Parliamentary Inquiry, this Program does not appear to specifically consider transition issues for children with a disability.

- *DEC Transition to Work Program*

The program focuses on students in Yrs 9 to 12. It has 4 key result areas: planning transition pathways, exploring career futures, strengthening student outcomes through vocational learning and building networks and connections. The *School to Work Program 2009 Annual Report* documents a number of initiatives that have been implemented by schools to assist students including: building work related skills and confidence, life skills and personal development, personalised career and transition plans, disability support and personalised learning plans. It is unclear if this program includes specific requirements in regard to transition planning for students with a disability.

- Other relevant documents include the *NSW DET Disability Action Plan 2006*
- NSW Ageing, Disability and Homecare's publication, *Stronger Together, A New Direction for Disability Services in NSW 2006-2016*, notes that school leavers with a significant disability who can not enter the workforce immediately or in 2 years after finishing school, will receive a place in the Community Participation program, which is an intensive skills based training program
- ADHC also provides the Transition to Work Program, which aims to assist young people with a disability (moderate to high needs) to gain employment after finishing school. Young people must have completed Year 12 and have to undergo an eligibility assessment.
- Early childhood education and care until recently fell under the jurisdiction of NSW Family and Community Services (FACS). The Department provides information on its website about a program called Supporting Children with Additional Needs, (SCAN), whereby FACS funded preschools, occasional care or vacation care with children with disabilities can obtain funding to receive services in this setting. A number of types of early childhood education and care services appear not to have access to this program, including children in home based care, family day care and out of school hours care services. This information is provided in a form accessible to parents.

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