

**INQUIRY INTO FOUNDATIONAL AND DISABILITY
SUPPORTS AVAILABLE FOR CHILDREN AND YOUNG
PEOPLE IN NEW SOUTH WALES**

Organisation: NSW Government

Date Received: 26 April 2025

The Hon Kate Washington MP

Minister for Families and Communities
Minister for Disability Inclusion

Ref: SGM25/1999

Select Committee on Foundational and Disability Supports
Parliament of New South Wales
6 Macquarie Street
SYDNEY NSW 2000

Dear Select Committee,

On behalf of the NSW Government, I write to provide input into the inquiry into foundational and disability supports available for children and young people in NSW. I note this inquiry will also report on child development, early childhood intervention services including the role of diagnostic services, and workforce issues.

The inquiry Terms of Reference are broad and touch on the work of many government departments and agencies that have been subject to reviews and inquiries covering similar areas. Given the breadth of issues the Committee seeks to cover, I have attached recent submissions that are directly relevant to the inquiry. These submissions cover the breadth of work that the NSW Government undertakes to support children and young people with disability and should provide the Committee with the information required to conduct its inquiry.

These submissions show that the NSW Government is working hard to deliver on our commitment to ensure that all children across NSW get the best start in life and learning, no matter their postcode or background. This commitment especially extends to improving the lives of children and young people with developmental concerns, delays, differences and disabilities. Providing early support to children and their families, carers and kin is the best way to improve lifelong outcomes.

Governments are designing new foundational supports for people with disability

I also want to take this opportunity to update the Committee on the current status of foundational supports. Commonwealth, state and territory governments are working together to design a new system of foundational supports, following National Cabinet's commitment in December 2023. Foundational supports will improve access to disability supports outside the National Disability Insurance Scheme (NDIS) and support the Scheme's long-term sustainability.

The NSW Government is doing its own early design work to ensure there is a tailored approach to foundational supports for the NSW context and is ready to consult with the community as soon as the national design parameters for foundational supports are clear. We will partner with the early childhood and disability sector and work with the families and carers of children with disability and priority populations to do this. We hope to leverage their lived experience to design high-quality, connected and continuously improving services for NSW. I will be providing information to the community on how they can participate in NSW-led consultations on foundational supports when agreement is reached with the Commonwealth Government on the national design parameters.

Foundational supports are intended to help children and their families during a critical period of development. These supports will help children to meet developmental milestones, learn, be social, and support them with their emotional, physical and mental health. These supports will also equip families and carers with the right information to understand and support their child's needs.

The Commonwealth and states and territories recently signed a new one-year agreement to provide more funding for public hospitals and reaffirm the commitment to design foundational supports. Governments will continue to work closely on a longer-term agreement for the implementation of foundational supports. The timing for the rollout of services will be confirmed as part of this agreement. In the meantime, all governments will ensure that the NDIS continues to support participants during the development of foundational supports.

Recent submissions outline the Government's commitments to children and young people with disability that are directly relevant to the Committee's inquiry

The NSW Government has made several submissions and responses to parliamentary and national inquiries covering topics relevant to this inquiry, including:

- Children and young people with disability in New South Wales educational settings (2024)
- Improving access to early childhood health and development checks (2024)
- the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2024)
- the Independent Review into the National Disability Insurance Scheme (2023)
- The Productivity Commission Inquiry into early childhood education and care (ECEC) (2024)

These submissions and responses are a comprehensive record of the Government's views on this subject to date and are appended to this letter. I ask that the Committee consider these as it develops its final report.

The Government looks forward to responding to the Committee's final report once released.

Sincerely,

Kate Washington MP
Minister for Families and Communities
Minister for Disability Inclusion

26 / 04 / 2025



Inquiry into children and young people with disability in New South Wales educational settings

NSW Government response to final report

#	Recommendation	Position	Response
1	That the NSW Government provide increased funding for organisations that provide distance education for out of home care students with disability.	Noted	<ul style="list-style-type: none"> In 2024, more than \$1.13 billion in equity loadings has been provided directly to public schools. Needs-based equity funding is provided to all NSW public schools as additional funding to address the learning needs of identified student equity groups and lift their learning outcomes. This includes schools that provide distance education. The NSW Department of Education provides distance education to students living in NSW who are geographically isolated or unable to attend school on a regular basis due to special circumstances. This may include distance education provisions for students in out of home care with disability. Some independent schools, registered and approved by NESA, also deliver distance education. Funding for non-government schools is chiefly provided by the Commonwealth and is provided according to the needs-based Schooling Resource Standard.
2	That the NSW Government make it a requirement that schools ensure best practice in creating and maintaining communication between the school and the student, their parents and siblings, in line with Recommendation 7.6 (a) of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.	Supported in principle	<ul style="list-style-type: none"> The final report of the Disability Royal Commission called upon state and territory education authorities to support the implementation and continuous improvement of requirements for student and parental communication and relationships. This recommendation was 'accepted in principle'. The NSW Government is committed to providing clear guidance for schools to enhance communication and relationships between students, parents, and staff. This work includes supporting the development of specific guidance tailored for Aboriginal and Torres Strait Islander students with disability. NSW will work with other states and territories to develop an Associated Plan to Australia's Disability Strategy 2021-31, to improve the accessibility of information and communications for people with disability. The Associated Plan will be developed with people with disability, including diverse people with disability who may face additional and particular barriers to accessing information and communications. Scoping and development will commence in 2024.
3	That the NSW Government continue to monitor the use of restrictive practices in educational settings in New South Wales with a view to reducing their application over time in line with recommendations 6.35	Supported in principle	<ul style="list-style-type: none"> The NSW Government is committed to reducing the use of restrictive practices and, where possible, eliminating the use of restrictive practices against people with disability and is giving further consideration to recommendations 6.35 and 6.36 of the Disability Royal Commission.

	and 6.36 of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.		<ul style="list-style-type: none"> • In line with the NSW Government's DRC Implementation Plan 2024-25, work is underway to determine the best method and legislative framework for the authorisation of restrictive practices in disability settings. • This work will ensure people with disability and other stakeholders are consulted should the NSW Government decide to pursue a legislative framework. It is important that solutions take account of the context and existing operating systems in each different setting, including in educational settings. • NSW public schools recognise that students may need different types of intervention or support to best meet their needs. Noting that when this is discussed and a plan is agreed, the rights, safety and freedom of students need to be protected, as well as the safety of staff and other students. • The Department of Education's existing policy and legislative obligations are in place to ensure that prohibited practices are not used in NSW public schools.
4	<p>That the NSW Government ensure that schools:</p> <ul style="list-style-type: none"> • manage behaviours of students with disability using a trauma informed approach, in the place of positive behaviour learning • provide better professional development and support for teachers to help them avoid using suspension and expulsion to manage student behaviour. 	Supported in principle	<ul style="list-style-type: none"> • The NSW Government notes the alignment of this recommendation to recommendation 7.2 from the Disability Royal Commission. • The NSW Department of Education endorses evidence-based behaviour support and management approaches. This includes positive behaviour learning, inclusive education and trauma informed practices. Together, these approaches can respond to the full range of behaviour, recognising that students may require different types of interventions delivered in different ways along a continuum of care. • This approach is backed by the department's Student Behaviour Policy, developed with extensive input of stakeholders. • In addition, schools have legislative obligations around maintaining safe workplaces as well as calm learning environments for staff and students. Suspensions remain a critical safeguard if student behaviour poses a risk to others. • The NSW Government supports new and existing teachers having access to quality initial teacher education and ongoing professional development. The Strong Beginnings: Report of the Teacher Education Expert Panel recommended mandated content relating to managing student behaviour be embedded into Initial Teacher Education programs. • The NSW Department of Education provides a range of quality-assured professional learning, including e-learning, blended learning and face-to-face learning for staff to build their capacity around disability, inclusion, student behaviour and classroom management.

5	<p>That the NSW Government provide enhanced/additional support for the transition back into school for children with disability and their families where they are at risk of being disengaged or have been regularly excluded from the school system. This support could incorporate features such as:</p> <ul style="list-style-type: none"> • ensuring Home School Liaison Officers are trained in trauma informed practice and working with both students and their families with disability. • ensuring NESA staff are trained in trauma informed practice for enhancing engagement with home schooled students and their families. • establishment of transition support units specifically for students with disability who have been regularly excluded from school and are at risk of disengagement. These support units should focus on helping students transition back to schooling in a mainstream classroom. • expanding the number of places in schools for specific purposes (emotional and behavioural disturbance) consistent with the transitional model operating at the Ajuga School 	Supported in principle	<ul style="list-style-type: none"> • The NSW Government acknowledges and respects the broader intent of this recommendation and supports the need to embed inclusive practices and support transitions in and across all educational settings. • The specifics of this recommendation require further consideration by the NSW Government and will be considered in the context of the response to recommendations 7.3, 7.4 and 7.15 from the Disability Royal Commission. • In respect to the regulation of home schooling, NESA will consider possible professional learning options for Authorised Persons, with the view that it may enhance engagement with home schooling families, while noting that the role of an Authorised Persons is to assess applications for home schooling. • The NSW Government's Get Back in the Game (GBIG) Program is delivering support for students and young people (15-21 years) facing barriers to education, employment and training. Currently, 27% of enrolments into the program identify as living with a disability. The program will expand to an additional 36 schools in 2025. • All GBIG caseworkers have received training on The Common Approach, evidence-based to help everyone have quality conversations with young people and their families about all aspects of their wellbeing. Delivery of trauma informed practice training to GBIG caseworkers is planned, following the appointment of new providers in 2025.
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	<ul style="list-style-type: none"> • greater access to distance education, and part time school attendance as a transition to mainstream school settings. • targeted funding for Careers NSW to specifically engage with young people with disability in the 'Get Back in the Game' program, including training for staff in trauma-informed practice. 		
6	That the NSW Government and the NSW Education Standards Authority work towards a school system – government, independent and Catholic – which enables more students with disability to transition to mainstream, inclusive school settings in circumstances where the child and their parents or carers are of the view that it would be to the benefit of that child. The school system must focus on the rights of the child with disability, not the interests of the school.	Supported in principle	<ul style="list-style-type: none"> • The NSW Government acknowledges and respects the broader intent of this recommendation and supports the need to embed inclusive practices and support transitions in and across all educational settings. • The specifics of this recommendation require further consideration by the NSW Government, and it will be considered in the context of the response to recommendations 7.1, 7.4 and 7.15 from the Disability Royal Commission. • The NSW Department of Education's Enrolment Policy requires schools to make reasonable adjustments 'so students with disability can apply for enrolment on the same basis as students without a disability.' • Clear and accessible materials are available for students with disability and their families, outlining their rights and the department will continue to consult with all stakeholders, including students, parents and carers, school staff and community members around implementing inclusive education. • Registered non-government schools are also required to have publicly available enrolment policies. School enrolment policies and processes are expected to comply with the Disability Standards for Education (Part 4), defined under the Disability Discrimination Act 1992. • The NSW Government commits to writing to Catholic Schools NSW and the Association of Independent Schools NSW to share its response to the Committee's report.
7	That the NSW Government increase the requirements for accreditation of initial teacher education courses to ensure teachers are better equipped to meet the learning needs of	Supported in principle	<ul style="list-style-type: none"> • All initial teacher education (ITE) programs in NSW are currently required to include at least one standalone unit of study to support and enrich the learning of students with disabilities. • Graduate teachers are expected to possess a broad understanding of how teaching programs and resources can meet specific learning needs of all students, including

	students with disability, and to consider options for requiring content to specifically address the needs of students with Autism Spectrum Disorder.		<p>inclusive education practices, adjustments, specialist support and government and community services.</p> <ul style="list-style-type: none"> • Additionally, knowledge of legislative responsibilities and educational policies as they relate to educational settings for students with disability, and promoting student well-being and mental health, including the Disability Discrimination Act 1992, Disability Standards for Education 2005, and the Nationally Consistent Collection of Data on School Students with Disability must be explicitly and systematically embedded across discipline specific and curriculum method units within any program of study. • The Strong Beginnings: Report of the Teacher Education Expert Panel was released in June 2023. The report outlined 14 recommendations to strengthen the quality of ITE. Two of the key recommendations related to ensuring that teachers are better equipped to meet the learning needs of students with disability are the establishment of mandated core content in national ITE program accreditation and embedding this in ITE programs by end of 2025. • NESA will raise this recommendation with ITE providers for consideration.
8	That the NSW Government expand the length, reoccurrence and content of mandatory continuous professional development courses relating to students with disability.	Noted	<ul style="list-style-type: none"> • The NSW Government remains committed to enhancing professional development and expertise in inclusive education across NSW schools. • The NSW Government will consider this recommendation in the context of its response to recommendation 7.8 from the Disability Royal Commission (DRC). • When determining professional development requirements, the NSW Government balances legislative obligations, teachers' existing capabilities and expertise, time and workload requirements on schools. • NESA professional development categories were recently updated, giving teachers greater flexibility to choose activities most suited to their context and learning needs of their students. This includes in the priority area of 'students/children with disability'. • In line with the NSW Government's DRC Implementation Plan 2024-25, the NSW Department of Education is committed to build workforce capability to foster inclusive learning environments. Professional learning for teachers is crucial in providing the skills and knowledge needed to effectively support students with disability and promote inclusive education. Building workforce capability and expertise ensures teachers can create accessible learning environments and implement strategies that accommodate diverse learning needs, fostering an equitable educational experience for all students.

9	<p>That the NSW Government investigate options to increase and enhance incentives for qualified teachers to acquire post graduate qualifications to become special educators for students with disability. This could include:</p> <ul style="list-style-type: none"> • more scholarships for teachers to undertake post-graduate qualifications in inclusive/special education. • relief time from their employment to undertake this study. • incentives, including pay structures, for those teachers who hold specialist post-graduate qualifications in special/inclusive education, for example paying such teachers at the same rate of pay as that of Highly Accomplished and Leader teachers (HALTs). 	Supported in principle	<ul style="list-style-type: none"> • The Disability Royal Commission made recommendations relating to building workforce capability and expertise, which were accepted in principle. The response noted that progress has been made under the National Teacher Workforce Action Plan and the review of the Disability Standards for Education 2005 undertaken in 2020. • NSW public school teachers can seek scholarships to retrain in inclusive or special education, while maintaining their current permanent position. Casual and temporary teachers in the program are permanently appointed to a special education teaching position on completion of their studies. • In addition to providing a pathway for teachers to complete a Master degree with a specialisation in inclusive or special education, the program includes a pathway for a Master degree with specialisation in the area of deaf and hard of hearing or blind and low vision and a pathway for a graduate diploma in inclusive/special education. • NSW public schools are also able to employ relief teachers to provide relief time for teachers to undertake professional learning and development. • Industrial relations, including pay and conditions of employment are negotiated with the respective professional associations in accordance with the NSW Government's Fair Pay and Bargaining Policy 2023.
10	<p>That the NSW Government investigate means such as adjusting the resource allocation model to ensure there is targeted funding to employ learning and support teachers (LASTs) on a permanent full-time basis in mainstream public school settings to provide consistency and certainty for both teachers and the students with disability they support.</p>	Noted	<ul style="list-style-type: none"> • The NSW Department of Education provides every mainstream school with an allocation of Learning and Support Teacher time, As at September 2024, more than 1,900 FTE of Learning and Support Teacher time was allocated across NSW. • The NSW Government acknowledges the importance of ensuring funding frameworks effectively support the diverse needs of students with disability in NSW public schools, as per its response to the Disability Royal Commission recommendation 7.12.

11	That the NSW Government increase the number of appropriately qualified Deaf teachers, and implement professional development strategies based on an inclusive education capability framework for principals, teachers, teaching assistants and teachers of Deaf children.	Supported	<ul style="list-style-type: none"> • The NSW Government recognises the need to bolster expertise in inclusive education within public schools, including teachers who specialise in inclusive teaching, behavioural support, and deaf education. • The NSW Government will consider this recommendation in the context of its response to recommendation 7.8 from the Disability Royal Commission. • The department aims to provide a workplace that is diverse, inclusive and reflective of the community. This includes fostering a workforce culture where everyone benefits from equal rights, access and opportunities. • Staff with disability are supported to access workplace adjustments in alignment with the Workplace Adjustments Procedure, to thrive in the workplace. • NESA is working with ITE providers to support training and capacity building and has released curriculum support materials to support the teaching of Auslan in NSW schools (K-10 Auslan syllabus). • Ongoing work in the design and delivery of any aspect of this teaching area will include input from members of the Deaf Community.
12	<p>That the NSW Government increase the number of qualified specialist vision teachers for blind and low vision students, to be engaged for all students who are blind/ low vision, to provide them with:</p> <ul style="list-style-type: none"> • Braille literacy • adaptive technology training • orientation/ mobility • compensatory skills and independent living skills • social skills • career counselling. 	Supported	<ul style="list-style-type: none"> • The NSW Government recognises the need to bolster expertise in inclusive education within public schools, including teachers who specialise in inclusive teaching, behavioural support, or have expertise in supporting students who are blind or have low vision. • The NSW Department of Education aims to provide a workplace that is diverse, inclusive and reflective of the community. This includes fostering a workforce culture where everyone benefits from equal rights, access and opportunities. • Staff with disability are supported to access workplace adjustments in alignment with the Workplace Adjustments Procedure, to thrive in the workplace.
13	That the NSW Government continue to improve the proportion of teachers and support staff with disability in the school sector and consider how more students with disability can be	Supported in principle	<ul style="list-style-type: none"> • The NSW Government is committed to increasing accessibility and disability employment across the public sector, including in education. • The NSW Government will consider this recommendation in the context of its response to recommendation 7.8 and 7.18 from the Disability Royal Commission (DRC).

	supported and encouraged to gain a teaching degree.		<ul style="list-style-type: none"> • In line with the NSW Government DRC Implementation Plan 2024-25, the office of the Public Service Commissioner will review the implications and supports required to achieve specific disability employment targets for the NSW public sector. The Public Sector Disability Employment and Inclusion Steering Committee will provide oversight and support into the program of work across the NSW Government sector to improve the recruitment and retention of employees with disability. • The NSW Department of Education is engaging with public school staff to understand their experiences in becoming teachers and school support staff. • This project is intended to understand opportunities for the department to improve processes and reduce the barriers to people with disability becoming teachers and school support staff. The research project seeks to inform part of the NSW Department of Education's new Disability Inclusion Action Plan.
14	That the NSW Government establish culturally safe policies and procedures for First Nations students with disability, in consultation with First Nations peoples and their representatives.	Supported	<ul style="list-style-type: none"> • The NSW Government is committed to improving the educational outcomes and wellbeing of First Nations students so that they excel and achieve in every aspect of their education, as set out in our Aboriginal Education Policy and the longstanding Partnership Agreement with the NSW Aboriginal Education Consultative Group Inc. • The NSW Government will consider this recommendation in the context of its response to recommendation 7.7 from the Disability Royal Commission. • NSW public schools ensure that First Nations students have access to a culturally responsive education and training system that values their cultural heritage and sets high expectations in delivery. This is measured through School Improvement Plan and reported through Annual School Reports.
15	That the NSW Government provide incentives to existing school learning support officers to acquire a Certificate III or Certificate IV in School Based Education Support, to allow them to commence and complete this training while in employment as a school learning support officer (SLSO).	Noted	<ul style="list-style-type: none"> • The NSW Government notes the response to the Disability Royal Commission's recommendation 7.8c, which it accepted. • The NSW Government is focused on ensuring that we have a good supply of qualified teachers in our schools to provide high quality education to all students. • The Grow Your Own program supports School Administrative Support Services (including School Learning Support Officers) and local community members to upskill to a career in teaching. • Under the program, participants study a pathway to an accredited teaching degree while continuing to work in a NSW public school to gain early classroom experience. Upon successful completion of studies, participants are appointed as a full-time teacher in a NSW public school within an agreed location for a minimum of three years.

			<ul style="list-style-type: none"> The Grow Your Own program does not currently offer a vocational education and training qualification stream; however, participants are supported by the program's university partners to complete a bridging pathway to meet entry requirements for ITE degrees.
16	That the NSW Government invest in specialist and allied health workforces to support children and young people with disability.	Supported	<ul style="list-style-type: none"> In 2024-25, the NSW Government allocated \$40 million for the Family Start Package, including a \$20 million boost to the allied health workforce. State and Australian governments have joint responsibilities for the key workforce areas that deliver care for children and young people with disability. A multidisciplinary approach is beneficial in the diagnosis and management of child and young people. This includes collaboration between allied health practitioners and teachers. Services responding to identified needs can come from a range of providers – public, private, not-for-profit or, where appropriate, the National Disability Insurance Scheme. Delivery of health services for children and young people with disability is reliant on the availability of the core clinician groups (including speech pathologists, psychologists, occupational therapists, and physiotherapists). NSW Health has implemented a range of statewide recruitment and retention strategies that are either generalised (all workforces or statewide) or focused on rural workforce and/or specific clinical workforces. Details of the programs are available on the NSW Health website. Industrial relations, including pay and conditions of employment are negotiated with the respective professional associations in accordance with the NSW Government's Fair Pay and Bargaining Policy 2023. This recommendation will be further considered in the context of responding to the recommendations of the NDIS Review and the design and implementation of foundational supports, as agreed by all states and territories in 2023.
17	That the Department of Education transition to the eligibility criteria for Integration Funding Support relying on functional assessments of students' needs, rather than medical diagnoses.	Supported in principle	<ul style="list-style-type: none"> The NSW Government acknowledges the importance of comprehensive funding models that consider both student needs and school contexts. The NSW Government will consider this recommendation in the context of its response to recommendation 7.12 from the Disability Royal Commission (DRC). As part of its DRC response, the NSW Government welcomed the opportunity to enhance disability funding arrangements nationally, aligning them with a needs-based approach and the Nationally Consistent Collection of Data on school students with disability.

			<ul style="list-style-type: none"> In line with the NSW Government DRC Implementation Plan 2024-25, the NSW Department of Education is committed to continuing to collaborate with the Commonwealth and other jurisdictions to ensure funding frameworks effectively support the diverse needs of students with disability and consider school contexts.
18	That the NSW Government consider using principles of inclusive and adaptive design in school buildings to improve accessibility for all students. Accessibility considerations for students should be prioritised above heritage requirements.	Supported in principle	<ul style="list-style-type: none"> The NSW Government supports the need to embed inclusive practices in all educational settings, including in the design of school buildings and will consider this recommendation in the context of its response to recommendation 7.4 from the Disability Royal Commission. The Department of Education has developed an Inclusive Design Framework to ensure participation on the same basis for all students. The Framework sets the vision and objectives to be met by new schools and upgraded facilities. The objectives are specific to school settings and build on existing accessibility minimum requirements. Additional specific objectives ensure support units and Schools for Specific Purposes are designed with inclusivity in mind. These objectives will be issued in the next iteration of the Educational Facilities and Standards Guidelines and align with heritage requirements.
19	That the NSW Government commit to a sustainable long-term investment in quality and appropriate capital and infrastructure for educational settings.	Supported	<ul style="list-style-type: none"> In its first term, the NSW Government is investing \$8.9 billion for new and upgraded schools. Addressing the capital investment needs for educational infrastructure arising from the Royal Commission's recommendations is underway. This includes undertaking a process of funding prioritisation for infrastructure decisions. The NSW Government will consider this recommendation in the context of its response to recommendation 7.4 from the Disability Royal Commission.
20	That the NSW Government create clear and direct guidelines for schools to enable compliance with statutory obligations to provide reasonable adjustments for students with disability.	Supported in principle	<ul style="list-style-type: none"> The NSW Government supports the provision of accessible information and guidance to support schools, principals, teachers, and staff in fulfilling their obligations regarding the provision of reasonable adjustments to students with disability. The NSW Government will consider this recommendation in the context its response to recommendation 7.3 from the Disability Royal Commission. NESA's website provides clear information for schools and teachers on their obligations to provide reasonable adjustments for students with disability, in accordance with the Disability Standards for Education 2005. This includes: <ul style="list-style-type: none"> definition of adjustments, including reasonable adjustments

			<ul style="list-style-type: none"> - types of adjustments - processes for making decisions about making adjustments. <ul style="list-style-type: none"> • In addition, teaching advice and support material include illustrations and examples of adjustments that could be made to support students with disability to access and participate in the curriculum. • In NSW public schools, the roles and responsibilities relating to ensuring inclusive education are outlined in departmental policy and procedures. • There is also a range of universal resources and advice to support public schools to meet their responsibilities under the policy and procedures. • In addition, the standard legal guidance around discrimination and factors that might constitute unlawful discrimination in education settings are available in a published legal bulletin. • Specialist legal advice is provided to schools on a case-by-case basis in response to requests for assistance.
21	That the NSW Government consider a streamlined process, including a line of communication between the relevant agencies, for granting disability provisions for the Higher School Certificate. The process should incorporate recognition of pre-existing conditions and adjustments already provided in the classroom.	Supported	<ul style="list-style-type: none"> • Over the past four years, NESA has strengthened the information available for schools about High School Certificate (HSC) Disability Provisions. Online workshops are available to every school in NSW and provide advice and support to improve schools' understanding of disability provisions and improve lines of communication. • NESA is committed to continual improvement of the HSC disability provision process and will continue to look into potential changes to policies, processes and systems to ensure students with disabilities can access exams while maintaining the integrity of the HSC program. • Consultation with stakeholders guides this ongoing work.
22	That the NSW Government provide support to the Department of Education and schools to ensure they work with parents and NDIS providers to enhance and facilitate student access to NDIS-funded support in the school setting in order to achieve maximum benefits for the student and enhance teacher capability to address student needs.	Noted	<ul style="list-style-type: none"> • The NSW Government is carefully considering the recommendations from the NDIS review and continues to work with other jurisdictions on the response. • This recommendation will be considered in the context of responding to the recommendations of the NDIS review.

23	<p>That the NSW Government investigate and review options for an independent oversight function or body to support, advocate and investigate on behalf of children and young people with disability and their families. The independent body could include the following features:</p> <ul style="list-style-type: none"> • Jurisdiction over the education of school-aged children in government and non-government schools, TAFE, vocational education providers, universities, early childhood education settings, home education or not in any educational setting in New South Wales. • The ability to review and adjudicate on decisions to suspend or expel students with disability. • The ability to review and adjudicate on decisions by schools about adjustments, and decisions by NESA about Disability Provisions. • The ability to investigate and respond to allegations of discrimination, abuse, neglect and exploitation of a child with disability in a registered school. • The ability to review and investigate issues of systemic disability discrimination and ableism. 	Not supported	<ul style="list-style-type: none"> • The NSW Government will consider this recommendation in the context of its response to recommendations 7.10 and 7.11 from the Disability Royal Commission. • NSW school registration requirements currently require schools to have and implement policies and procedures for managing complaints that are publicly available. • For NSW public schools, information about raising concerns about support or adjustments for students with disability; the role of support persons and advocates; the availability of free advocacy services for people with disability and their families; and interpreting and translation services, is available via the Department of Education website. • In NSW public schools, any person can raise an issue or concern about any aspect of the services provided by the department. Concerns are addressed with regard to the relevant procedure or process for addressing the specific nature of the concern. • In addition, any person can report allegations of misconduct to the department's Professional and Ethical Standards team directly. • The department has engaged an independent alternative dispute resolution service to assist parents/carers and schools to resolve disputes, at no cost to parents and carers. • Free advocacy services are available to support people with disability and their families through the Disability Advocacy Program. Support organisations are also available for people who identify as Aboriginal or Torres Strait Islander or have a language background other than English. • Beyond the department, there a number of avenues that can receive complaints or investigate issues on behalf of children and young people including: <ul style="list-style-type: none"> - NSW Ombudsman. - Office of the Children's Guardian - Australian Human Rights Commission - Anti-Discrimination NSW - NSW Civil and Administrative Tribunal. • There is also an appeal function internal to the NESA framework, which includes appeal to independent tribunals. • Upon enrolment, TAFE NSW students with an identified disability have access to support from a Disability Teacher Consultant for ongoing support and advocacy. • The TAFE NSW Complaints Policy ensures that the dispute resolution process is clear and accessible to all students and/or their parents and carers.
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	<ul style="list-style-type: none"> • The ability to collect and report on data relating to suspension, expulsion and restrictive practices. • The ability to advise on a transition to a more inclusive education school system. • A clear and accessible dispute resolution mechanism for parents and carers to make complaints or raise concerns, and procedures to collect, analyse and report on these complaints. 		<ul style="list-style-type: none"> • When a learner identifies as having a disability, subject matter experts, including Disability Teacher Consultants or Counselling and Careers advisors (with permission from the student) are engaged for support through the complaints process. • TAFE NSW Student Services monitors its complaints for trends to drive continuous improvements, reporting and analysis of complaint volumes and themes. • Through its Australian Universities Accord process, the Commonwealth is moving to establish a National Student Ombudsman. The Universities Accord (National Student Ombudsman) Bill 2024 is currently before the Commonwealth Parliament. The proposed National Student Ombudsman will have wide investigation powers, including in relation to discrimination, and the ability to make recommendations to higher education providers and report on the outcomes of investigations.
24	That the NSW Government refer the issue of the removal of exemptions which allow private educational institutions to discriminate against a person on the basis of disability to the NSW Law Reform Commission for consideration as part of its review into the <i>Anti-Discrimination Act 1977</i> .	Supported	<ul style="list-style-type: none"> • The NSW Law Reform Commission is currently reviewing the Anti-Discrimination Act 1977. The review is considering whether the Act should be modernised and simplified to better promote the equal enjoyment of rights and to reflect contemporary community standards. The terms of reference for the review include consideration of exceptions and exemption processes.
25	That the NSW Government seek to amend the <i>Anti-Discrimination Act 1977</i> to include a positive duty on educational institutions to provide reasonable adjustments for a person with disability.	Noted	<ul style="list-style-type: none"> • The NSW Law Reform Commission is currently reviewing the Anti-Discrimination Act 1977. The terms of reference for the review include whether the Act should include positive obligations to prevent discrimination, harassment and vilification, and to make reasonable adjustments to promote full and equal participation in public life.
26	That the NSW Government improve its data collection and reporting on students with disability who are school-aged/in school settings, including collecting data on the following:	Supported in principle	<ul style="list-style-type: none"> • The NSW Government supports a vision for improved data and evidence on the experience and outcomes of students with disability and will consider this recommendation in the context its response to recommendation 7.1, 7.9, 6.39 and 6.40 from the Disability Royal Commission as well as the recommendation made by the NSW Audit Office in its report on supporting students with disability. • Implementing this recommendation requires further consideration of data collection categories and reporting. In addition, implementing components of this

	<ul style="list-style-type: none"> collect and report on data relating to suspension, expulsion and restrictive practices in government and non-government schools collect and report data on students refused enrolment in their school of choice due to disability collect data on students with disability who are homeschooled in the Nationally Consistent Collection of Data on students with disability collect data on outcomes of requests for reasonable adjustments and HSC Disability Provisions where relevant, this data should be disaggregated to report on children who are in out of home care. 		<p>recommendation will require consideration of impacts on workload for schools and data management systems.</p> <ul style="list-style-type: none"> Since 2011, NESA has published fairness and integrity data annually relating to the previous year's HSC, including statistics around applications and approvals of disability provisions in HSC assessments and exams. The data is reported by provision not disability. NESA is committed to continuing this practice and broadening the data published relating to the HSC. The Department of Education's Plan for NSW Public Education outlines how it will create an equitable and outstanding education system. The department commenced monitoring and reporting on its plan in 2024. The plan includes student success measures that tell us about the experiences and outcomes of students. Complementary to the plan and specific to students with disability, the department is progressing work to track and monitor the experiences and outcomes of students with disability to drive evidence-based policy, programs and initiatives to improve experiences and outcomes for students with disability.
27	That the NSW Government increase support for young people with disability transitioning from school to study at TAFE, vocational education and training and higher education, for example through funding transition pilot programs and introducing in-school supports and learning for students with disability.	Supported in principle	<ul style="list-style-type: none"> The NSW Government supports a consistent approach to supporting students as they transition from school to post school options. The NSW Government will consider this recommendation in the context its response to recommendation 7.5 from the Disability Royal Commission. Current support initiatives include government-subsidised training, funding for TAFE NSW, and collaboration with industry to create workplace engagement models. By ensuring students with disability are supported to access and participate in quality career learning at all levels, the NSW Government is facilitating these students access to future opportunities. The Department of Education's Plan for NSW Public Education commits to provide meaningful post-school pathways for every student in the system. Examples of programs and initiatives that support post-school transitions for students with disability include:

			<ul style="list-style-type: none"> - Externally Delivered VET (EVET) <ul style="list-style-type: none"> ▪ Offers training providers additional funding to support teaching and learning activities for students with disabilities. ▪ Includes dedicated classes (offering a lower student-to-trainer ratio and customised delivery content to suit the needs of students with disability). - Dedicated resources for school leadership teams <ul style="list-style-type: none"> ▪ Available on the department's Universal Resources Hub; resources to support schools in their strategic planning and empower them to assist young people with disability to explore post-school pathways. - Educational Pathways Program <ul style="list-style-type: none"> ▪ Enables students with disability to engage in vocational taster courses and career learning through the provision of additional resources to support their learning needs. ▪ Also offers tailored pathway and vocational learning opportunities to engage students from Schools for Specific Purposes, and initiatives such as Back in the Game, to provide wrap around support to students most at risk of disengaging from education. • TAFE NSW offer a statewide network of Teacher Consultants, Disability Support Teachers, Teachers and Disability Teachers providing advice, guidance and support for students living with disability and medical conditions across multiple channels. • TAFE NSW disability and access services include: <ul style="list-style-type: none"> - Provision of assistive technology and equipment - Disability awareness training for inclusive teaching/specialist disability needs - Case management - Referral and appointments - Negotiation, implementation and review of reasonable adjustment provision within Individual Education Plans - 1:1 and group tutorials - Liaison and referral with teaching sections to provide guidance, advice and support managing reasonable adjustments and student learning needs - Tailored service to enable success of the student - Attend and participation in events organised by peak disability organisations • Other initiatives offered by TAFE NSW include: <ul style="list-style-type: none"> - Start your Future and Trade Readiness courses
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			<ul style="list-style-type: none"> ▪ Students with a disability participating in these courses are supported by their school Student Learning Support Officer. - TAFE NSW early school leavers program <ul style="list-style-type: none"> ▪ Disability support and reasonable adjustments available: - TAFE NSW Counselling and Career Development Service <ul style="list-style-type: none"> ▪ provides students with timely, professional and best practice counselling and career development support. • Bradfield Senior College at TAFE NSW is a model of a non-traditional senior secondary school which caters for a diverse range of students, with and without disabilities, that are seeking to re-engage with education. The Bradfield model provides: <ul style="list-style-type: none"> - An intensive enrolment process with interview and liaison with external agencies/previous schools as required to develop student plans with goals and adjustments to support. - 3 X 5-week 1 day per week YES programs available for specific students in Year 10 to assist them to integrate into the campus, identify further learning or other needs. - 2-day orientation program for all learners - Flexible study patterns (Pathways HSC) and college style timetable - Adjustments (as available to all TAFE NSW students).
28	That the NSW Government, in cooperation with the Australian Government, seek to review the governance of NSW public universities, particularly with respect to their policies and processes for meeting the educational needs of students with disabilities and their complaints handling processes.	Noted	<ul style="list-style-type: none"> • The Minister for Skills, TAFE and Tertiary Education will refer this recommendation to the NSW Vice-Chancellors' Committee for consideration.

Submission to the NSW Inquiry into Children and young people with disability in NSW educational settings



Submission to the NSW Inquiry into Children and young people with disability in NSW educational settings

Introduction

The NSW Government is committed to driving equitable outcomes, opportunities and experiences for all students to ensure every learner receives a high-quality education. A truly equitable education system lifts everyone up; it empowers all students, including those with disability, to succeed, creates stronger communities, and promotes a more just and inclusive society. This submission acknowledges the importance of education at all stages of life, including across:

1. Early Childhood Education and Care (ECEC)
2. Schools
3. Training and Skills.

Each chapter will address the focus areas of the Plan for NSW Public Education as relevant to that sector. As the submission focuses on the education portfolio in the context of the public early childhood, school and skills/higher education systems, the references to schools throughout are to public schools unless otherwise indicated.

Our Plan for NSW Public Education

The NSW Government is committed to building a more inclusive public education system. To support this goal, in 2023, the NSW Department of Education (DoE) released [Our Plan for NSW Public Education](#). The plan is built on the power of public education to provide opportunities for all and to transform lives through learning. With equity as the centrepiece, the plan outlines DoE's strategic direction and priorities, to ensure that every learner receives a high-quality education that enables them to excel.

This approach is informed by evidence and insights from engagement with the education community. It harnesses the commitment of teachers and schools to provide an outstanding education for every learner and to support them to achieve their potential by enabling lifelong learning. The key areas of focus of the plan are:

1. Advance equitable outcomes, opportunities and experiences
2. Strengthen trust and respect for the teaching profession and school support staff
3. Give children the best start in learning
4. Deliver outstanding leadership, teaching and learning
5. Strengthen student wellbeing and development
6. Provide meaningful post-school pathways.

A whole school, whole system approach to inclusion

At the commencement of 2024, there were more than 805,000 students enrolled in more than 2,200 NSW public preschools and public schools, supported by around 99,000 teachers, educators, and support staff. Almost 500,000 children accessed ECEC services across the state, including approximately 4,400 children who attended the 101 NSW public preschools. In 2023, approximately 26% of school students, from Kindergarten to Year 12, were identified as living with a disability. Accordingly, the DoE [Disability Strategy](#), released in 2019, outlined the vision for building a better education system for students with disability in NSW public schools.

Under the Disability Strategy, inclusive education in NSW is defined as:

all students, regardless of disability, ethnicity, socioeconomic status, nationality, language, gender, sexual orientation or faith, can access and fully participate in learning, alongside their similar aged peers, supported by reasonable adjustments and teaching strategies tailored to meet their individual needs. Inclusion is embedded in all aspects of school life, and is supported by culture, policies and everyday practices.

The [Disability Strategy](#) led to the development of the [Inclusive Education Statement for Students with Disability](#) which further defined what inclusive education means for school communities. This includes education environments that adapt design and physical structures, teaching methods, and

curriculum, as well as the culture, policy and practice of education environments, so they are accessible to all students without discrimination.

DoE continues to adopt a whole school, whole system approach to inclusion, to drive ongoing improvements in the learning and wellbeing outcomes for students with disability. The [Disability Strategy](#) delivered a strong foundation. [Our Plan for NSW Public Education](#) builds on this, seeking to advance equitable outcomes, opportunities and experiences by reducing gaps in student outcomes due to structural inequities. This includes students with disability, Aboriginal students, students experiencing socioeconomic disadvantage, students in rural, regional and remote NSW, and students from culturally and linguistically diverse backgrounds and communities.

Rural, regional and remote communities often suffer from a lack of allied health services that can provide diagnostic assessments and/or support for children and young people with a disability. The result is that many young people are not assessed and therefore do not have the right disability specific supports in place and/or are unable to access a full range of supports that can help them within the context of education. This is why as a department we have started moving to support models which shift us from being reliant on disability diagnosis to approaches which recognise functional needs of students.

Ensuring equity of access to quality education for all learners, no matter where they live, is the foundation of the DoE [Rural and Remote Education Strategy](#). This Strategy aims to improve outcomes for students in rural, regional and remote locations, by ensuring the specific needs and contexts of these learning communities are understood and factored into decision-making across DoE. Understanding the compounding effect remoteness can have on the ability to access supports means a differentiated approach is required, to ensure equity for all learners. Under the [Rural and Remote Education Strategy](#), DoE is monitoring the performance of programs being rolled out across the department to make sure they are fit for purpose in rural, regional and remote areas.

Transitions

Ensuring students with disability in NSW feel confident and empowered to access education as they progress between the sectors is also critical. Our Plan for NSW Public Education identifies the goal of every student being known, valued and cared for at school, and improving support for students as they transition through school is a key action. Successful transitions from early childhood to primary school and on to high school and further learning, positively impact long-term academic, social, and wellbeing outcomes, particularly for priority equity groups such as students

with disability. NSW Government agencies provide a range of services to assist these transitions and support lifelong learning.

Looking ahead

The NSW Government will consider any recommendations of this inquiry in the context of recommendations arising from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Disability Royal Commission), the proposed changes from the recent independent review of the National Disability Insurance Scheme (NDIS), and the outcomes from the current performance audit by the NSW Auditor-General into DoE support for students with disability in NSW public schools.

The NSW Government is taking time to carefully consider the findings of the Disability Royal Commission and will provide a response in due course. Accordingly, this submission does not address any proposed response by the NSW Government to the Disability Royal Commission recommendations.

Chapter 1: Early Childhood Education and Care

Early Childhood Education and Care (ECEC) in Australia is complex, with responsibility for the funding, regulation, and delivery of different early childhood service types split across different levels of government. The Australian Government's primary role is as funder of Long Day Care, Outside School Hours Care and Family Day Care. Funding is primarily directed to these services through the means-tested Child Care Subsidy which provides fee relief for parents and carers to facilitate workforce participation. Through the Preschool Reform Agreement, the Australian Government also provides funding to state and territory governments to support the delivery of 600 hours of preschool education for children in the year before school. In addition to Preschool Reform Agreement funding, state and territory governments use own-source revenue to fund public and community preschools. The NSW Government also provides funding to Long Day Care services to support preschool participation, through programs such as Start Strong for Long Day Care.

In NSW, almost 510,000 children access ECEC services. Approximately:

- 261,600 children currently attend long day care services. (CCS June Quarter 2023)
- 183,800 children attend outside of school care services. (CCS June Quarter 2023)
- 23,700 children attend family day care (CCS June Quarter 2023)
- 33,400 children attend community or mobile preschools (PEA 2022)
- 4,200 children attend public preschools. (PEA 2022)

The NSW Government has a multifaceted role in shaping the ECEC system in NSW as a provider, funder and regulator. The government provides support to and regulates more than 6,000 ECEC services. DoE operates 101 public preschools including 2 distance education preschool classes (Dubbo School of Distance Education and Broken Hill School of the Air). There are 61 preschools located in the Sydney metropolitan area and 40 in regional and rural areas. It is DoE's intent that preschools provide for the most disadvantaged children in each local community and provide access to high-quality early childhood education and care.

The NSW Government has committed to building 100 new public preschools by 2027. This includes a commitment to build preschools on new school sites. In September 2023, the locations of 10 new schools with a co-located preschool were announced. An independent selection process for the remaining 90 sites has been undertaken over the past few months based on a rigorous analysis of educational need, child development outcomes and where there is undersupply of

preschool places based on predicted future demand and following due diligence processes undertaken by School Infrastructure NSW regarding site feasibility. This will double the current number of public preschools. The 100 new preschools will be operated by the department and will deliver high-quality play-based preschool programs.

Focus Area 2: Strengthen trust and respect for the teaching profession and school support staff

DoE provides sector capacity-building programs to support educators and teachers to include children with disability in quality early childhood education.

The NSW Disability and Inclusion Program Sector Capacity Building Program

The [NSW Disability and Inclusion Program Sector Capacity Building](#) program is available to all community preschools (including mobile preschools) receiving Start Strong for Community Preschools funding. The program provides free training and support to staff in community preschools to implement inclusive education practices and enhance ongoing inclusion readiness.

The program is delivered by experienced early childhood agencies specialising in early childhood inclusion practice. Each program provider is allocated a region or regions within NSW and is assigned to work with each community preschool in that region.

All community preschools are encouraged to engage with a Sector Capacity Building provider to support inclusive education practices and enhance ongoing inclusion readiness. Preschools that do not currently have children with disability and additional learning and support needs enrolled can still benefit from the free training, support, networking and advice offered under the program.

The NSW Early Childhood Inclusive Education Scholarships 2022-23

The 2022-23 [Early Childhood Inclusive Education Scholarships Program](#) aimed to increase the number of NSW early childhood education teachers with a postgraduate qualification in Early Childhood Inclusive Education in NSW community preschools, mobile preschools and long day care services.

76 successful scholarship recipients received:

- up to \$20,000 for those completing the Master of Special and Inclusive Education (specialising in Early Childhood); or

- up to \$10,000 for those completing the Graduate Certificate in Early Childhood Disability Support.

NSW Identify and Include Children with Additional Needs (IICAN) Program

TAFE NSW developed and delivered IICAN to train early childhood educators working with children and their families to identify children who may need additional support, understand early childhood development and disability, recognise indicators of developmental delay, work in a family-centred team approach, and apply universal design principles to include children. The program seeks to improve the early intervention skills of ECEC educators and to strengthen their therapeutic partnerships with allied health providers. The program was delivered to 190 educators in rural and remote regions in Far West NSW. The program has now been extended to 600 places across the state.

NSW Safety and Quality Practice Program

To further support and strengthen the capacity of educators and teachers to ensure a safe and inclusive learning environment for all students, DoE's [Safety and Quality Practice Program](#) funded a series of seven interactive webinars delivered by Special Teaching and Research. The webinars focused on the delivery of quality educational programs for children with disability and developmental delays and inclusion within ECEC settings, including Out of School Hours Care and Family Day Care.

Children's Perspectives in Early Childhood Pedagogy, Policy, and Practice Project

DoE is undertaking the Children's Perspectives in Early Childhood Pedagogy, Policy, and Practice Project, which focuses on children's right to be active participants by seeking out and creating spaces to gather, reflect on, and respond to children's views. Particular consideration has been given to the development of data-gathering tools that are accessible and flexible for all children, including children with disability. DoE is partnering with early childhood teachers to incorporate their expertise and support ongoing professional learning. The project is underpinned by an inclusive, strengths-and rights-based approach. This project involves an iterative process of developing a framework and suite of research-based, qualitative, participatory and child-friendly data collection and analysis tools.

The Commonwealth Inclusion Support Program ([link](#))

Inclusion agencies in each state and territory (KU Children's Services in NSW) provide free advice and support to ECEC services. They work with ECEC services to identify and address barriers to inclusion.

Focus Area 3: Give children the best start in learning

Children with disability in ECEC services

The NSW Government is committed to ensuring that children with disability and additional learning and support needs receive quality early childhood education and care on the same basis as their peers. People with disability have varied identities, circumstances, lived experiences, and varied experiences accessing ECEC. There may be intersectionality of disability and other factors (such as being Aboriginal or Torres Strait Islander, being from a culturally or linguistically diverse background, or experiencing socio-economic disadvantage) that compound and increase experiences of discrimination, disadvantage, and inequitable access to early childhood education.

DoE's First Steps - NSW Aboriginal Children's Early Childhood Education Strategy 2021-2025 aims to ensure all Aboriginal and Torres Strait Islander children have access to quality early childhood education while being supported to embrace their culture and identity. A specific goal highlights the importance of providing culturally appropriate support and equal educational opportunities for Aboriginal and Torres Strait Islander children with disability. The strategy also highlights a 2024 deliverable to use block funding for Aboriginal Community Controlled Organisations in delivering services to First Nations people with disability.

A positive transition to school can better prepare children to handle challenges and is linked to academic success in later years and positive life trajectories. A range of transitions approaches and resources have been developed by DoE to meet the individual needs of each child, family, and community spanning a broad network designed to strengthen transitions and continuity of learning. These include orientation programs and the Transition to School Digital Statement (TTSDS). The TTSDS is a state-wide initiative enabling early childhood teachers and educators to create transition to school statements digitally for children starting kindergarten in the following year, and has led to more children being supported in their transition from preschool into the school environment.

Children with disability and additional learning and support needs may require further support as part of their transition program. It is recommended that early childhood education and care

services work with families, allied health professionals and schools to support the individual needs of a child who requires additional support. This can sometimes be as early as 12-18 months prior to the child starting school. Within schools there are specialist staffing positions, such as Early Intervention Teachers, that support and facilitate the transition to school for children with disability.

Programs supporting children with disability in ECEC settings in NSW

The NSW Government delivers a range of initiatives to support inclusive early childhood education.

The Disability and Inclusion Program

DoE's Disability and Inclusion Program supports children with disability and additional learning and support needs in NSW community preschools. High Learning Support Needs funding is provided to community preschools to develop and deliver a child's individual learning plan, enabling participation in an educational play-based program on the same basis as their peers. Community preschools can apply for funding for a child with high learning support needs up to a total of \$14,562 (ex GST) per child, per year.

Inclusive Environments Funding (IE), formerly known as Minor Capital Works, promotes access and improves educational opportunities, learning outcomes and personal development of children with disability and additional learning and support needs in community preschools. Funding is available for minor environmental modifications and specialised equipment or furniture enabling children with disability and additional learning and support needs to participate in the educational program, on the same basis as their peers. There are two types of Inclusive Environments Funding:

- Child-based funding for a community preschool to support individual children with constant and ongoing support needs currently attending their service. Up to \$5,000 (ex GST) per child per year is available for specialised equipment/furniture. Up to \$20,000 (ex GST) per child per year is available for minor construction projects.
- Service-based inclusion readiness funding for a community preschool to improve their capacity to include children with disability or additional learning and support needs in the future. Up to \$5,000 (ex GST) per community preschool per year is available for specialised equipment/furniture or minor environmental modifications.

An [independent evaluation](#) finalised in November 2022 found that 'the Disability Inclusion Program provides critical supports for NSW community preschools to meaningfully include children with disability and high learning support needs in early education programs with benefits for all

children'. The evaluation was completed by the Social Policy Research Centre at the University of New South Wales and the Australian Institute of Family Studies.

Start Strong for Community Preschools

The [Start Strong for Community Preschools](#) program provides funding to deliver affordable quality preschool education for 3-5 year old children enrolled in eligible community and mobile preschools in NSW. The program provides additional funding to achieve equitable outcomes for children in priority cohorts, including children with disability or additional learning and support needs. Additional funding is provided as an equity loading, available in addition to 'base' funding, as well as any other loadings an enrolled child may be eligible for (such as regional loading, English language assistance and/or higher order multiple funding). Start Strong for Community Preschools funding is scaled based on annual hours of enrolment. Recognising that 600 hours per year is not always possible for children with disability and/or additional learning and support needs, the maximum rate for the Program Payment and Fee Relief Payment may be available to these children when enrolled for a minimum of 300 hours per year.

Start Strong for Long Day Care

The [Start Strong for Long Day Care](#) program provides funding to deliver affordable quality preschool education to children aged 3 and above who are enrolled in eligible long day care services in NSW. Providers funded under the program are encouraged to give priority access to children in certain cohorts, including children with disability and/or additional learning and support needs.

Integration Funding Support

[Integration Funding Support](#) helps schools, including public preschools, provide adjustments for students with disability who have moderate to high learning and support needs in mainstream classes. Funding is used:

- for additional teachers and school learning support officers to assist with personalised learning and support for students in their own classrooms
- to provide relief for classroom teachers to undertake professional learning and to plan adjustments with parents and carers and other school staff.

A student in a public preschool may be eligible for Integration Funding Support if they:

- have a disability and require substantial or extensive adjustments as defined by Nationally Consistent Collection of Data on school students with disability (NCCD) guidelines

- have a moderate or severe intellectual disability, mental health disorder, autism, physical disability or hearing or vision impairment (as defined by the DoE's disability criteria)
- have personalised learning and support adjustments to access learning opportunities and school experiences due to disability, and
- have documented adjustments requiring additional resources to those available through the school.

Start Strong Pathways

The [Start Strong Pathways](#) initiative has been supporting children across NSW to access quality early childhood education and care since 2018, providing educational supports to young children prior to preschool enrolment, to establish pathways into early childhood education. Start Strong Pathways provides grants to not-for-profit and community-based services which engage children and families before preschool. Activities and services such as playgroups, toy and resource libraries, mobile, outreach, and home-based services, and transition support for children newly enrolling in preschool or other ECEC settings are delivered by a variety of organisation types, including disability-focused service organisations.

The program guidelines prioritise funding for services provided to vulnerable community groups, including children with disability. The program objectives are to support educational engagement of children too young to receive a preschool education, supporting pathways to preschool and promoting the importance of early childhood education to parents and communities.

The Commonwealth Government also provides funding to support inclusive early childhood education.

The Commonwealth Inclusion Support Program

The [Commonwealth Inclusion Support Program](#) helps children with additional learning and support needs participate in early childhood education. It provides tailored support and funding to services to address barriers to inclusion.

The program is open to Child Care Subsidy approved services that provide Centre Based Day Care, Family Day Care or Outside School Hours Care. The program supports services to; address barriers to inclusion, build capacity and capability to include children with additional learning and support needs, and implement quality, inclusive and equitable practices.

The program aims to provide children with additional learning and support needs the opportunity to learn and develop next to their typically developing peers, and to ensure all children have genuine opportunities to participate and achieve positive learning outcomes. Inclusion Agencies in each state and territory deliver this program. To do this, they work with a national Inclusion Development Fund Manager.

Early intervention programs that support children with disability in NSW

Brighter Beginnings

[Brighter Beginnings](#) is a NSW Government collaboration aimed at improving child health and development outcomes, recognising that no single system or agency can drive the level of improvement required to lift the number of NSW children developmentally on track. The evidence highlights that supporting childhood health and development is essential to improve outcomes for NSW children, families and communities. The early years are a critical time for a child's physical, cognitive, social and emotional growth.

Brighter Beginnings aims to achieve increased universal access to education, health, community, and government services, provide targeted early interventions to families experiencing vulnerability and disadvantage, improve families' experience in their interactions with government services, and raise awareness and understanding of the importance of the time between pregnancy and primary school. The program includes specific strategies for Aboriginal and Torres Strait Islander children, children and parents and carers with disability, children from low socio-economic backgrounds, children living in rural, regional, and remote NSW and cross-border communities, and those from culturally and linguistically diverse (CALD) backgrounds.

8 agencies are collaborating as part of Brighter Beginnings to lift health and development outcomes for all NSW children. Partner agencies are:

- NSW Department of Education
- NSW Health
- NSW Department of Communities and Justice
- NSW Department of Customer Service
- The Cabinet Office
- Department of Regional NSW

- Aboriginal Affairs NSW
- Multicultural NSW.

Funding of \$376.5 million has been committed over four years (from FY23) to support evidence-based accelerator initiatives targeting child development from prenatal to age 5. These programs are now all in delivery stage and are:

- Pregnancy Family Conferencing: conferencing services to provide early family support
- Health Development Checks: for 4-year-olds in preschool settings
- Digital Baby Book (clinical, birth to age 3): development of a digital health record for children born in NSW
- Sustaining NSW Families (birth to age 3): nurse-led health home visiting service for families living in areas of socio-economic disadvantage
- Aboriginal Child and Family Centres: expansion of culturally safe services and supports for Aboriginal families with children aged 0-8 years.

Health and Development Checks in early childhood services program

The [Health and Development Checks for Children](#) in early childhood services program is a partnership between NSW Health and the DoE to deliver a free, universal, recurrent program to 4-year-old children in preschool and long day care environments. Health professionals will check children's health and development, such as listening and talking skills, social skills and behaviour, gross and fine motor skills, learning, thinking and problem-solving skills and how their bodies are growing. Offering checks in ECEC services will ensure more children are supported if they require further care before they start school. This is an opt-in program for services and families.

The National Disability Insurance Scheme (NDIS) Early Childhood Approach

Nationally, children younger than 9 may be able to access the [NDIS Early Childhood Approach](#). The NDIS Early Childhood Approach is delivered by Early Childhood Partners commissioned and funded by the NDIS, and aims to:

- provide families with timely support to ensure they can access the supports they need and where necessary, obtain a NDIS package for their child

- give families information about best-practice early childhood intervention supports and how they can help their child
- increase families' confidence and capacity to manage and respond to their child's support needs
- increase children's ability to do activities they need or want to do
- increase children's inclusion and participation in mainstream and community settings such as playgroup, childcare or preschool
- give families information about, and referrals to, other support services such as parent support groups, to have the opportunity to meet other people with similar experiences or situations.

Focus Area 4: Deliver outstanding leadership, teaching and learning

Early childhood education and care services operate within a national regulatory framework. The National Quality Framework, the Early Years Learning Framework and the Disability Discrimination Act 1992 (Cth) (DDA) are key regulatory levers for children with disability.

The National Quality Framework

The National Quality Framework (NQF) aims to raise quality and drive continuous improvement and consistency in early childhood education services. Equity, inclusion and diversity underpin the framework and are embedded throughout including the National Law and Regulation, the National Quality Standard and the approved learning framework for early childhood education, the Early Years Learning Framework.

The framework uses the terms each child, every child and all children to promote inclusion. It recognises all children as confident and capable learners with the capacity and right to succeed regardless of diverse circumstances including strengths, cultural background and abilities. The right of every child to be included, to participate and have equitable access is demonstrated through all seven National Quality Standard Quality areas.

The NQF, which includes the law, regulations and quality standards, sets the benchmark for safe and high-quality early childhood education and care.

The Early Years Learning Framework

In 2023 the approved learning framework, *Belonging, Being, and Becoming: The Early Years Learning Framework for Australia (EYLF)*, was updated to ensure it continues to reflect contemporary developments in evidence-based, early education pedagogical practice and knowledge, while supporting all educators to promote the learning, development and wellbeing of every child.

As part of the EYLF update, the Principle, High expectations and equity has been renamed Equity, inclusion and high expectations. The expansion of this Principle strengthens the focus on inclusion, recognising that all children have the right to participate in quality, inclusive early childhood education, regardless of their circumstances, strengths, gender, capabilities or diverse ways of doing and being. Australia Children's Education and Care Authority has developed an [information sheet](#) on the changes for the ECEC sector.

Disability Discrimination Act 1992 (Cth)

The Disability Discrimination Act 1992 (Cth) supports children with disability, their families and carers to access and fully participate in early childhood education on the same basis as their peers. All early childhood education services (including family day care) must comply with the Act. The DDA makes it unlawful to discriminate on the grounds of a person's disability. This includes discrimination that occurs in the context of accessing and participating in early childhood education services.

It is unlawful under the DDA for any staff member at an early childhood education service to harass, victimise or discriminate against an enrolled child, or a child seeking to enrol, in relation to their disability. Discrimination does not have to be intentional to be unlawful and includes the failure of a service to make reasonable adjustments. Complaints under the DDA are made directly to the [Australian Human Rights Commission](#).

A suite of [resources](#) was developed by Australian Children's Education and Care Quality Authority (ACECQA) to support ECEC providers and services to understand and implement their obligations under the DDA. There is also work underway to amend the Disability Standards for Education 2005 (Cth) to include all services in the early childhood education sector. More information is available [here](#).

Focus Area 5: Strengthen student wellbeing and development

Ensuring a safe and inclusive learning environment for all children, educators and teachers.

Under the NNQF and DDA, ECEC services have an obligation to provide a safe and inclusive environment for all children. The NQF sets out the relevant obligations and requirements, including through national regulation and laws.

Relevant sections of the Children's (Education and Care Services) National Law include:

- Section 166: Offence to use inappropriate discipline
- Section 162A: Persons in day-to-day charge and nominated supervisors to have child protection training
- Section 167: Offence relating to protection of children from harm and hazards
- Section 174: Offence to fail to notify certain information to Regulatory Authority.

Relevant regulations include:

- Regulation 168: Education and care service must have policies and procedures. (Regulation 168(2)(k) – enrolment and orientation).

Relevant standards include:

- Quality Area 5: Respectful and equitable relationships are maintained with each child; dignity and rights of every child are maintained
- Quality Area 2: Each child's health and physical activity is supported and promoted; each child is protected; at all times
- Quality Area 6: Collaborative partnerships with families and communities to support children's access, inclusion, and participation in the program
- Quality Area 7: A statement of philosophy guides all aspects of service operations; and systems are in place to manage risk and enable the effective management and operation of a quality service.

ACECQA's [Inappropriate Discipline fact sheet](https://www.acecqa.gov.au/sites/default/files/2020-06/inappropriate-discipline.pdf) provides guidance on appropriate and inappropriate discipline and behaviour guidance, including the use of restraint in an emergency situation. The fact sheet includes links to legislative requirements and NQS elements that apply when managing behaviour for children attending education and care services, and can be accessed on its website: <https://www.acecqa.gov.au/sites/default/files/2020-06/inappropriate-discipline.pdf>

Chapter 2: Schools

Focus Area 1: Advance equitable outcomes, opportunities and experiences

Our Plan for NSW Public Education commits to fostering a culture that values diversity and eliminates barriers. Through the development of targeted, differentiated and evidence-informed initiatives, every learner will receive a high-quality education that enables them to excel.

Ongoing commitment to inclusive education

DoE is committed to creating an inclusive and supportive environment for all NSW public school students, ensuring their safety, wellbeing and access to high quality education. An inclusive education system is one where every student is known, valued and cared for, and all students receive the support they need to succeed and fulfil their potential.

The rights of students with disability to equitably access and participate in education are protected through a comprehensive legal and policy framework that supports the principles of the United Nations Convention on the Rights of People with Disability. This framework includes:

- the Education Act 1990 (NSW) which provides for universal compulsory education for school aged children in either government or non-government schools or in registered home schooling. This Act includes a number of specific provisions enabling support for students with disability, including the right of students to enrol in their local school.
- the Anti-Discrimination Act 1977 (NSW) which makes it unlawful to discriminate in a number of areas including work and education on prescribed grounds, including disability.
- the DDA which makes it unlawful to discriminate on the grounds of a person's disability.
- the Disability Standards for Education 2005 which clarifies the obligations of education and training providers under the DDA. The Disability Standards for Education 2005 (Cth) require schools to provide reasonable adjustments to ensure students with disability can access and participate in education on the same basis as other students. Reasonable adjustments should be determined in consultation with the student and/or parent or carer. The Disability Standards for Education 2005 (Cth) also cover areas such as enrolment, curriculum and student victimisation and harassment.

These legislative frameworks are reflected in DoE's Inclusive Education Statement and Inclusive Education for students with disability policy. The statement focuses on the principles of inclusive practice for students with disability, whilst recognising that improving inclusive practice benefits all students. DoE's journey towards embedding inclusive practice across the education system is guided by the following principles:

- student agency and self-determination
- parent and carer inclusion
- social and cultural inclusion
- curriculum inclusion
- workforce capability for inclusion
- system inclusion.

The policy provides guidance to support the inclusion of students with disability and additional learning and support needs in NSW public schools, and applies to all staff employed by DoE. The policy outlines the roles and responsibilities of staff in providing an inclusive education for students with disability. This includes ensuring all students with disability are welcomed, included and, where necessary, supported by reasonable adjustments and personalised support to fully participate in all aspects of school life. It also describes effective practice, including partnering with students, parents and carers, external service providers and the community, to achieve the best outcomes for students with disability.

The NSW Education Standards Authority supports all schools to deliver the best possible outcomes for students

The NSW Education Standards Authority (NESA) provides advice on the requirements of all NSW schools in relation to the Disability Standards for Education 2005 (Cth) to support teachers to provide reasonable adjustments for students with disability in school settings. NESA illustrates this advice through case studies and examples of adjustments in teaching, learning and assessment activities to support teachers.

NESA requires all NSW schools to maintain and implement policies and procedures for identifying and providing support for students with disability and learning needs. NESA monitors school compliance with this requirement through its risk-based regulatory processes. NESA expects that a school's policies and procedures reflect its obligations under other relevant legislation, including the Disability Standards for Education 2005 (Cth) and the DDA.

The Nationally Consistent Collection of Data on School Students with Disability

In the 2023 Nationally Consistent Collection of Data on School Students with Disability (NCCD), around 1 in 4 students in NSW public schools were identified as having disability as defined under the DDA. Students are not required to have a formal medical diagnosis to be included in the NCCD. A school's learning and support team can impute disability based on the DDA definition, when it believes, based on reasonable grounds and supported by documented evidence, that undiagnosed disability is having a functional impact on a student's capacity to access and participate in education on the same basis as their peers.

The majority of students with disability learn in mainstream schools. Approximately 86% of students with disability learn in mainstream classes within mainstream schools and approximately 11% of students with disability are enrolled in support classes in mainstream schools. Around 3% of students with disability attend schools for specific purposes (SSPs).

Approximately 206,000 students in NSW were recorded in the NCCD as having a disability in 2023.

As at January 2024:

- approximately 24,750 are enrolled in support classes in mainstream schools
- approximately 6,050 are enrolled in support classes in SSPs

Funding for students with disability in mainstream classrooms

Effectively resourcing schools is crucial to building an inclusive education system and improving outcomes for, and experiences of, students with disability. To support this, DoE is progressively moving to a disability funding model based on the functional needs of individuals in the classroom.

All mainstream schools receive an equity loading based on the number of students with disability in their school. The Low Level Adjustment for Disability Loading (LLAD) provides a learning and support teacher allocation and flexible funding to mainstream schools. In 2023 DoE introduced an

improved methodology for the calculation of the LLAD in the School Budget Allocation Report (SBAR). The new methodology is informed by the needs of students with disability and school efforts to meet those needs, using data from the NCCD, the Student Learning Needs Index and school enrolments.

In addition, mainstream schools can apply for targeted funding for students with moderate to high support needs through the Integration Funding Support program (IFS). If eligible students are assessed through a needs profile, the school will receive funding commensurate with their needs. Around 17,800 students currently receive IFS. The current process relies on students being diagnosed with a disability recognised by DoE's disability criteria. A diagnostic approach is not reflective of contemporary needs-based approaches to disability support. DoE is exploring potential options to move to a more contemporary needs-based funding model, in consultation with stakeholders.

Principals determine how allocated resources are used within the school to meet the additional learning needs of students. This may include additional teacher time, professional learning for teachers, and/or school learning support officer time.

In 2023, funding provided to schools to support students with disability through these two allocations was:

- \$348 million under the LLAD equity loading for specialist learning, including more than 1,970 learning and support teachers, and a flexible funding allocation to every mainstream school. In 2024, this has increased to more than \$357 million and more than 1,975 learning and support teachers.
- \$410 million in Integration Funding Support for more than 17,800 students with moderate to high support needs in mainstream classes.

Specialist educational settings for students with disability

There is no single approach that meets the educational and support needs of all students and their families. Specialist settings are available in the NSW public education system to meet the diverse needs of the student cohort. These settings provide parents, carers and students with choices regarding their education. DoE is committed to strengthening inclusive practice across all settings to improve student outcomes.

Specialist settings for students with disability provide more extensive and targeted support where this is relevant and necessary to strengthen a student's academic achievement, specific skills or interests, wellbeing and/or social development. Specialist settings range from support classes within or attached to mainstream schools to dedicated environments where students have access to specific infrastructure, facilities and staff with specialised knowledge and skills. Specialist settings do not operate in isolation from each other or from mainstream school settings. DoE developed NSW Education specialist settings, outlining the broad scope of specialist settings available to meet the strengths, interests and needs of students and explaining how specialist settings for students with disability operate, and their role in the NSW public education system in supporting students and their families.

Specialist settings include:

- Schools with a specialist class or facility. Students are placed in these classes through a process known as Access Request.
- Schools for Specific Purposes including for medium/high support needs, behaviour disorder, emotional disturbance, hospital schools, youth justice, students with physical disability and students with a diagnostic remedial reading assessment.
- Classes and schools can provide differentiated support to students with multiple forms of disability.

Around 14% of students with disability attend either a support class within a mainstream school or a school for specific purpose (SSP):

- Support classes in mainstream schools are located within some mainstream primary schools, high schools and central schools. Support classes can accommodate students with higher support needs as class sizes are generally smaller (between 6 and 18 students depending on class type). As they are located in a mainstream school, support classes can enable participation in mainstream classes and other opportunities for students with disability to engage with their mainstream peers.
- SSPs are specialist education settings designed and resourced to provide students with complex needs with more intensive support.

In 2020 the SSP Supplementary Funding Program was established to alleviate critical resource constraints while longstanding structural issues are being addressed. In 2023, \$37.6 million in supplementary funding was provided to SSPs.

From the start of 2024 (as at the end of November 2023) an additional 238 new support classes are available (227 in mainstream schools and 11 in SSPs). The total number of support classes approved for the start of 2024 (as at the end of November 2023) is more than 4,520. Of these 3,445 are in mainstream schools and 1,075 in SSPs. As at November 2023 DoE provided personalised learning and support for more than 29,000 students in approximately 4,270 support classes in mainstream schools and SSPs. There are currently 117 SSPs across NSW.

Opportunity Classes and Selective High Schools

To make access to opportunity classes and selective high schools fairer for underrepresented groups, including students with disability, the Equity Placement Model was introduced in 2022. The Equity Placement Model holds 20% of student places at each school for students from equity groups to help increase their participation. Of the 20%, 2.5% of places under the Equity Placement Model are held for students with disability. Under the model students from equity groups can be offered a place if their placement test performance is comparable to general applicants. Typically this is based on their performance being within 10% of the minimum performance accepted from a general applicant during first-round offers.

Successful delivery of the Disability Strategy

In 2019 DoE released its [Disability Strategy](#). The Strategy outlined a positive reform agenda to improve educational outcomes for students with disability in NSW public schools, across four pillars of reform. DoE has successfully delivered the commitments from the Strategy and continues to identify and deliver work to drive strong educational and wellbeing outcomes for students with disability in NSW public schools. An overview of some of these initiatives is provided below. Further detail is included in other sections of the submission.

1. Strengthening support: investing in teachers and other support staff
 - In 2019 DoE launched the Inclusive Practice in Education Scholarship Program for teachers wishing to increase their skills and expertise in inclusive or special education.
 - In 2021 the Inclusive Practice Hub, developed in partnership with Deakin University and Monash University, was launched. The Inclusive Practice Hub provides staff with evidence-based resources to support the delivery of inclusive education. The hub continues to expand to include additional resources co-designed with critical stakeholders such as students with disability, their parents and carers, disability and education experts, NSW public school staff and allied health professionals.

- In line with recommendation 29 of the 2017 Parliamentary Inquiry, Students with a disability or special needs in NSW schools, DoE has mandated the Disability Standards for Education 2005 (Cth) training for all school leaders.
- As part of the commitments under the Strategy, DoE has infrastructure design, planning and advisory services for inclusive design as part of School Infrastructure NSW.

2. Increasing resources and flexibility: enabling schools to operate with more flexibility

- DoE completed a review of the criteria used to determine the eligibility of students with disability to additional targeted support.
- The SSP Supplementary Funding program was introduced in 2020 as an interim solution to alleviate workforce pressures. The program provides flexible funding to SSPs to ease the resourcing pressures caused by the outdated funding and staffing entitlement model. Schools decide how to use the funding to address school-specific issues and improve student outcomes.

3. Improving the family experience: making experiences better and easier

- DoE's inclusive learning support hub for parents and carers continues to expand. This hub is a one-stop online resource with information for families and carers of students with disability or those with additional learning and support needs. The hub, co-designed and tested with parents and carers, offers a central source for up-to-date information, interactive tools and downloadable resources on topics related to their child's education.
- DoE continues to streamline the Access Request process, which is used to apply for IFS and placement in several types of specialist settings (as well as other supports). From 2021, standardised procedures for the placement of students in support classes were introduced. DoE is also developing systems and processes to support and streamline processes for applying for additional funding and specialist placements for students with additional learning needs. The system will enable easier and faster access to targeted funding and support.
- DoE continues to work to improve the school community and consumer complaints process through the review of the Community and Consumer Complaint Procedure, and associated policies. DoE is also partnering with the NSW Department of Communities and Justice to improve advocacy support and system navigation for

students with disability and their families. An alternative dispute resolution process is also being established as an optional approach to resolving complaints outside the Community and Consumer Complaint Procedure.

4. Tracking outcomes: building an evidence base to measure progress

- The Disability Strategy committed to improving measures and tracking outcomes around student learning growth, physical, emotional and mental wellbeing, and independence of students with disability. DoE has undertaken the Inclusive Assessment Program to research, design and trial new assessments tools that help teachers understand the skills of students with complex learning needs (that is, students with very high support needs including those with cognitive disability and those who are non-verbal). The project sought to improve educational outcomes by providing educators with tools and clear guidelines on how to assess, support and scaffold learning for students with complex learning needs and disabilities. Assessments such as NAPLAN and the National Literacy and Numeracy Learning Progressions are mostly not suitable for these students. In response DoE has developed a consistent, fit-for-purpose, system-wide assessment approach to measure progress against learning outcomes for students with complex learning needs and disabilities.

Accessibility standards

All department websites must conform to the Web Content Accessibility Guidelines (WCAG) 2.0. The guidelines are organised into four main principles that explain what to keep in mind when developing websites and publishing web content. These are that content should be perceivable, operable, understandable and robust.

Focus Area 2: Strengthen trust and respect for the teaching profession and school support staff

[Our Plan for NSW Public Education](#) commits DoE to attract and retain high-quality teachers, especially in specialist subject areas. The plan aims to ensure teachers and staff feel valued, included and supported to perform at their best through high-quality and accessible professional learning.

DoE is committed to delivering a number of attraction and retention initiatives designed to address the teacher workforce shortage. These initiatives focus on improving attraction to teaching, re-

training and upskilling more teachers to specialise in high-demand subjects, and boosting teacher supply in regional and remote communities.

This commitment has already delivered meaningful change across schools in NSW, raising the wages of teachers and the school counselling service, to a nation-leading position. The department has also delivered the Temporary Workforce Transition Initiative, offering permanent employment to at least 10,000 temporary teachers and 6,000 support staff, with almost 17,000 staff accepting an offer of permanent employment as at 12 January 2024.

To further support teacher attraction and retention the NSW Government has committed to the establishment of a \$20 million Innovative Teacher Training Fund to develop new and innovative teacher training methods.

Workforce capability for inclusion

DoE provides access to a wide range of evidence-based tools, resources and professional learning opportunities to build knowledge, capability and confidence of school staff to meet the diverse needs of students with disability. These include:

- a suite of evidence-based professional learning courses. Between 1 January 2020 and 24 January 2024 there have been 88,150 course completions by leaders, teachers and support staff. Courses cover a range of topics including disability awareness, inclusive practice, personalised planning, student wellbeing, and supporting students with specific disabilities such as autism, ADHD, dyslexia and hearing loss.
- a package of e-learning lessons on the DDA and the Disability Standards for Education 2005 (Cth) which provides professional learning tailored for seven different roles in DoE. The lessons are a compulsory element of professional learning for principals, Directors Educational Leadership (DELs) and school executive staff and are highly recommended for all teaching staff in NSW public schools. Between 1 January 2020 and 24 January 2024, 46,344 staff completed these lessons.
- the Inclusive Practice Hub which contains over 170 evidence-based resources for teachers and school leaders specifically to support inclusive teaching and learning practices.
- the Universal Resources Hub hosts over 1,600 quality-assured teaching, learning and school improvement resources for school staff to use and share. This includes a range of resources on inclusive practice, recently expanded to include a further 20 resources which build on existing teacher practice and outline approaches for teachers to plan, personalise, implement and evaluate strategies for students with disability to learn to their full potential. Each of

these resources includes the evidence base, step-by-step guides, explainer videos and downloadable checklists and templates.

DoE also provides current teachers with the opportunity to apply for Inclusive Practice in Education Scholarships. This professional development opportunity is open to existing qualified teachers, enabling them to study inclusive or special education whilst remaining in their current position. Approved casual and temporary teachers are also eligible to apply and will be appointed to a permanent special education teaching position upon successful completion of studies.

The program offers three pathways:

- a masters in inclusive/special education
- a masters with specialisation in the area of deaf and hard of hearing or blind and low vision
- a graduate diploma in inclusive/special education.

A total of 415 scholarships have been awarded since the commencement of the program, with an additional 57 offers of scholarship made to teachers commencing studies in 2024.

The NSW Education Standards Authority (NESA) supports quality teaching and regulation of all NSW schools

NESA ensures all NSW teaching degrees include mandatory studies in disability education, so that graduates possess a foundational understanding of addressing the learning needs of students with disability. NESA supports teachers, learning support staff and others, through a range of materials that can be used to support students with disability. This includes teaching advice, sample teaching programs, case studies, and examples of reasonable adjustments.

Teaching students with disability is a priority area for the professional learning of teachers in NSW. NESA provides criteria for providers designing and delivering courses in NSW, including making a panel of experts available to provide advice where required. NESA requires all NSW schools to maintain records of all teaching staff employed and engaged to deliver NESA curriculum, including the accreditation details of all teaching staff.

All NSW schools must be able to assure NESA that their premises and buildings meet all council and government requirements, including national disability standards, throughout the registration period.

Specialist support staff

Students with disability are supported in their school through:

- School learning and support teams and school counsellors who help teachers identify, assess and respond to the individual needs of students, and coordinate a whole school approach to improving the learning outcomes of every student
- School-based specialist staff who work across a number of schools to make sure the needs of students with disability are met.

DoE's Team Around a School is made up of more than 800 staff. The team builds the professional capacity and expertise of those working directly with students with additional support needs, as well as building all teachers' understanding of how to meet the requirements of diverse learners in the classroom. The team consists of non-school-based and school-based staff with a range of specialist skills and expertise.

The Team Around a School works alongside teams in schools to share specialist knowledge, skills and understanding in the areas of learning and wellbeing, disability and inclusion, mental health, behaviour, attendance, Aboriginal and Torres Strait Islander student support, and transition into and out of the school environment. There are 28 Team Around a School groups across the state and each group services between 3-5 principal networks.

Specialist Allied Health and Behaviour Support

Under the Specialist Allied Health and Behaviour Support Provider Scheme, schools can use their budget to access a range of prequalified allied health and behaviour support providers. Services available under the scheme include occupational therapy, speech pathology, physiotherapy, exercise physiology and specialist behaviour support. Prequalified providers in the scheme have demonstrated that they meet the necessary qualifications and requirements to deliver effective and appropriate support to students and staff. The scheme includes several tools and resources to reduce school administrative burden, including:

- a searchable database of prequalified service providers for school staff to identify and compare services to best meet their school's needs
- a simplified order form for schools to use when engaging these providers
- resources and templates that may be useful to establish collaborative relationships with scheme providers.

Inclusive, quality learning environments

Embedding inclusion in all aspects of school life means incorporating best practice infrastructure design when building and modifying schools. DoE is committed to removing physical access barriers so that students, staff and community members with disability have access to facilities, and can participate in learning and employment opportunities.

The Integration Program, a component of the Minor Capital Works Program, aims to provide targeted capital funding each year to meet the specific access needs of students and staff, to ensure their inclusion in school activities. Integration projects provide adjustments for students with disability in NSW Government schools to provide a more inclusive educational experience. The local infrastructure teams work closely with school principals and Learning and Support teams to undertake any adjustments required. Parents and carers are consulted to understand specific needs, and a strategy and scope of works is developed.

All new school buildings are designed and built with accessibility in mind and in accordance with the DDA Access to Premises - Building Standards 2010, to ensure equal access. Schools are built to be welcoming and fully accessible. Some examples of accessible features include lifts, ramps and accessible bathrooms. All new buildings meet the Building Code of Australia and DoE's Educational Facilities Standards and Guidelines. Targeted upgrades of existing buildings can include ramps, handrails, tactile ground surface indicators, accessible sanitary facilities and passenger lifts.

Safe and inclusive learning environments and workplaces

DoE is committed to ensuring safe and inclusive learning environments for students, teachers and school support staff. This commitment is articulated in DoE's Work Health and Safety (WHS) Policy, supported by essential WHS requirements and reinforced through core procedures.

The Risk Management Procedure serves as the standard process for identifying and managing WHS hazards and risks impacting the health and safety of workers, students and visitors. Individual student healthcare plans must be reviewed when identified as a key control measure in a common hazard factsheet, for example, school excursions, sporting and physical activities. Information on disabilities may be disclosed here, however, it is not a requirement. These resources promote proactive risk management and enhance decision making processes. Workplace inspection and safety checklists including individualised canteen, classroom, and playgrounds and play equipment checklists, provide a resource to systematically assess and identify potential hazards, risks and compliance issues within various workplace environments.

The Emergency Management Procedure serves as practical guidance for all DoE workplaces, assisting in the development, implementation, and maintenance of site-specific Emergency Management Plans (EMPs) and response procedures. Schools utilise this procedure to navigate emergency management arrangements tailored to the distinct characteristics of each school, including location, size, structures, students, staff and community. This includes considerations for students with disability.

The Incident Notification and Response Procedure provides a structured approach to managing and reporting incidents, ensuring a comprehensive response to various situations that may impact the health, safety, and wellbeing of workers, students and visitors and the operational integrity of the workplace. Requiring timely reporting of incidents, particularly when they involve staff or student physical and non-physical injuries, is critically important to the department's ability to support students with disability, and the staff supporting them. DoE also has a dedicated Incident Response and Support Hotline for schools to report incidents and receive support for health and safety matters.

The Consultation and Issue Resolution Procedures outline the steps for establishing or reviewing robust consultation arrangements and addressing WHS issues in the workplace. These procedures are crucial to help staff effectively manage health and safety risks, ensuring a secure work environment, and fostering a culture of safety and collaboration. This is particularly important when considering, designing and reviewing safety measures for students with disability.

The Staff Wellbeing Strategy, launched Day 1, Term 1 2024, is a comprehensive four-year plan to cultivate a positive workplace, fostering the physical, mental, and emotional wellbeing of staff. Key components of this initiative include access to various programs that address the diverse aspects of staff wellbeing, including:

- Access to the Black Dog Institute: providing resources and support for mental health
- Employee Assistance Program: offering confidential counselling services to address personal or work-related challenges
- Access to Wellbeing Community, Resources, and Webinars: enabling staff to access a supportive community, informational resources, and educational webinars
- Fitness Passport: facilitating opportunities for physical health and wellness
- Respectful Workplace Program: promoting a positive and inclusive workplace culture

- Domestic and Family Violence Support and Assistance: providing support and assistance for those affected by domestic and family violence.

In the event a worker sustains an injury in the workplace or encounters medical restrictions or limitations due to a personal health condition, DoE's Return-to-Work Program details the available support mechanisms designed to aid workers in their recovery and facilitate a smooth return to work. Both mandatory and proactive training resources, and efficient and reliable safety communication systems and processes are also in place, to enhance staff capability in WHS matters, providing timely information and updates on health and safety matters.

NESA requires all NSW schools provide a safe and supportive environment and have policies and procedures in place regarding codes of conduct, security and supervision, student behaviour, student wellbeing and providing support for students with disability and identified learning needs.

Focus Area 4: Deliver outstanding leadership, teaching and learning

[Our Plan for NSW Public Education](#) supports schools to deliver excellence through continuous improvement. Students are encouraged to achieve ambitious learning goals through explicit teaching practices, evidence-based curriculum resources and strong educational and instructional leadership.

Curriculum inclusion

DoE is committed to supporting and empowering teachers and staff to create optimum learning outcomes for students with disability. NSW syllabuses acknowledge the diversity of students in schools, and are structured with a commitment to equity for all. Inclusive curriculum planning enables teachers to provide optimal learning opportunities and support for students to achieve their potential.

DoE seeks to ensure students with disability are supported to access the same curriculum and syllabus outcomes as their peers in developmentally appropriate ways. To support this DoE offers teachers and other school staff a range of professional learning. This includes 'Curriculum planning for every student in every classroom' which comprises 25 microlearning modules designed to allow K-12 teachers to effectively identify and meet the diverse learning needs of our students. The modules consider students with disability, Aboriginal and Torres Strait Islander students, English as an additional language or dialect students and high potential and gifted learners. These modules also support teachers and school learning and support teams to collaboratively plan and develop authentic learning experiences, based on an understanding of Universal Design for Learning principles.

Statewide Curriculum Implementation professional learning is developed to align with inclusive education practices and provide opportunities for activities within course modules that allow participants to focus on different aspects as needed, including students with additional learning needs and high potential and gifted students.

In Term 2, 2024 the school development day will include specific professional learning that supports staff across all comprehensive and specialist settings to implement the new curriculum with consistency and equity for all students. School leadership teams can determine the content and structure that best meets the needs of their staff and context.

One of the available sessions focuses specifically on curriculum support for students with disability. This is based on the tiered approach to curriculum planning which explores universal teaching practices, differentiation and personalised adjustments. It also explores 20 evidence-based practices that classroom teachers can use for students with disability, to provide more focused and intense support, to learn new skills or behaviour or achieve specific learning goals.

The NSW Education Standards Authority ensures NSW curriculum is inclusive of all learning needs

NESA removes barriers to inclusive education by ensuring curriculum development in all NSW schools is inclusive of all students, including students with disability. NESA's Equity Principles underpin the syllabus development process. For students with intellectual disability or imputed intellectual disability, the curriculum offers 7-10 Life Skills outcomes and content (at a level appropriate for students with significant intellectual disability, provided within a general education syllabus), 11-12 Life Skills courses (a separate course specifically for students with intellectual disability) and new K-6 access content points (for K-6, access content points are additional syllabus content points at an appropriate level for students with significant intellectual disability). These inclusions advance equitable outcomes, opportunities and experiences.

NESA provides advice on curriculum pathways and options for students with disability. This includes guidance for teachers on appropriate decision-making processes through collaborative curriculum planning and involves parents, carers, teachers and other significant individuals determining the most appropriate curriculum options and adjustments for a student with disability.

To support students with disability to access, read and respond to the HSC examinations NESA offers a Higher School Certificate Disability Provisions program to eligible students in all NSW schools. These provisions include, but are not limited to, readers, extra time, rest breaks, braille papers, enlarged papers, and modified exam papers. Application rates have increased by 52% from 2018 to 2023, while approval rates have remained stable at approximately 96%.

NESA provides resources on the HSC Disability Provision program for students, parents and carers and teachers, including a comprehensive guide for teachers and parents and carers, and professional development workshops for teachers.

NESA requires schools to comply with all relevant legislation (e.g. DDA and Standards) to ensure students with disability are able to access and participate equally in education. Schools are required to notify NESA if they have allegedly breached the DDA. NESA will consider any finding as relevant to the school's registration. NESA also requires schools to publish their enrolment policies.

NESA's risk-based regulatory processes include monitoring the delivery of NESA syllabuses and reviewing related teaching and learning documentation.

In August 2023 the first Australian Sign Language (Auslan) syllabus for primary and secondary students was released to NSW schools. Developed in consultation with the deaf community, teachers, students and parents and carers this new syllabus gives NSW students the opportunity to experience a unique part of Australia's linguistic heritage and learn a valuable communication skill.

Regulatory and oversight mechanisms

The following NSW government agencies have powers of overview to protect children and young people with disability, including:

- The Advocate for Children and Young People, established under the Advocate for Children and Young People Act 2014 (NSW), advocates for and promotes the safety welfare and wellbeing of children and young people. It can conduct special inquiries into issues affecting children and young people and make recommendations to government and non-government agencies on legislation and policies affecting children and young people.
- The Office of the Children's Guardian, has regulatory and monitoring functions under the Children's Guardian Act 2019 (NSW) and the Child Protection (Working with Children) Act 2012 (NSW). The Office of Children's Guardian implements the Reportable Conduct Scheme, under which the DoE is required to report on its investigations into reportable allegations. It also implements the Child Safe Scheme, where the DoE is required to put into action the Child Safe Standards.
- NESA regulates school policies and procedures in relation to ensuring a safe and supportive environment for students. All schools in NSW (government and non-government) are

required to implement policies and procedures regarding raising and responding to complaints or grievances identified by students and/or parents and carers.

- The NSW Ombudsman handle complaints from individuals who feel their complaint has not been resolved with a NSW Government agency, or feel they have been treated unfairly or unreasonably by a NSW Government agency. Parents can make a complaint to the NSW Ombudsman about the conduct of DoE and its schools. The Ombudsman use information from complaints to identify and investigate public interest issues and make recommendations.
- The Anti-Discrimination Board of NSW (ADB): Parents or guardians can make a complaint about alleged discrimination under Anti-Discrimination Act 1977 (NSW), including disability discrimination, in respect of NSW government schools. The ADB must investigate any accepted complaint and may resolve the complaint through conciliation.
- The Australian Human Rights Commission (AHRC): Parents can make a complaint to the AHRC where they consider that a government or nongovernment school has contravened the DDA and the Disability Standards for Education 2005 (Cth). The AHRC can investigate and seek to resolve the complaint through conciliation, although it cannot make a determination that discrimination has taken place.

NESA requires all NSW schools to have and implement policies and procedures that comply with the following Acts: Child Protection (Working with Children) Act 2012 (NSW); Children and Young Persons (Care and Protection) Act 1998 (NSW); Children's Guardian Act 2019 (NSW). NESA requires all NSW schools to have and implement policies and procedures to ensure that at least every 12 months:

- staff who have direct contact with students are informed of their legal obligations for child protection and other relevant school expectations
- staff who are mandatory reporters are informed of their obligations and the school's procedure for making reports for students at risk of significant harm
- staff are informed about their school's policies and procedures to prevent, identify, and report allegations of employee reportable conduct
- NESA monitors school compliance with this requirement through its established risk-based regulatory processes.

NESA amended its school registration manuals in 2019 in response to the NSW Government's acceptance support of Recommendation 37 of the 2017 NSW Parliamentary Inquiry, education of students with a disability or special need in NSW. The amendments require schools to set clear guidelines and expectations for stakeholders regarding complaints or allegations of staff misconduct or reportable conduct, and to publish the associated complaints handling procedures.

NESA supports parents and carers by requiring schools to set clear guidelines and expectations for stakeholders regarding complaints and allegations of staff misconduct or reportable conduct, and to publish the associated complaints handling procedures. Schools are required to have and publish discipline policies that include procedures for suspension and expulsion, and that are based on procedural fairness.

Complaint and appeal mechanisms available to students/learners, parents, carers and community members

Any person can raise an issue or concern about any aspect of the services provided by DoE. Concerns can be raised via email, mail, phone, in person or via DoE's online complaint form. Parents, carers, students/learners and other members of the community are encouraged to raise their concerns directly with the decision-maker, principal or workplace manager at the time of, or at a reasonable point after, the event or situation. Information for members of the community about how to raise a concern, provide feedback or make a complaint about DoE's services is available on DoE's website.

Workplace managers, principals or their delegates have the responsibility to address concerns that are brought to their attention. Although a person may refer to a concern as a 'complaint' or raise a concern through complaint mechanisms, workplace managers, principals and their delegates are responsible for deciding what action to take, considering the nature and seriousness of the issue. Specific guidance for workplace managers, principals and their delegates is available through DoE's intranet, to assist them to decide the appropriate procedure or process for addressing the specific nature of the concern. The Professional and Ethical Standards directorate may address or provide specific guidance to workplace managers and principals in relation to the management of complex complaints and conduct concerns in relation to employees.

Students, parents and carers may also appeal certain decisions, including out of area enrolment, suspension and expulsion decisions. Specific guidance about appeal processes, including DoE's appeal form, is available through DoE's website.

Complaint mechanisms available to employees

Any employee can raise an issue or concern about a situation arising in DoE's workplaces. Concerns can be raised via email, mail, phone, in person or via DoE's online complaint form. Employees are encouraged to raise and address workplace concerns promptly, locally and as informally as possible, with regard to the relevant procedure or process for addressing the specific nature of the concern.

Employees have the responsibility to raise concerns directly with the decision maker, principal or workplace manager at the time of, or at a reasonable point after, the event or situation. In most situations, employees raising a concern should expect to provide their name and be identifiable.

Workplace managers, principals or their delegates have the responsibility to address workplace concerns that are brought to their attention. Although a person may refer to a concern as a 'complaint' or raise a concern through complaint mechanisms, workplace managers and principals are responsible for deciding what action to take, considering the nature and seriousness of the issue. Concerns raised by employees about a situation arising in a workplace may be addressed under the Staff Complaint Procedure, as a misconduct issue or in accordance with other relevant policy, procedure or processes. Specific guidance for employees is available through DoE's intranet, to assist them to decide the appropriate procedure or process for addressing the specific nature of the concern. The Professional and Ethical Standards directorate may address or provide specific guidance to workplace managers and principals in relation to the management of complex complaints and conduct concerns.

Focus Area 5: Strengthen student wellbeing and development

Our Plan for NSW Public Education seeks to support student wellbeing through the implementation of evidence-informed, whole-school wellbeing approaches to ensure positive, inclusive and safe school cultures. Every student is known, valued and cared for.

Wellbeing and mental health

DoE has a diverse learning and wellbeing workforce. There are more than 2,000 wellbeing-focused roles in NSW public schools, providing direct support to students to enhance their mental health and wellbeing, enabling them to thrive and achieve academically. This workforce includes the School Counselling Service, Student Support Officers, Wellbeing & Health In-Reach Nurses, School Chaplains and Student Wellbeing Officers.

All NSW public schools receive an allocation of counselling services. Rural and remote schools are also supported by the School Counselling and Telepsychology Rural and Remote Schools team.

DoE has commenced preparations to meet the NSW Government's commitment to grow the School Counselling Service by 250 FTE. DoE increased the number of Student Support Officer roles so that as of July 2023 every high school, targeted central schools, and certain SSPs were allocated a full time Student Support Officer position.

To support school's access to high-quality resources, in 2022 DoE established a quality-assured catalogue of external programs. There are more than 70 quality-assured programs in the catalogue across the themes of behaviour, resilience and sense of belonging. Respectful relationships and consent education programs will be added to the catalogue in 2024. DoE is also refreshing the Wellbeing Framework and continues to strengthen wellbeing support services, with a focus on early intervention. DoE partners with leading mental health organisations to support schools in delivering best practice mental health support for students.

DoE has a memorandum of understanding with NSW Health designed to create an overarching state-level framework for the parties' collaborative approach, to maintain and strengthen student health and wellbeing across NSW, supported by an annual work plan.

Student behaviour

The Student Behaviour Policy and Suspension and Expulsion Procedures were reviewed in 2023. The revised policy and new procedures were jointly developed with key partners. This includes extensive consultation with the NSW Teachers Federation, the Primary Principals Association, the Secondary Principals Council and the Special Education Principals and Leaders Association of NSW. The department also consulted with the NSW Aboriginal Education Consultative Group, the Federation of Parents and Citizens Associations of NSW, the Public Service Association, the Advocate for Children and Young People, and the department's Disability Strategy Reference Group.

DoE helped familiarise schools with the revised policy and procedures by running a series of familiarisation sessions across NSW in Term 4, 2023 for principals, school leaders and DELs. There were 22 sessions in 16 different locations across NSW, with several thousand participants. The new policy was fully operational from Day 1, Term 1, 2024.

The updated policy and new suspension and expulsion procedures balance safety with managing challenging behaviour, emphasising inclusive and positive student behaviour support. This approach ensures early access to support, addresses diverse student needs including disabilities, trauma, and cultural considerations in the management of behaviour.

As an inclusive education system, DoE has a focus on prevention and positive approaches to student behaviour support and management. Behaviour support and management interventions

are implemented in line with the Australian Professional Standards for Teachers and the Disability Standards for Education 2005 (Cth) in that they must be fair, equitable, inclusive and proportionate. They must take into consideration the diverse learning and wellbeing needs of students, including developmental age, trauma, child protection concerns, cultural considerations, disability and individual needs and circumstances.

The revised policy and procedures retain a limit on the duration of suspensions at 5 days for students in Kindergarten to Year 2 and 10 days for students in Years 3 to 12. The policy also returns decision-making authority to principals where they were previously required to seek permission from DoE for any suspension over 10 days (K-2) or 15 days (3-12). It also provides a clear list of grounds for suspensions and reintroduces continued and persistent disobedience and/or disruptive behaviour as grounds for suspension.

The new policy also enables system accountability to provide timely and effective support to schools in managing circumstances where there is the greatest need – including students in K-2, students who are disproportionately suspended and students with high numbers of suspension days.

Consistent with the focus on whole-school, prevention-focused and positive approaches to behaviour support, DoE has also developed the care continuum. The care continuum recognises that students require different types of intervention, delivered in different ways, along a continuum of need, with programs, practices and services that are structured accordingly. This includes:

- Prevention: whole-school prevention approaches aim to establish and maintain safe, respectful learning environments for all students
- Early intervention: early intervention to respond to emerging, low-level behaviours of concern or students at risk of developing behaviours of concern
- Targeted intervention: targeted support to encourage positive behaviours, particularly for students who exhibit more complex and challenging behaviours, or where the frequency of the behaviour of concern may put students' learning and social success at risk if not addressed quickly
- Individual intervention: strategies for students with highly complex and challenging behaviours may need comprehensive systems of support and regular reviews in consultation with parents. Strategies and support require individual assessment, implementation, monitoring, and review.

Restrictive practices

Following the release of the Restrictive Practices Policy and Framework its implementation timeframe was paused in response to feedback from stakeholders that more time was needed to engage with and understand the policy. In the interim, NSW public schools and government preschools must continue to be guided by the following 6 principles in their use of restrictive practices. These principles are:

- student-centred
- least restrictive
- for the shortest time
- helping to reduce and eliminate restrictive practices
- monitored
- reviewed regularly.

Chapter 3: Skills

Focus Area 1: Advance equitable outcomes, opportunities and experiences

The vocational education and training (VET) system plays an essential role across NSW communities, for learners, for industry and to deliver economic and social outcomes. It sits within the wider tertiary education and skills system. The scale of the NSW VET system is significant, with:

- over 1 million learners each year
- over 1,000 registered training providers
- a vast array of training from microcredentials to formal VET qualifications in hundreds of locations and online

There are over 430,000 NSW government-funded post-school students with 252,100 students with a disability enrolled in VET in NSW in 2022.

TAFE NSW is Australia's leading provider of vocational education and spans the state, with 156 campuses, delivering 515 VET qualifications to more than 400,000 students enrolling each year, with around 12% identifying as having a disability.

Adult and Community Education (ACE) providers also make an important contribution to service provision in regional access and in support for equity cohorts. 32 ACE providers are funded by the NSW Government to provide foundational courses and training up to Certificate III level. They support more than 33,000 learners, 20% of whom are students with a disability.

Private Registered Training Organisations (RTOs) also play a key role, with in excess of 370,000 government-funded and fee-for-service VET enrolments, and 58,000 apprentices and trainees.

While many of the levers for VET are controlled by the Commonwealth (including regulation, national training products, student loans and significant funding), the NSW Government drives outcomes in VET through:

- major levers regarding the economy, planning, investment and as a major employer (or commissioner) in the skills and sectors that need VET

- major funder for VET overall, for the public provider TAFE NSW, and for major programs. Funding can be used to drive what is delivered, where, by which provider, and any quality or other requirements
- responsibility for apprenticeships, traineeships and associated incentives
- supporting and delivering major programs from VET for secondary school students, to programs in equity, careers, foundational skills and wraparound support
- use of government land, facilities, procurement policy, and investment in systems and technology.

VET is also delivered in secondary schools in NSW, with over 35,000 students engaging in VET subjects for their HSC in 2020. The three main avenues available to students to undertake a VET course while at school are:

- school delivered VET
- externally delivered VET
- school-based apprenticeships and traineeships (SBATs).

More than one third of all year 11 and 12 students in NSW public schools studied VET courses as part of their HSC in 2020. Work placement is a key feature of HSC VET courses. In 2021, approximately 9,000 employers provided work placements for more than 32,000 students across the three school sectors.

Focus Area 2: Strengthen trust and respect for the teaching profession and school support staff

Workforce capability for inclusion

VET Teachers in NSW are currently required to hold a Certificate IV in Training and Assessment qualification. This qualification includes content that equips teachers to make learning and assessment adjustments for students with a disability. DoE's Pathways and Transitions team supports schools and teachers with advice on reasonable adjustments under the national standards.

DoE also delivers high-impact professional learning for teachers and school support staff to equip them with the skills and knowledge required to support students with disability. This professional learning includes:

- [Inclusive transition strategies for students with disability](#): This targeted professional learning utilises inclusive pathways resources, programs, and strategies to increase knowledge and understanding of providing equitable pathways for students with disability. It is delivered to careers advisers, transition advisers, learning and support teams, and other staff who support the transition of students with disability. There were 171 participants from 117 schools involved in this training in 2023.
- [Transition Adviser Training](#): Transition Advisers are teachers who collaborate with the local community, industry organisations, and government agencies to deliver programs that will support their school's identified groups of students as they prepare for successful transitions to further education, training, or employment. The Transition Adviser Training program had 23 teachers from 22 schools in 2023.
- [Transition Support Training](#): This professional learning program is for school staff who work with students and aims to support smooth transitions through school into work, further education, or training. This program had 26 teachers from 25 schools in 2023.

The externally delivered Vocational Education and Training (EVET) program includes additional loading/funding for RTOs to support students with a disability who are undertaking VET study. Demand has increased for access and disability provisions under the EVET program, from 375 students in 2022 to 1,938 students in 2023 (a 416% increase) particularly with respect for cognitive access provisions.

Specialist support for TAFE NSW students with disability

To support students with disability TAFE NSW offers a range of supports to assist learners with disability, including:

- guidance on choosing the right course and program of study
- assistance with enrolling
- assistance with fee exemption applications
- development of an individual support plan, including identifying classroom support and assessment modifications

- providing access to learner support, Auslan interpreters, note-takers, or disability assistants
- accessing ergonomic equipment and assistive technology
- assistance with Read & Write - a software program that supports people with dyslexia, and those who need help with reading, writing and spelling
- information on how teachers will plan, deliver and assess a learner's training
- modifying assessment and exam conditions
- mobility orientation
- developing health care plans for life-threatening conditions
- referrals to TAFE NSW services, such as counselling and Work and Development Orders
- guidance and assistance with NDIS workers being on campus for personalised non-educational care supports.

TAFE NSW Disability Teacher Consultants are responsible for establishing and coordinating specialist teaching and non-teaching support services for students with disability, while also performing teaching duties, to achieve optimal student outcomes.

Disability Teacher Consultants actively promote access for students with disability to TAFE NSW courses, maximising enrolments, participation and completions in vocational education and training, leading to successful achievement of student goals and employment for people with disability.

Disability Teacher Consultants:

- coordinate the design and/or modification of inter-disciplinary programs within the TAFE NSW system aimed at supporting students with disability, including special education programs, individual tutorial assistance, educational interventions and the provision of assistive technologies and specialised equipment
- provide support for TAFE NSW teachers of students with disability by advising on needs of the students, appropriate teaching methodologies, assessment/examination and curriculum delivery modifications to meet these student needs

- train educational and non-educational staff in inclusive, accessible teaching, learning and communication strategies and deliver disability awareness programs for staff and community groups
- recruit, train and mentor part-time teachers and specialist support staff, including assistants, interpreters, note-takers and tutors supporting students with disability
- liaise with internal and external stakeholders across learning locations and TAFE NSW sections to ensure effective support services for students with disability are maintained and industry/community needs are met. This includes liaising with Disability Employment Services for students with disability as they finish their course and transition to employment.

TAFE NSW offers an online training to all staff on Disability Awareness and Inclusion

TAFE NSW offers Disability and Access Services to remove barriers to learning for students with disability. The statewide network of support professionals provides advice, guidance and support across multiple channels for students living with disability and medical conditions across multiple channels. Disability and Access Services include:

- provision of assistive technology and equipment
- Disability Awareness Training for inclusive teaching/specialist disability needs
- negotiation, implementation and review of reasonable adjustment provision within Individual Education Plans
- 1:1 and group tutorials
- liaison and referral to teaching sections to provide guidance, advice and support when managing reasonable adjustments and student learning needs.

TAFE NSW also provides multiple channels for learners to access Disability and Access Services

- via telephone when on campus to be connected to a Disability Teacher Consultant
- where there is already a relationship, the learner can contact a Disability Teacher Consultant directly via phone, email or online meeting

- teachers and other staff can contact a Disability Teacher Consultant to request specialist equipment, consultation, reasonable adjustment or other services.

TAFE NSW currently employs more than 80 full time Disability Teacher Consultants across NSW. Where there is not a Disability Teacher Consultant physically located at a campus, learners are supported by a network of professionals accessible via:

- telephone
- online virtual meeting platforms
- travel to another nearby campus where there is a Disability Teacher Consultant or have a Disability Teacher Consultant travel to them.
- Additional support is provided through a network of Disability Assistants, Notetaker/Reader/Writer.

TAFE NSW is currently developing a 2024-2028 Disability Inclusion Action Plan, which will be developed with input from staff, learners and community with lived experience and will focus on the individual, organisation and systemic changes that need to happen to remove barriers for people with disability.

Focus Area 6: Provide meaningful post school pathways

Enhancing access to high-quality vocational education and training (VET)

TAFE NSW

TAFE NSW provides a significant range of post-school options and pathways for learners including students with disability. Around 12% of TAFE NSW students identify as having disability, of whom several thousand indicate that they need additional support to engage with TAFE NSW education and training. TAFE NSW pathways are available in a diverse range of areas including options to coincide with schooling; as an alternative to traditional senior school education; through foundation skills and introductory vocational courses and customised programs.

As for all learners in TAFE NSW, support is also available to strengthen language, literacy, numeracy and digital skills along with access to specialist counselling and other support services. The 2023 National Centre for Vocational Education Research (NCVER) Student Outcomes Survey data shows that learners with disability studying at TAFE NSW achieved the following:

- **Attained qualification:** learners with disability studying at TAFE NSW had the highest completion rate of 45.7% compared to NSW community education providers at 42.5% and NSW private providers at 41.3%.
- **Gained employment:** of the almost 60% of TAFE NSW graduates with disability who were not employed before training (57.8%), one third were employed after training (33.9%).
- **Improved employment status:** 77.5% of graduates with disability improved their employment status after training for government funded VET qualification completers at TAFE NSW.
- **Gained extra skills for their job:** 45% of learners with disability acquired new skills relevant to their current jobs.
- **Self-confidence:** 59.1% of learners with disability reported that what had once seemed impossible was now possible; that they felt better prepared for further study or for employment; and more confident in their engagement in the wider community.

Smart and Skilled

Smart and Skilled is the NSW Government-subsidised training system to help people get the skills to find a job and to advance their careers. Learners are provided with an entitlement to subsidised training up to and including Certificate III and government funding for higher-level courses (Certificate IV and above) in targeted priority areas. The vast majority of learners with disability in this program receive instruction from TAFE NSW.

Smart and Skilled supports people with disability to undertake training and join the workforce. There are many mechanisms to support students with disability to undertake post-school vocational education and training (VET) including:

- fee exemptions that are applied for students with a disability and their dependents, meaning they will not pay a fee for training
- additional funding in the form of a price loading based on the need for additional support (“needs-based loading”) to contracted Smart and Skilled training providers to ensure there are reasonable adjustments and supports in place for these students.

Participation for students with disability under the Smart and Skilled program has been significant since it was first introduced in 2015, from 12,282 in 2015 to 13,620 in 2022-23.

From 1 July 2023, the NSW Government expanded support by allowing more than one needs-based loading to be paid per student meeting more than one needs-based criteria. The other types of needs-based loadings are for Aboriginal and Torres Strait Islander students and long-term unemployed people. This change recognises that students may have intersectional needs and allows for additional funding to be applied. This means a student with a disability who is also an Aboriginal person or someone who is long-term unemployed will attract more funding for their provider, to ensure appropriate support is available to the student to help them engage and complete their training. DoE is also continuing to provide significant funding for foundation skills training and wraparound services to support these students.

Adult and Community Education (ACE)

Adult and Community Education (ACE) plays an integral role in the education, training and community support of NSW residents in regional, rural and remote locations. ACE providers assist people to overcome barriers to education and employment. Across NSW, 32 ACE providers receive government funding through the ACE program. The program is designed to offer intensive support for the most disadvantaged and vulnerable people, including students with disability who may face barriers to training participation, as well as access to pre-vocational and vocational training as a pathway to formal training and jobs.

In the 2022-23 financial year, across the 32 ACE providers participating in the ACE program, 17% of training delivery was to learners with a disability. Young people aged 15-24 with a disability comprised 6.5% of training delivery. DoE is finalising the NSW ACE strategy which will provide focus and commitment to the sector VET and improving disadvantaged learner pathways into ACE.

Apprenticeships and Traineeships

An apprenticeship or traineeship is one of the best ways to get hands-on training and a nationally recognised qualification while being paid. It is an effective way to start a pathway into employment as it gives learners the skills employers need, and a foundation on which to build a successful career and undertake further learning opportunities. An apprenticeship or traineeship can be commenced while at school as a school-based apprenticeship or traineeship (SBAT).

Apprenticeship and traineeship programs can provide additional training and assistance for people with disability. According to NSW data (IVETS), effective 18 January 2024 there are 3,374 apprentices and trainees identified as having a disability in training. This comprises 2,044 apprentices and 1,330 trainees.

When a training contract for an apprenticeship or traineeship is lodged and it is identified the learner has a disability, training advisors located in Training Services NSW offices (located across NSW) will undertake monitoring to ensure the employer and learner are aware of support services available and to check whether extra support that may be required has been provided. Training advisors also confirm that employers are aware of, and have registered for, the Commonwealth Disabled Australian Apprentice Wage Support (DAAWS) program which provides a weekly payment to assist employers of eligible Australian apprentices with disability.

Financial assistance for tutorial, interpreter and mentor services is payable directly to the training provider in respect of an apprentice or trainee with a disability who has been assessed as eligible for DAAWS, and who requires additional assistance with formal training. These apprentices or trainees may attract this form of assistance regardless of whether their employer receives DAAWS.

Training Services NSW offices deliver free workshops for employers and supervisors of apprentices and trainees. The workshops assist in understanding the importance of effective communication in the workplace and address potential workplace bullying and harassment issues. Employers and supervisors are reminded of their duty of care for an apprentice or trainee, (a condition of the training contract), how to recognise changes in a learner's behaviour, monitor conditions such as increased fatigue and to regularly keep in contact with the learner.

Chapter 8 of the accompanying Supervising your Apprentice or Trainee Workshop Participation Handbook is dedicated to employing an apprentice or trainee with disability. Employers are reminded they are required to make reasonable adjustments for apprentices or trainees with disability and ensure that employees with disability have the opportunity to gain employment and participate in work on the same basis as their peers. NSW Anti-Discrimination legislation, incorporating Equal Employment Opportunity, covers reasonable adjustments required in the workplace.

Apprenticeship & Traineeship Roadmap

Training Services NSW has developed an Apprenticeship and Traineeship (A&T) Roadmap 2023-2026. The A&T Roadmap will expand pathways and supports for learners, aligning with their needs and capabilities. The first pillar of the A&T Roadmap will increase the flexibility of the model for a more learner-centred approach including options such as pre-vocational/foundational skills training, literacy, language and numeracy support, alternative training contract duration and multiple exit points throughout the apprenticeship or traineeship. The third pillar will strengthen targeted supports for learners with a disability including onboarding, monitoring, mediation, individualised action plans and working across stakeholders to support mental health and wellbeing.

Bert Evans Apprentice Scholarships

In 2014 the Bert Evans Apprentice Scholarships were launched to assist apprentices in NSW who have experienced hardship and need additional financial support to complete their apprenticeship. The Scholarships support apprentices to progress through to completion of their chosen trade qualification, encourage more apprentices to achieve their goals and make a valuable contribution to their local communities and invest in individual development to support employment outcomes. The Scholarships provide \$5,000 per year over 3 years, for a total of \$15,000. (Apprentices with a disability are one of the equity groups who receive priority consideration for a Scholarship. In 2023, 50 Scholarships were awarded to apprentices aged 25 and under with disability.

1,000 Public Sector Apprentices and Trainees Program

The 1,000 NSW Public Sector Apprentices and Trainees Program provides assistance to public sector agencies to employ an additional 1,000 apprentices and trainees within the NSW Public Sector, over the three years to 30 June 2026. The program offers substantial wage subsidies to attract additional apprentice and trainee roles, support for training to increase the supply of suitable candidates, and improved capacity for agencies to supervise apprentices and trainees.

Apprenticeships and traineeships are well-regarded education pathways into ongoing employment and the program aims to commence a minimum of 5% of these roles with people with disability. The program is actively engaging stakeholder groups that work with people with disability and will be able to assist suitable candidates seeking to pursue an apprenticeship or traineeship.

Educational Pathways Program (EPP)

The EPP is designed to improve education and career outcomes for young people by introducing students to a range of vocational training and employment pathways. This program is highly valued by schools and shows excellent benefits, for example improving the numbers of school-based apprenticeships and traineeships (SBATs). The program works with students with a disability and to date has engaged approximately 64,000 students, in 149 public secondary schools, across 9 regions, with 57% of schools located in regional, rural or remote areas. The program aims to improve engagement with students with disability in schools.

Regional Industry Education Partnerships (RIEP) program

The REIP program connects employers with local schools to support student career exploration and development. This includes students with a disability. Over the past three years, RIEP has

delivered 3,248 opportunities for students with a disability to explore careers. More than 960 employers and industry partners have participated in RIEP activities, engaging students from 272 NSW schools.

The RIEP program works closely with the EPP program to facilitate strong industry engagement with sectors in demand in local communities. While students with a disability participate in a broad range of RIEP activities, the program also works with disability service providers and local employers to design programs specifically for these students.

Career and training pathways for Aboriginal students with disability

Training Services NSW Aboriginal Initiatives support skilling and employment outcomes for Aboriginal people through a range of programs, including:

- **Opportunity Hubs:** these hubs provide Aboriginal young people with the confidence and knowledge to follow a supported pathway between school and further education and/or employment. This is achieved by; partnering with schools and local employers and training providers, coordinating local opportunities including employment, mentoring; scholarships internships and volunteer work, matching local opportunities for Aboriginal student's career aspirations that lead to jobs and involving parents in the early years of schooling. There are five Opportunity Hubs across NSW.
- **Elsa Dixon Aboriginal Employment Grant program:** This program adopts a number of strategies to develop and support Aboriginal people through the creation of training and employment opportunities. The program subsidises the salary, development and support costs of Aboriginal employees in public service agencies and local government authorities. Young Aboriginal people with disability still at school can participate in the School-based Apprenticeships and Traineeships element (one of four elements of the program). Under this element a one-off payment of \$10,000 is paid to support employment of a school-based apprentice or trainee. Each financial year DoE applies for 50 positions. In 2023 all positions were successfully filled by early December. The Post School element (introduced in 2023) provides \$10,000 up to \$20,000 to support the continuation of employment for a learner (part-time or full-time employment status) who successfully completed the HSC in the previous calendar year.
- **Barrangirra Initiative:** This initiative provides end-to-end support for Aboriginal and Torres Strait Islander learners through culturally appropriate mentoring to ensure successful retention and completion of training and improved post-training employment outcomes. Young people in particular are encouraged to participate in this support service.

Careers NSW

Careers NSW provides a career support service for anyone looking to enter the workforce, change careers, develop their skills or identify a career pathway. It fills a market gap by supporting equity groups to access individual, in-person or virtual career guidance and information. Despite current low unemployment rates for the general population, equity groups continue to experience barriers to education, training and employment pathways and benefit from individual support post-school. Careers NSW focuses its support on key equity groups including people with disability. The service provides qualified, independent career practitioners and volunteer industry experts meet directly with users to support them into education, training or employment pathways.

Since 2021, Careers NSW has supported:

- 275,000 website users since launch, providing access to Career Practitioners, Industry Expert appointments as well as information on VET training, education and employment
- 6,800 Career Practitioner bookings
- 1,628 Skills Hub specialist bookings
- 740 volunteer Industry Expert bookings
- 42 in-person locations across NSW and virtual services available statewide.

In late 2023, Careers NSW began asking service users in November 2023, if they wish to disclose disability. Currently 2% of service users have disclosed they have a disability. Careers NSW has support in place to assist service users including recruiting specialist careers practitioners, customised training for careers practitioners, assistive technology, accessible in person sites and text-to-voice functionality.

Since 2023, Careers NSW is further focussing its work to better support people with a disability, by working to upskill current career practitioner providers to better meet the needs of people disability. Careers NSW also includes Get Back in the Game, which support disengaged young people aged 15-19 years to re-engage with education, employment or training. Run since 2016, this program provides one on one support and has strong engagement with disadvantaged young people, especially young people with mental health issues. 29% of young people using Get Back in the Game have disclosed a disability.

References

Early Childhood Education and Care (ECEC)

ACECQA resources on DDA

- Link in full <https://www.acecqa.gov.au/resources/disability-discrimination-act-1992-dda-resources> and
- Link in full https://www.acecqa.gov.au/sites/default/files/2023-12/IS1DDA_InfoSheet_ProvidersStaff.pdf

ACECQA fact sheet inappropriate discipline

- Link in full <https://www.acecqa.gov.au/sites/default/files/2020-06/inappropriate-discipline.pdf>

Brighter Beginnings

- Link in full <https://www.nsw.gov.au/family-and-relationships/child-development>

Commonwealth Inclusion Support Program

- Link in full <https://inclusionagency.nswact.org.au/about/the-inclusion-support-program>

Disability and Inclusion Program Evaluation

- Link in full <https://education.nsw.gov.au/early-childhood-education/engagement-and-insights/insights/disability-and-inclusion-program-evaluation>

Early Childhood Australia Statement on Play

- Link in full <https://www.earlychildhoodaustralia.org.au/our-work/eca-statement-on-play/about-the-eca-statement-on-play/>

Early Childhood Statement on Inclusion of Children with Disability

- Link in full <https://www.earlychildhoodaustralia.org.au/our-work/inclusion-resources/>

EYLF ACECQA information sheet on the changes for the ECEC sector

- Link in full https://www.acecqa.gov.au/sites/default/files/2023-07/InformationSheet_EYLF-Equity%2C%20inclusion%20and%20high%20expectations%20V2.pdf

Health and Development checks

- Link in full <https://www.health.nsw.gov.au/ececchecks>

Human Rights Commission complaints

- Link in full <https://humanrights.gov.au/complaints/complaint-guides/complaints-under-disability-discrimination-act>

NDIS Early Childhood Approach

- Link in full <https://ourguidelines.ndis.gov.au/early-childhood/early-childhood-approach>

NSW Disability and Inclusion Program Sector Capacity Building Program

- Link in full <https://education.nsw.gov.au/early-childhood-education/operating-an-early-childhood-education-service/grants-and-funded-programs/disability-and-inclusion-program/2024-sector-capacity-building-program-guidelines>

NSW Early Childhood Inclusive Education Scholarships

- Link in full <https://education.nsw.gov.au/early-childhood-education/initiatives/early-childhood-careers/available-supports/2022-23-early-childhood-inclusive-education-scholarships-program>

NSW Safety and Quality Practice Program

- Link in full <https://education.nsw.gov.au/early-childhood-education/initiatives/early-childhood-careers/professional-development-and-resources/sector-development-program>

Rationale for the Statement on Inclusion

- Link in full <https://www.earlychildhoodaustralia.org.au/wp-content/uploads/2014/01/Statement-of-Exclusion.pdf>

Start Strong for Community Preschools

- Link in full <https://education.nsw.gov.au/early-childhood-education/operating-an-early-childhood-education-service/grants-and-funded-programs/start-strong-funding/start-strong-for-community-preschools>

Start Strong for Long Day Care

- Link in full <https://education.nsw.gov.au/early-childhood-education/operating-an-early-childhood-education-service/grants-and-funded-programs/start-strong-funding/start-strong-for-long-day-care>

Integration Funding Support

- Link in full <https://education.nsw.gov.au/inside-the-department/teaching-and-learning/students-with-disability/programs-and-services/integration-funding-support>

Start Strong Pathways

- Link in full <https://education.nsw.gov.au/early-childhood-education/operating-an-early-childhood-education-service/grants-and-funded-programs/start-strong-pathways>

Schools

About Professional and Ethical Standards

- Link in full <https://education.nsw.gov.au/rights-and-accountability/department-of-education-code-of-conduct/welcome-to-employee-performance-and-conduct-epac-/about-epac>

Care continuum

- Link in full <https://education.nsw.gov.au/schooling/school-community/attendance-behaviour-and-engagement/behaviour-support-toolkit/support-for-teachers/the-care-continuum>

Disability Strategy

- Link in full <https://education.nsw.gov.au/schooling/school-community/our-disability-strategy/disability-strategy>

Disability Strategy Progress Report 2019

- Link in full https://education.nsw.gov.au/content/dam/main-education/teaching-and-learning/disability-learning-and-support/our-disability-strategy/Progress-Report_Improving-outcomes-for-students-with-disability-2019.pdf

Disability Strategy Progress Report 2020

- Link in full https://education.nsw.gov.au/content/dam/main-education/teaching-and-learning/disability-learning-and-support/our-disability-strategy/Progress-Report_Improving-outcomes-for-students-with-disability-2020.pdf

Disability Strategy Progress Report 2021

- Link in full https://education.nsw.gov.au/content/dam/main-education/teaching-and-learning/disability-learning-and-support/our-disability-strategy/Progress-Report_Improving-outcomes-for-students-with-disability-2021.pdf

Disability Strategy Progress Report 2022

- Link in full https://education.nsw.gov.au/content/dam/main-education/teaching-and-learning/disability-learning-and-support/our-disability-strategy/Progress_Report_Improving_outcomes_for_students_with_disability_2022.PDF

Guidance on Staff Complaints (staff only)

- Link in full <https://education.nsw.gov.au/epac/guidance-on-staff-complaints>

Guidance on Misconduct (staff only)

- Link in full <https://education.nsw.gov.au/epac/guidance-on-misconduct>

Inclusive Education Statement

- Link in full <https://education.nsw.gov.au/schooling/school-community/inclusive-education-for-students-with-disability>

Inclusive Education for Students with Disability Policy

- Link in full <https://education.nsw.gov.au/policy-library/policies/pd-2005-0243>

Making a complaint

- Link in full <https://education.nsw.gov.au/your-feedback>

NSW Education specialist settings

- Link in full <https://education.nsw.gov.au/schooling/parents-and-carers/going-to-school/specialist-settings-in-nsw-public-schools>

Out of area enrolment

- Link in full <https://education.nsw.gov.au/schooling/schooling-initiatives/online-enrolment-for-nsw-public-schools/out-of-area-enrolments>

Our Plan for NSW Public Education

- Link in full <https://education.nsw.gov.au/about-us/strategies-and-reports/plan-for-nsw-public-education>

Rural and Remote Education Strategy (2021-2024)

- Link in full <https://education.nsw.gov.au/about-us/strategies-and-reports/rural-and-remote-education-strategy-2021-24/about-the-strategy>

Registration and accreditation manuals

- Link in full <https://educationstandards.nsw.edu.au/wps/portal/nesa/regulation/school-registration/registration-and-accreditation-manuals>

Registration process for monitoring the government schooling system

- Link in full <https://educationstandards.nsw.edu.au/wps/portal/nesa/regulation/government-schooling/registration-process-government-schooling>

Restrictive Practices Policy and Framework

- Link in full <https://education.nsw.gov.au/schooling/school-community/restrictive-practices>

School Excellence Framework

- Link in full <https://education.nsw.gov.au/about-us/strategies-and-reports/school-excellence-and-accountability/school-excellence/about-sef>

Special education

- Link in full <https://educationstandards.nsw.edu.au/wps/portal/nesa/k-10/diversity-in-learning/special-education>

Specialist Settings in NSW public schools

- Link in full <https://education.nsw.gov.au/schooling/parents-and-carers/going-to-school/specialist-settings-in-nsw-public-schools>

Statement of Equity Principles

- Link in full <https://educationstandards.nsw.edu.au/wps/portal/nesa/k-10/understanding-the-curriculum/curriculum-development/syllabus-development-process/equity-principles>

Student Behaviour Policy

- Link in full <https://education.nsw.gov.au/policy-library/policies/pd-2006-0316>

Suspension and Expulsion Procedures

- Link in full <https://education.nsw.gov.au/policy-library/policyprocedures/pd-2006-0316/pd-2006-0316-06>

Suspension and expulsion appeals

- Link in full <https://education.nsw.gov.au/schooling/school-community/attendance-behaviour-and-engagement/behaviour-support-toolkit/support-for-parents/what-do-i-need-to-know-if-i-want-to-appeal-a-suspension-of-expul>

Inquiry into improving access to early childhood health and development checks

NSW Government Submission



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Glossary

Anticipatory guidance

Anticipatory guidance refers to proactive counselling that addresses the significant physical, emotional, psychological, and developmental changes that will occur in children during the interval between health checks.

Attachment

Attachment in the context of child development refers to an emotional bond between an infant or child and one or more adults.

Australian Early Development Census (AEDC)

The AEDC is a nationwide data collection, conducted every 3 years, of early childhood development at the time children commence their first year of full-time school. The AEDC provides evidence to support health, education and community policy and planning.

Brighter Beginnings

Brighter Beginnings is a NSW cross agency collaboration focused on improving outcomes for NSW children and their families in the first 2000 days, from pregnancy to school age.

Partner agencies are:

- Department of Education (lead)
- NSW Health
- Department of Communities and Justice
- Department of Customer Service
- The Cabinet Office
- Department of Regional NSW
- Aboriginal Affairs NSW
- Multicultural NSW.

Developmental domain

Developmental domains are specific areas of a child's development and growth. There is not a single agreed set of domains of child development, but there is a high level of similarity among many approaches. For example:

- The AEDC (see above) collects data across 5 developmental domains: physical health and wellbeing; social competence; emotional maturity; language and cognitive skills (school-based); communication skills and general knowledge.
- The Ages and Stages Questionnaire (ASQ) which is used as a developmental screen by NSW child and family health services groups the items in their screening tools into five areas: communication, gross motor, fine motor, problem solving, and personal–social.
- The World Health Organisation refers to early childhood development including cognitive, physical, language, motor, social and emotional development.

Developmental monitoring

Developmental monitoring observes how children grow and change over time and whether they meet the typical developmental milestones in playing, learning, speaking, behaving, and moving. It differs from screening, which has a predetermined time frame, and takes a closer look at how a child is developing using formal, scientifically tested tools.

Diagnostic developmental assessment

Child health and development checks aim to detect children who may be developmentally off track using developmental monitoring and observation. Health checks do not identify the extent of a developmental issue, cause(s), or provide a diagnosis. Diagnostic development

assessments use a range of clinical assessment tools, and combine the observations of health professionals with parent, carer and educator observations, to diagnose or identify the cause of a developmental delay identified by a health check.

In NSW children requiring a diagnostic developmental assessment across multiple domains may be referred to a paediatrician or to a specialist multidisciplinary developmental diagnostic team that includes a range of health professionals such as nursing and allied health staff as well as paediatricians.

Executive summary

The early years are a critical time for a child's physical, cognitive, social, and emotional growth. The evidence supports boosting childhood health and development improves outcomes for NSW children, families, and communities. The early years can determine a person's lifelong outcomes.

NSW has a strong system of care and support for parents and children. This is delivered through a service network of providers, including government services, GPs, local councils, culturally specific service providers and non-government organisations. Health and development checks are a critical part of this system to ensure parents, carers, and clinicians have information about a child's health and development at appropriate points to enable recommendations for any support needed.

While this inquiry focusses on early childhood, it's important to note that health and development checks extend beyond this period. For some children, health and developmental issues may not emerge or be detectable until after they enter formal schooling (age 5+), so it is important that families continue to access health and developmental checks if concerns arise after their child turns 5. To provide a comprehensive view of the health and development check system in NSW, this submission takes a broad view to include the period before birth, after entry into school.

The published evidence affirms that the significant opportunities to influence children's developmental outcomes starts in, and even before, pregnancy. This broad view is recognised in key strategic policies, the *First 2000 Days Framework* and *Connecting, Listening and Responding: A Blueprint for Action – Maternity Care in NSW*, which outline the system of care that is pivotal to the health and wellbeing of families in NSW. The evidence outlined in these policies underpin the cross agency [Brighter Beginnings initiative](#).

Regular child health and development checks provide an important opportunity for developmental monitoring and early identification when children are not on track reaching developmental milestones. Early identification of areas of concern enables timely provision of supports, including further assessment and early intervention where needed, to reduce impact on health and wellbeing and optimise outcomes for children and families.

Early intervention to improve childhood development is an important strategy for governments seeking to improve the health, wellbeing, and productivity of their people.

In NSW, according to the Australian Early Development Census, one in 5 children arrive at school developmentally vulnerable in at least one area: physical health and wellbeing, social competence, emotional maturity, language and cognitive skills, or communication skills and general knowledge. In NSW, the health and development system is operating well and there has been investment through Brighter Beginnings. However, there are opportunities, listed below (and detailed in Section 8), to improve outcomes for children through a stronger service system such as:

- Working with the Australian Government and primary health care providers to increase access to GP child health and development checks.
- Removing financial barriers for families accessing health and development checks and allied health and other early intervention services.
- Replicating successful consumer experience strategies to overcome barriers to access health checks and increasing participation rates in services.
- Further exploring strategies to improve accessibility and convenience of health checks for parents.
- Improving uptake of services by Aboriginal children and families.
- Promoting wraparound and integrated service model approaches.
- Improving the quality and accessibility of information available to parents including the actions they can take to support their child's development.
- Providing effective options for additional, accessible support for families and children through digital and telehealth/telepractice services.

Scope of the submission

This submission seeks to:

1. Supply information on the current system providing health and development checks to children and supporting children's health and development (section 2)
2. Address the terms of reference for the inquiry, including:
 - a. Barriers to families attending health checks (section 3)
 - b. Changes needed to address gaps for vulnerable children (section 4)
 - c. Recruitment and retention of health workforce (section 5)
 - d. Funding for early intervention programs (section 6)
 - e. New and emerging technology (section 7)
 - f. A summary of opportunities to improve the system (Section 8)

1. Introduction

The provision of universal well-child health and development programs is well established across NSW and indeed across Australia and many other developed countries. These programs aim to promote child health and development, and facilitate early detection and intervention, through a universal system of health and development checks to maximise outcomes for all children.

1.1 Why are health and development checks important?

The first 2000 days of a child's life – the period from their conception until around the age of 5 – is a time of rapid development where the foundations of a child's body and brain are developed. A child's development score at 22 months of age can serve as an accurate predictor of educational outcomes at 26 years¹. It is also a period of change and adjustment, when the whole family can benefit from health care, information, and support to welcome their new baby and provide them with the best start in life.

Some families will face additional challenges or need access to more services than others. Health services provide universal access for all families to well person health care (such as antenatal care, child and family health services, and GPs), and a gateway into the service system for those families who need further care and support (such as mental health services, get healthy coaching or virtual residential parenting services).

Evidence indicates that checks should be delivered in a partnership between parents/caregivers and health care providers. Health checks should form one component of a child health and development program to improve early childhood development outcomes.

Child health and development checks are an important initial component of child health and development programs. The key components of health and development checks include:

- Monitoring of growth and health of children
- Monitoring of developmental milestones (see below)
- Screening for specific conditions (for example, screening and early detection for developmental dysplasia of the hip/congenital hip dysplasia can avoid surgery and have adequate treatment provided through splinting alone)
- Assessment of factors that influence child health and development (such as the parent-child relationship, parental wellbeing and family situation, and exposure to child maltreatment)
- Health promotion, including injury prevention and provision of advice to promote child and family wellbeing.
- Anticipatory guidance (see above)
- Health and developmental information and guidance
- Referrals for follow-up and further care as required.

In NSW, child health and development checks (after the newborn health check which is predominantly delivered in hospital) are provided by NSW Health child and family health services, GPs/practice nurses and Aboriginal Community Controlled Health Organisations (ACCHOs). From 2023, specific services are being established through Brighter Beginnings to deliver 4-year-old health checks in preschools and day care.

¹ Allen (2011), Early Intervention: the next steps report. [Early Intervention: The Next Steps \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Child Health and Development Programs

In countries where public primary health systems are established, child health and development programs are embedded as universal systems. They seek to reach all children and support them in reaching their potential, for the benefit of the individual child, their family and society. This approach builds on research evidence to offer:

1. developmental monitoring for early detection of problems
2. health promotion that benefits the child and family
3. platform for the identification of families who may need further support.

The immediate environment for children in the early years is predominantly that of their home and family. Many risk factors to health and development can be present in the family domain, for example, poverty, family violence, parental mental health issues or substance use. Equally, many protective factors can be present within the family. Optimising outcomes for children need to include identifying family factors that may impact upon development, and child health and development programmes must also include pathways and strategies for providing support for at risk children and families.

Typically, a child health and development program include:

- Health checks/ monitoring for all children, to detect risk factors or problems, provide extra support to parents/caregivers and the child, and refer as appropriate (see above).
- Pathways to clinical assessment for children detected through health checks, to diagnose disorders, develop a treatment plan, and accurately refer for appropriate intervention.
- Access to appropriate early intervention services within clinically appropriate timeframes.
- Opportunity for a parent to access trusted advice about how to support and support child development.

The Baby Bundle is given to parents and caregivers with newborn babies living in NSW while they are in the hospital. The Baby Bundle contains useful products and health information to support families with their child's growth and development.

1.2 The universal well-child health and development service system in NSW is in line with best practice

An independent [evidence review](#) commissioned by NSW Health in 2014 found that the NSW model for a universal early childhood health and development program was in line with similar jurisdictions across the world. While noting opportunities to enhance uptake and outcomes, the review found that NSW was delivering a universal well-child health and development program that was consistent with best and expected practice across the world.

The NSW universal well-child health and development system of care has evolved over time, based on best practice evidence, from an emphasis on monitoring growth (weight and height) and screening for physical disorders starting with newborn bloodspot screening at birth to include a more wholistic approach to health and development checks in partnership with parents/caregivers.

The recommended minimum schedule of health and development checks is outlined in the [NSW My Personal Health Record \(Blue Book\)](#) given to each family on the birth of their child. The information in the Blue Book encourages all parents to take their child for regular health checks with a GP or child and family health nurse. This supports them in reaching their potential, for the benefit of the individual child, their family and society.

1.3 Early intervention is vital to help children reach their potential

Early detection through child and development checks provides a gateway to early intervention support and services. There is evidence that early intervention can act to reduce the impact of health and developmental issues early in life. However, this relies on parents and carers being able to access the checks and any necessary support and services.

Early intervention and prevention to improve early childhood development is an important strategy for governments seeking to improve the health, wellbeing, and productivity of their people.

In NSW, the data from the most recent Australian Early Development Census (AEDC) collection in 2021 indicated that the number of NSW children developmentally on track is the lowest since the census began, in 2009.

The 2021 AEDC data indicated that:

- One in 5 children (21.7% compared to 19.9% in 2018) were developmentally vulnerable on at least one domain; and just over one in 10 were developmentally vulnerable on 2 or more domains (increasing from 9.6% in 2018 to 10.5% in 2021).
- Aboriginal and Torres Strait Islander children and children from culturally diverse backgrounds are more likely to be developmentally vulnerable than their peers.

Overcoming barriers that affect parental access to support and services is an important priority and is explored in sections 3 and 4.

1.4 Improved service integration will make access easier for families

Families have reported that it can be very difficult for them to find the services their children need. Effective early intervention requires a flexible, timely, integrated, responsive and evidence-informed system that provide services tailored to the needs of children, families, and communities. Such systems must be underpinned by accountable governance structures and mechanisms.

NSW Government agencies are working to establish the infrastructure for a system that is easier for parents and carers to find what they need for their children. This approach is data driven, evidence informed and holistic.

This submission includes examples of the work underway to build the NSW system of care for children and families such as Brighter Beginnings, the development of the Department of Communities and Justice (DCJ) Early Intervention Evidence Portal and library of evidence reviews to inform service development and delivery, and the cross-agency work to better harness the power of data to inform meaningful system change.

2. Current services available

2.1 Service delivery context to support health and development outcomes

In NSW, 8 agencies collaborate on 'Brighter Beginnings' to lift child health and development outcomes for all NSW children. Brighter Beginnings is a cross-agency collaboration aimed at improving child health and development outcomes – in recognition that no single system or agency can drive the level of improvement required to lift the number of NSW children that are developmentally on track.

Brighter Beginnings aims to achieve increased universal access to education, health, community, and government services, provide targeted early interventions to children, support families experiencing vulnerability and/or disadvantage, improve families' experience in their interaction with government services, raise awareness/understanding of the importance of the time between pregnancy to age 5.

This work occurs in a complex interjurisdictional context which influences the drivers of change, as well as a complex service landscape comprised both of Commonwealth and State funded services.

There is a tiered system of care and response for children identified with developmental concerns following a health and development check. Some children may be referred to a GP, to exclude medical issues or to a paediatrician. Some children may be referred directly for allied health assessment and intervention, such as speech pathology or audiology or to dental services. Children presenting with more persistent, pervasive and/or other complicated developmental concerns and health comorbidities may be referred to multi-disciplinary diagnostic and assessment services. Services responding to identified needs can come from a range of providers - public, private, not-for-profit or, where appropriate, the National Disability Insurance Scheme (NDIS).

Despite the strong foundation of support for families with young children delivered by the broad range of service providers, there is still more to be done. Data from the AEDC demonstrates that too many children are still starting school with unmet developmental needs, and other data shows approximately 23% children are above a healthy weight².

Demand for additional support and early intervention is expected to continue to grow with the roll out of the Brighter Beginnings Health and Development Checks in Early Childhood Education (ECE) program, and with expected changes to the NDIS following the release of the [NDIS Review: Final Report](#).

2.2 Foundations for supporting childhood development from pregnancy

The health of women and their families, during and after pregnancy, and the physical and social environment in which children grow, can have a deep and lasting effect on child development, school readiness, later educational achievement, and the risk of chronic disease in later life.

Antenatal care (care in pregnancy) provides a key opportunity to improve maternal health and wellbeing, promote healthy behaviours and parenting skills, identify areas where the woman, her partner or family may need additional support, and ensuring the mother and her family are linked with appropriate services. The relationship between a parent and their baby is a central determinant of child health and development outcomes, right from the start of life. There is a strong body of evidence linking the quality of parent-child attachment from early in life with children's later physical health, mental health, and academic achievement.

Pregnancy is an ideal time to work with parents to help them develop a healthy attachment relationship with their child.

Antenatal care is a usual part of pregnancy for most women who give birth in NSW. As the majority (about 78%) of women in NSW gave birth within NSW public hospitals, the routine

² Overweight and Obesity in children, Health Stats NSW. [Overweight and obesity in children - HealthStats NSW](#)

provision of antenatal care in NSW Health's maternity services provide several important screening and assessment activities to improve maternal, child and family outcomes including children's health and development after they are born.

SAFESTART and Domestic Violence Routine Screening

The aim of assessing all women/families during the antenatal and postnatal periods is to identify and provide care to those parents and their infants who are most at risk for poorer physical, social, and mental health outcomes.

Psychosocial risk factors impact significantly on a family's capacity to engage with and parent their baby. Some psychosocial risk factors can detract from parents' capacity to establish the healthy relationship with their baby that is a central determinant of child health and development outcomes.

NSW Health's SAFESTART model, described in the [Maternal and Child Health Primary Health Care Policy](#), guides health professionals to deliver the comprehensive primary healthcare assessment to identify psychosocial difficulties and/or anxiety and/or current depression in pregnant and postnatal women. A comprehensive assessment is recommended to be offered during pregnancy, at the time the baby attends a 6-week child health and development check and again at the 6-month child health and development check.

Domestic violence is a public health issue that has significant negative health consequences for women, children and their families. The SAFESTART process also includes offering [Domestic Violence Routine Screening \(DVRS\)](#). This is an early identification and intervention strategy to promote awareness of the health impact of domestic violence, ask questions about patients' safety in relationships and the safety of their children, and to provide information on relevant health services for victims. The offer of DVRS to eligible women is mandatory in 4 public health service settings as part of routine assessment for:

- all women attending antenatal services
- all women attending child and family health services
- women aged 16 years and over who attend mental health services
- women aged 16 and over who attend alcohol and other drugs services.

2.3 Child health screening and health and developmental checks

Newborn Bloodspot Screening

Early detection of treatable disease in children allows for early intervention, resulting in better health and development throughout life.

Newborn Bloodspot Screening is a free heel prick blood test that is offered to every newborn baby in NSW and the ACT. Newborn bloodspot screening aims to detect babies at risk of serious disorders, which may result in physical or intellectual problems, serious illness, or death. Early diagnosis and treatment by medication or diet can prevent death or serious complications and can lead to significantly improved outcomes.

NSW Statewide Infant Screening - Hearing (SWIS-H)

The SWIS-H program provides universal hearing screening to all babies born in NSW, usually in hospital soon after the baby is born.

The SWIS-H program aims to identify babies born with significant hearing loss and link them to appropriate services as soon as possible after birth. About one to 2 in every 1,000 babies is identified with a significant hearing loss each year and referred for treatment and early intervention. Early detection of hearing loss in children is associated with better developmental outcomes. Research indicates that intervention starting by 6 months of age can result in optimal speech and language development and minimise the need for ongoing special education.

Information about the [SWIS-H program](#) is available for parents/carers including for those whose infant is diagnosed with a hearing loss. SWIS-H program resources are available in English and a broad range of community languages. In the three financial years 2020-21 to 2022-23, almost all children (98.9%) born in NSW received a hearing screen.

Immunisation

Illness in childhood can have a lasting impact on child health and development. The National Immunisation Program (NIP) has made a significant long-term contribution to decreasing childhood mortality and morbidity in Australia and improving children's health and developmental outcomes. Continued promotion of on-time childhood immunisation is vital to preserving and extending the benefits delivered by the disease prevention the NIP has achieved.

Under the NIP children are provided access to free vaccines that protect against a range of vaccine preventable diseases. See [NSW Immunisation Schedule](#). Catch up vaccinations are available up to 19 years of age. Vaccines are available from GPs, Aboriginal Medical Services, community health centres and community pharmacy (5 years and over).

Barriers to full, on time vaccination of children include shortages of GPs, particularly in regional and remote areas of NSW, cost of living pressure and a reduction in GPs providing Medicare bulk billed services.

GPs can claim a Medicare Benefit Schedule (MBS) consultation fee for a childhood immunisation encounter. Additionally, GP immunisation providers receive a payment of up to \$6 for completing all vaccinations due at a scheduled age point for children under 7 years of age and a \$6 payment per completed catch-up schedule for children over 7 years, after they report the encounter to the Australian Immunisation Register (AIR). This payment is co-funded by the Australian and NSW Governments.

Since 1 January 2024, participating community pharmacists receive an Australian Government funded payment of \$18.85 for each NIP vaccine that they administer (to people aged 5 and over) under the National Immunisation Program Vaccinations in Pharmacy program (NIPVIP). This payment is not available for other providers such as Authorised Nurse Immunisers. If this payment was extended to additional providers, it may improve access to vaccination and assist in alleviating pressure on GPs.

NSW childhood immunisation rates declined slightly during the COVID-19 pandemic but have started to increase again with AIR data at December 2023 showing over 96% of Aboriginal children and over 93% of all children were fully vaccinated at 5 years of age.

A GP/Aboriginal Medical Service consultation for a scheduled routine immunisation service provides as opportunity for the service provider to undertake a child developmental assessment.

NSW Health recommended schedule of health and development checks for children from birth - 4 years

A free copy of [My personal health record](#), also known as the Blue Book, is given to every parent whose child is born in NSW. It describes how the evidence shows that most of a child's brain structure is developed before they turn 5 years old, and that these early days set the foundation for how well they will do in school and right through their lives. It explains why it is very important that children have their health and development checked regularly by a health professional from birth and up to 5 years old. It also reinforces the importance of early detection and intervention for improved outcomes for childhood health and developmental issues.

The Blue Book outlines the schedule for health and development checks, at birth, 1-4 weeks, 6-8 weeks, 6 months, 12 months, 18 months, 2 years, 3 years, and 4 years.

The health and development checks described in the Blue Book monitor growth, physical health and development as well as assessing any concerns about learning, development, and behaviour.

The newborn health and development check is completed by a health professional in the presence of the parent/s before the baby is discharged from hospital.

The checks from 1 to 4 weeks to 4 years can be completed by a paediatrician, GP/practice nurse or child and family health nurse, depending on the preference of the child's parents/carers. Through Brighter Beginnings, the 4-year health check will soon be available in early childhood education services (see Section 4.1).

Many of the checks are aligned with when immunisations are due, and on-time immunisation is promoted in the Blue Book.

The Blue Book urges parents, if concerned about their child's health, growth, development or behaviour between the scheduled health checks, to take their child to their local child and family health service or doctor so that early action can be taken.

The Blue Book is also available online on the [NSW Health website](#), where it is translated into 18 community languages.

Health checks for children after 4 years of age

The Blue Book includes a section titled *Primary and secondary school*. After the age of years, the Blue Book encourages parents to take their child for a health assessment if they, their child or their child's teacher have concerns about their health and development at any time in their school years. Parents are reminded that behavioural problems or learning issues can be related to health problems, and that if their child develops any of these issues, a health assessment is a good idea.

Parents are also advised that a health assessment before their child starting high school is recommended. Health issues or questions can emerge, and a health assessment is an opportunity to deal with these. As part of this assessment, it is recommended that a child's eyes and vision are assessed. Hearing and vision testing can be done at any age.

A family GP is often the first point of contact for a health assessment for a child of school age. Youth health services and, increasingly, services such as Wellbeing and Health In-Reach Nurse Coordinators (see **Appendix A**), may be available to assist families to access the assessments and care their child may need.

Child and family health services and GPs offer a range of care and support

NSW Health recognises the importance of seamless transition of care for new parents and their families from maternity services into the community, this may include child and family health services and general practitioners. Often families will stay in touch with their GP who provide care throughout pregnancy and after the child is born.

Child and family health services work in partnership with parents to provide parenting and family support, and education to promote the health and development of their child during their early years. The services also provide access to postnatal psychosocial screening and assessment with referrals to other services within health and in the community (government and non-government) as required.

Child and family health services provide access to health checks, performed by child and family health professionals, from the 1 to 4 week health check to the 4-year health check. Children identified with developmental concerns after a health check may be offered a developmental screen using a validated tool such as the ASQ. For some children, the child and family health nurse or other health professional providing the check will be able to provide parents with activities and guidance to help address early developmental delay. Other children may need referral for to other services further assessment.

Through the Brighter Beginnings [Health and Development Checks in Early Childhood Education and Care](#) program, multidisciplinary health teams including a range of allied health disciplines are now being established across NSW to provide health and development checks for 4-year olds in early childhood education environments. This program has been established to increase the number of 4-year health and development checks being completed in response to the evidence of the importance of identifying children's needs prior to their commencement of school.

Allied Health Services

Allied health professional(s) provide assessment, diagnosis, and therapeutic intervention to address child health and development concerns. They are available through public community health services as well as non-government and private providers. Children and families are referred to allied health services by GPs, paediatricians/specialists, child, and family health services or directly by parents if they have concerns about their child. Education providers may encourage parents to seek services.

The types of allied health professions employed through NSW Health vary across districts in NSW, but predominantly include speech pathology and occupational therapy services, with some also providing dietetics, orthoptist, physiotherapy, psychology, and/or social work services. Children may also be referred to other public or private allied health services as required, including audiology, exercise physiology, optometry, podiatry, or orthotics/prosthetics. Many districts experience high demand for their allied health services and children can experience long waiting times to access therapy and early intervention services. Allied health services are also not available in some regional communities.

Children are also referred to NSW Health allied health services for assessment and assistance to access NDIS disability supports. Children who are eligible for the NDIS usually receive their ongoing allied health therapy and early intervention through private and NGO providers.

Statewide Eyesight Preschooler Screening (StEPS)

The StEPS program is an initiative of NSW Health that offers all 4-year-old children free vision screening. NSW Health advises that all children should have their vision screened before they start school and strongly recommends that all 4-year-old children participate in the StEPS program.

There is a StEPS program and coordinator in each local health district (District). Districts target preschools and childcare centres to offer all 4-year-old children a free vision screening.

An independent evaluation of the program in 2018 found that from 2009 to 2016, 719,686 4-year-olds were offered vision screening by StEPS, representing 96.4% of 4-year-olds in NSW during that period. Of these, 84% accepted the offer.

2.4 Services and systems to support families to improve children's health and developmental outcomes

The systems and services available to support families vary in different communities, as local providers tailor their services to community needs and demographics. Availability of qualified workforce is also a significant factor that influences the services available in any region or district. **Appendix A** contains examples of services available for specific needs or population groups in NSW. These services support improved developmental outcomes for children, such as the Aboriginal Maternal Infant Health Service (AMIHS) program and sustained nurse home visiting services.

2.5 Australian and NSW governments share responsibility for supporting families

Provision of health and social care to support families from conception into the early years is a shared responsibility guided by Australian Government and NSW policy documents to deliver safe, and evidence-based care. These overarching policies can be found in **Appendix B**.

The Australian Government is responsible for the provision of primary care, the regulation of aged care and private health insurance, and provides funding through the MBS and the Pharmaceutical Benefits Scheme (PBS). The states and territories have primary responsibility for the delivery of care in public hospitals, with the Australian Government contributing to their funding under the National Health Reform Agreement (NHRA).

States and territories work in partnership with the Australian Government to fund and deliver a range of other health services, including preventive health services. The Australian Government has established Primary Health Networks (PHNs) (10 in NSW) to assist in the coordination of health services across local populations. These PHNs work directly with GPs, other primary health care providers, hospitals, and the broader community. The Australian Government and NSW have also entered into a bilateral agreement reflecting shared responsibility in supporting the NDIS.

National Disability Insurance Scheme reforms and workforce implications

In December 2023, National Cabinet acknowledged the need for reform to the NDIS, to support people with permanent and significant disability within a broader system of supports. This included agreement to jointly design 'Foundational Supports'. Foundational Supports are to be funded 50-50 with the Commonwealth and delivered through existing government service settings where appropriate.

Broader disability sector reforms and the establishment of Foundational Supports may change the workforce needed to provide NDIS funded and mainstream State services, including those provided in health and education. This includes disability support workers, allied health workers and other workers working across a variety of settings. The NDIS Review noted that in 2021-22 there were around 325,000 workers supporting NDIS participants, their families and carers. About 128,000 more workers are likely to be needed by June 2025 to fully meet demand. Despite strong workforce growth since the NDIS commenced, large and persistent workforce shortages remain in the NDIS. The disability sector is also trying to build its workforce at the same time as there is strong demand for new workers right across the care and support sector.

2.6 The Brighter Beginnings NSW Government Agency partnership

NSW Government has identified that the service system can be complex and difficult to navigate for parents and carers. NSW Government agencies are working together to improve access for families to services, streamline how information is made available and used to deliver better outcomes, and collaborating to deliver better health and wellbeing outcomes for families.

Since its launch, Brighter Beginnings has set strong foundations, focused on bringing together ministers, government agencies and front-line professionals to identify opportunities for immediate improvement, establish robust governance mechanisms to drive collaboration, and to develop innovative, integrated ways to better meet the needs of NSW children and families.

A total of \$376.5 million has been committed over 4 years to 2026-27 to support evidence-based accelerator initiatives targeting child development from pregnancy to age 5. These programs are:

- **Aboriginal Child and Family Centres:** Expansion of culturally safe services and supports for Aboriginal families with children aged 0-8 years (see **Appendix A** for more information).
- **Digital Baby Book:** Development of a digital health record for children born in NSW (see Section 7.2 for more information).
- **Health Development Checks in early childhood education services:** Delivering health and development checks for 4-year-olds in early childhood education settings (see Section 4.1 for more information).
- **Pregnancy Family Conferencing:** Conferencing services to provide early family support (see Appendix A for more information).
- **Sustaining NSW Families:** Nurse-led health home visiting program for families with identified moderate level risk factors to child development (see Appendix A for more information).

There are several other agency partnerships operating to make better use of data, information, and collaboration to improve responses to children and families. A summary appears in **Appendix C**.

3. Barriers that affect parents' access to routine health and development checks

NSW Government services monitor challenges for families and consider the implications for service provision including access to routine health and development checks.

Barriers for families accessing health and development checks and early intervention services can include:

- Cost of living pressures, including out of pocket medical and health expenses.
- Location, geography, or access to transport, particularly barriers for rural, regional, and remote families.
- Experience or fear of discrimination when accessing services, or stigma associated with accessing services or receiving a diagnosis.
- Fear of being reported for child protection concerns.
- Cultural barriers - racism and lack of culturally safe services for Aboriginal people.
- Poor understanding of the importance of health and development checks, or the service availability.
- Parental health and wellbeing factors including domestic and family violence, untreated mental health conditions or drug and alcohol use, trauma, cognitive functioning of parents.
- Long wait times for appointments.
- Availability of appointments outside working hours.
- Language and access to translators
- Community perceptions of service providers.

Poor access and long wait times for early intervention services also discourage families from participating in early childhood developmental checks. Some families may not see the point of identifying developmental issues if they cannot access treatment, therapy, and early intervention services to help their child. Others may avoid identifying issues because they know they cannot afford to pay for the services their child may need.

3.1 Socio-economic disadvantage and cost of living pressures

Structural and socio-economic barriers can impact access to health services such as insecure housing, cost of living, experiences of domestic and family violence. The Department of Customer Services (DCS) 'Customer Insights' Survey of 850 participants in January 2024, found that cost of living concerns were top of mind, and the number of people 'extremely' concerned about the cost of health care also continues to increase with 40% pulling back or stopping their health appointments along with 25% of parents who reported reducing or stopping appointments for their children.

There may be extensive wait lists for some health services, including allied health and other early intervention in both the public and private sector.

Poor communication and coordination across services working with a family can have significant consequences for a child's development. For instance, women from the most disadvantaged areas, particularly outer regional and remote areas are the least likely to receive antenatal care, particularly during the first trimester when the risk of fetal harm is heightened, and service links and referrals are best established.

3.2 Stigma and discrimination

Stigma and discrimination, fear or real, can act as a barrier to seeking or receiving care and support. For example:

- People from culturally diverse backgrounds due to cultural or language barriers.
- People who use alcohol and other drugs also experience discrimination that can become a barrier to their access to services, particularly for pregnant women. Stigma towards alcohol and other drug use in pregnancy may also result in non-disclosure and barriers to accessing appropriate diagnoses and service support.

- Fear of child removal due to child protection concerns can be a barrier for families, families experiencing significant mental health issues, and families seeking to engage in alcohol and other drug treatment.
- Domestic or family violence can also hinder access to early childhood development checks. Social isolation, financial or social dependence, or fear of retribution may impede a mother taking a child for health checks.
- People with a disability and their families and carers face stigma and discrimination when accessing services.

3.3 Location

Children and families in rural and remote areas are more likely to experience barriers to accessing services due to systemic disadvantage and inequality. Australian Institute of Health and Welfare (AIHW) data shows that remote areas have 7 times fewer specialists compared with major cities, and that the total clinical fulltime equivalent (FTE) for health professionals per 100,000 population generally decreased as remoteness increased³. Decreased availability of health services in rural and remote NSW further widens the gap for rural and remote communities by impeding the provision of timely developmental checks and delivery of early intervention supports for children where needed.

Families in regional and remote areas also have poor access to childcare where 61% of outer regional, 85% of remote and 78% of very remote communities in Australia are classified as 'childcare deserts'. The biggest issue is in towns with a population of under 1500. The Australia Productivity Commission has reported that families who do not participate in early childhood education and care (ECEC) typically have lower incomes and are more likely to be unemployed or not in the labour force, have a lower level of education, and to be receiving income support than those who do participate.

Families who live in rural or remote locations may also have financial, transportation or social barriers in accessing early development health checks compounded by the long distances they must travel.

Mobile and telecommunications infrastructure can also be a disadvantage in many locations, with rural and remote areas still having connectivity black spots. This can prohibit access to virtual care services include telehealth consults, which could help bridge the access gap.

The availability of appointment times may not suit the community, particularly working parents. In more metropolitan areas, location may pose a different type of barrier to access. Services that are not located near public transport, or do not have sufficient free or low-cost parking options, pose access barriers for families. Services may also be located in buildings that have stairs or other challenges for people with mobility needs, including people with a disability or parents with prams.

3.4 Culturally and Linguistically Diverse (CALD) families

Families from CALD backgrounds may face compounded barriers when engaging with different child health and development services. Because CALD communities are not a homogenous group, it is important to recognise that communities can differ in levels of engagement with services. The ways different communities interact and engage with government services is influenced by diverse factors such as community connectedness, religious beliefs, and experiences of trauma.

Accordingly, when seeking to address developmental gaps in outcomes for children in these populations, approaches should be tailored in response to these multifaceted and nuanced experiences of different communities.

³ Australian Institute of Health and Welfare. (2019). *Rural and remote health*.

<https://www.aihw.gov.au/reports/rural-remote-australians/rural-remote-health/contents/access-to-health-care>

Some common barriers to accessing government services experienced by families from CALD backgrounds include:

- Lack of awareness of services and supports.
- Language barriers.
- Lack of access to culturally appropriate and responsive support services.
- Experiences of trauma and loss financial barriers.

Research studies conducted in NSW indicate that many of the same barriers to accessing general child health, development and childcare services experienced by families from CALD backgrounds also affect access to health and development checks. For example, lack of awareness of general child health and development supports among parents from CALD backgrounds is reflected in limited understanding of scheduled health and development checks, impacting attendance rates of these checks.

Limited uptake of health and development checks among CALD families can further entrench the developmental vulnerability of children from CALD backgrounds identified in the AEDC. Lack of access to resources in-language (including audiovisual resources for people with poor literacy in their own language) and interpreter services can also be a barrier.

3.5 Culturally safe services

Experiences of trauma may impact a person's access to and engagement with services and may impact on overall physical and psychological health throughout their lives. It is important that all services are trauma-informed and healing focussed to help ensure they can effectively recognise and respond to underlying trauma. Without appropriate support services, the impact of trauma, including adverse childhood experiences, can resemble other illnesses or diagnoses and can often be misunderstood.

Lack of cultural safety for Aboriginal and Torres Strait Islander families in health services

Aboriginal peoples' experiences of health services have been traumatic due to historical and contemporary discrimination. Embedding cultural safety is key to achieving equitable access to health services for Aboriginal families. Coordinated and culturally safe services will improve the patient journey for at-risk children and increase the likelihood of early and authentic engagement of families with culturally safe early intervention services.

3.6 Communication and promotion

A critical element to giving children a successful start in life is providing families with the opportunity to understand the importance of the first 2000 days of life, how they can help their child's health and development, and how and when to access services. This information can assist families to prioritise well child health care and regular health and development checks in their busy lives.

The service system for families is complex, and difficult to navigate

The average family may interact with over 150 services in their child's first 2000 days of life. Of these, around 60 are delivered by NSW Government, 40 by the Australian Government and around 50 by NGOs or commercial entities.

Consumer insights from the Brighter Beginnings collaboration reported that parents and carers do not feel they have access to the right information at the right time in accessible formats for parents and carers. If a family requires additional support, it can become even more complex and overwhelming, especially if they need to access multiple services. Limited information sharing in NSW Health and across agencies can also mean people must re-tell their story and can experience unnecessary re-screening and assessments. This points to a need for greater trust, alignment and collaboration between agencies working with children and young people, and their families or carers.

Families can find it difficult to find the information they need from a trusted source

There is a lot of information available to families from a wide variety of sources and of varying quality. This information can be difficult for families to navigate. To address this, NSW has updated the [NSW Health website](#) has information and resources to help people learn more about the child health and development checks, and where families can go to get them. The content on the webpages and resources that promote child development have been reviewed from a health literacy lens. Consumers can use an [interactive map](#) to find their local child and family health services. There are also resources on the website, like the Learn the signs, Act early [Milestones Matter](#) developmental monitoring checklists (available in 19 community languages) that show when it is time for a routine health and development check. There are also [videos](#) in 5 languages that promote child development and regular checks.

NSW Health also promotes the Australian Government funded [Raising Children Network](#) parenting website and resources, which is a very comprehensive source of information, through the Blue Book and the Baby Bundle. NSW Health continues to provide written information in these resources as there is evidence that some families prefer written information. This can be due to barriers such as limited digital literacy or unreliable internet access.

However, many parents remain unaware of the importance of health and development checks for children, and how regularly the checks should occur.

Consumer insights help to improve how NSW Government provides information

As part of the Brighter Beginnings initiative the Department of Community Services recently engaged with families to better understand how parents and carers approach health and development checks. They found there were broadly four different mindsets that parents and carers held towards checks:

Mindset	Profile
I need to be informed about what to do.	<ul style="list-style-type: none">• Have not heard of checks.• Often first-time or expecting parents.
I need to be reminded when it's time to book and complete a check.	<ul style="list-style-type: none">• May have heard of checks but quickly forgot about them.
I need to be convinced about why to go to a professional when I have the answers myself.	<ul style="list-style-type: none">• Highly confident in their own ability to spot developmental issues.• Often have raised children before.
I need to be convinced about why to do a check because I'm afraid and overwhelmed.	<ul style="list-style-type: none">• Avoids things relating to their child's health and development that are clinical and potentially serious.

Through Brighter Beginnings, the NSW Government has created a parent and carer hub that is a one stop shop of trusted, evidence based, resources that families can use to find the information and support they need on child development. This webpage is being supported with a whole of government campaign starting early 2024.

3.7 Concerns about the repercussions of accessing services

The DCJ [‘Family is Culture’](#) report highlights that some families avoid health care services due to the fear of attracting the attention of child protection services. This is a well-documented issue for Aboriginal families who have been overrepresented in the child protection system.

Effective and safe proactive follow up with children and families who may not attend developmental checks is needed. NSW Health has a responsibility to try and understand

why families may not engage with services. How the efforts of health professionals to engage with families are documented and responded to can have implications for child protection and family law proceedings and may further exacerbate distrust or disengagement with services.

Where a family is impacted by domestic or family violence, uptake of early childhood development checks may be hindered. Social isolation, financial or social dependence, or fear of retribution may impede a mother taking a child for health checks.

3.8 Parental wellbeing factors

While health and developmental checks are focussed on the child, consideration also needs to be given to the constellation of people around the child (parents, partners, family) and their health and wellbeing. Children and young people often experience vulnerability or trauma due to parental factors, such as untreated mental health conditions, harmful alcohol and other drug use, and domestic and family violence. A well parent is better able to support the health and development of a child. Child wellbeing and child protection concerns may be linked to a parent's own experiences of trauma, including adverse childhood experiences and intergenerational trauma.

This does not mean that all parents who have experienced trauma have compromised parenting capacity, but it does mean that some parents may need additional services and supports to maximise parenting capacity and prevent trauma for the next generation. All staff should understand that experiences of stigma and/or discrimination can be a significant barrier for accessing services, particularly for people worried about how they are viewed as a parent.

4. Addressing gaps in outcomes especially for vulnerable children

4.1 Improving access

Work is underway to increase participation in Child and Family Health Services

NSW Health has worked closely with DCS to undertake consumer research for insights into the experiences and views of families with young children accessing government services, including health services. An example is the customer experience pilot project to improve the consumer experience of child and family health services at Section 3.6 above. This project was undertaken by DCS and Illawarra Shoalhaven Local Health District between 2021 and 2023. Initial research found the 4 consumer 'mindsets' toward health and development checks described above that contributed to parent/carer decisions. The project's strategy to address specific barriers and increase participation in early health check successfully demonstrated a 24% increase in bookings for the 6 to 8 week health check. The pilot also demonstrated an increase in parents accessing information about health and development checks through a QR code and the service website. There are plans to use lessons from the pilot in services across more districts in 2024.

General Practice and Aboriginal Community Controlled Health Organisation (ACCHOs) are important partners to address access gaps

In a recently completed DCS survey of families on the use of the Blue Book and families' experience with health and development checks, responses from 4,751 families found that more than half of families see their GP for health and development checks after the 1-to-4-week check, and also that many families are not getting the checks completed. The survey also found that out of all the scheduled health and development checks, families are more likely to miss the 2- and 3-year health and development checks.

Data on the total number of health and development checks completed by GPs is not available, as there is no discrete MBS item used for child health checks. The exception to this is the Aboriginal child health check, available yearly for all Aboriginal children, for which data is available. The Australian Institute of Health and Welfare (AIHW) report [Tracking progress against the Implementation Plan goals for the Aboriginal and Torres Strait Islander Health Plan 2013–2023](#) found that of 31,234 Aboriginal children aged 0-4 years in NSW in 2020-21, 7,998 or 25.6% attended an Aboriginal-specific MBS health check. Of these 7,998 children, 38.3% received their check from an Aboriginal Community Controlled Health Organisation and the remaining 61.7% attended non-ACCHO providers.

Data on families' attendance at NSW child and family health centres is consistent with what families reported to DCS in the recent Blue Book survey above and shows that most families choose to use child and family health services for their earliest health checks. The rates of attendance reduce as children grow older. The Blue Book survey data suggests that this drop in attendance in part reflects an increased preference to attend GPs for older children. The AEDC data suggests however that for many children the drop in attendance rates indicates they are unlikely to be receiving health checks, and the follow up interventions that they need.

The NSW Government is offering 4-year child health and development checks in preschool environments, to reach as many children as possible.

Improving access - Health and Development Checks in Early Childhood Education

Partnership with Early Childhood Education services (ECE) is an important opportunity to improve outcomes. NSW Health services are working with targeted ECE services to provide health and development checks in areas of high need to vulnerable communities. The Health and Development Checks for Children in ECE Program is a partnership between NSW Health and the Department of Education to deliver a universal recurrent program that provides health and developmental checks to 4-year-old children in the preschool environment. The program started to be offered in government and community preschools in

2023. As implementation progresses, the reach of the program will extend to children enrolled in preschool programs delivered through long day care centres. Australian Bureau of Statistics data from 2022 shows that 78,979 4-year old children were enrolled in a NSW preschool program. Of these, roughly two thirds attended a long day care centre. It is anticipated that by offering the free 4-year old health and development checks in an ECE service, the in ECE Program NSW Government can significantly increase the number of children who have received this check before they start school. This is an opt in program for services and families.

The program will seek to improve health outcomes for children, contributing towards the Closing the Gap Target 4, of 55% of Aboriginal children being developmentally on track by 2031. These outcomes will be measurable through the AEDC. The program commenced in 2023 in 6 Districts, where 513 checks were delivered to 46 participating services. This number is anticipated to grow substantially as the program is rolled out statewide in 2024.

4.2 Strengthening access to allied health services

One barrier families may experience is the lack of services available to help after a developmental delay has been identified. A lack of timely access to assessment, treatment and therapy services provided by allied health professionals, is a significant risk to the health and development of children. In NSW, many children cannot access or wait much longer than clinically advisable for allied health services, including speech pathology, occupational therapy, psychology, dietetics, physiotherapy, and audiology.

Early childhood is a time of rapid development where each new skill builds on skills learned before. Delays in receiving therapy and other supports can compound developmental issues and increase the impact of developmental delays. The later therapy and intervention is accessed, the more entrenched and complex the developmental issues may become. If there are delays in children receiving allied health assessment, treatment, and therapy to address identified developmental delay or other health concerns before they start school (before age 5), this creates a significant barrier for the child and their family to access allied health intervention. Moreover, services outside of the NDIS or private sector are often not available for school aged children. This delays access to therapy, particularly for vulnerable children and their families, and creates a risk of children not meeting learning and development milestones and having negative impacts for the child in both the short and long-term including on health, communication, literacy, social, educational, and employment outcomes.

The Henry Review made strategic recommendations about services for children

An independent review of health services for children, young people, and families in the NSW Health system ([The Henry Review, 2020](#)) noted “that the demand for allied health services for children, young people and families far exceeds supply”. Although the Review did not quantify demand, it states that “all the material presented support the case that allied health staffing levels have been inadequate for many years and that there is a widening gap between demand and supply.”

A key recommendation from the Review was that: *“The Ministry of Health recognise that the demand for allied health services for children, young people and families far exceeds supply and adopts a long-term strategy to address the staff shortages. Targets for investment include initiatives for the First 2000 Days, for mental health and for interventions for domestic violence”* (Recommendation 49).

The [Henry Review Implementation Plan](#) drives NSW Health's response to recommendations emerging from the 'Review of health services for children, young people and families in the NSW health system.

These workforce issues and the gap in the supply and demand for allied health services is explored further in Section 5.

Allied health services are not routinely provided in NSW schools

In NSW, there are limited or no publicly funded allied health professionals employed by the NSW Department of Education. This differs to most other states and territories in Australia. For example, QLD Department of Education employ over 900 allied health professionals to provide services in state schools⁴.

An inadequate number of allied health professionals in NSW for school-age children mean there are long wait lists and limits to capacity to provide therapy for community-based services. In some rural and remote areas, there is very limited or no access to allied health professionals for children and their families in the community or in schools.

4.3 Need for more wraparound and integrated service model approaches

A key example of effective early intervention models and practice is that of wraparound or integrated place-based supports. Wraparound services or integrated service hubs are flexible and tailored to ensure that families receive integrated and coordinated services to meet their individual needs, often in a common location. These services can also provide a place for local communities to connect and meet, providing opportunities to connect with other families and build relationships and trust, and removing barriers to accessibility. There is evidence to show that integrated hubs can be very effective in improving the access that vulnerable groups have the health and development checks and follow up services, as well as social supports for isolated parents.

Evidence demonstrates proven benefits from integrated service models for children and families. The inclusion of ECE services, or proximity to ECE services, is a feature of a number of integrated hub-based models for families. Examples include ACFCs (see **Appendix A**) and integrated child and family hubs (for example the [First 2000 Days Care Connect research hubs](#)). Given the importance of early childhood education and care, there is a great opportunity to extend the model further into the sector with other government and non-government services, particularly in areas of higher need.

4.4 Rural and remote communities face additional challenges

Children living in rural and remote areas are 3 times more likely to be developmentally vulnerable on 2 or more AEDC domains (31.8%) than children living in major city areas (10.2%). Children, families, and communities from regional and remote locations are faced with additional challenges due to limited or reduced accessibility to services and supports. These barriers highlight the need for services in these areas and options like telehealth to reduce barriers to accessibility.

Opportunities to improve outcomes for rural and remote children have been identified

There are a range of opportunities to better support rural and remote communities to access care and help address disparities in child development outcomes. Some of these include:

- improve outreach and access to high quality, timely services, especially in rural areas
- address health workforce shortages in rural areas
- ensure health services are co-designed with local communities and health stakeholders so they meet community needs
- support expansion and replication of outreach services in rural areas across acute and primary care sector
- improve access to virtual care (requires improved mobile infrastructure particularly for more remote areas): reduce telecommunications blackspots and improve coverage in rural and remote areas; expand virtual care infrastructure and capability in rural and remote services.

⁴ Specialist Support staff, Department of Education, Queensland Government: [Specialist support staff \(qed.qld.gov.au\)](https://qed.qld.gov.au)

- improve communities' awareness of health services and programs, and health promotion and early intervention.
- provide more support to people in rural and remote areas who need to travel to access care (for example, Isolated Patients Travel and Accommodation Assistance Scheme (IPTAAS) community transport, road infrastructure, non-emergency patient transport, public transport)
- implement place-based approaches to health care and service delivery, tailored to the needs of rural and remote communities (such as Western Primary Health Networks needs based assessment) and expand approaches like Collaborative Care Program and Collaborative Commissioning in rural areas.

4.5 Improving services for Aboriginal children and families

There is a strong commitment by NSW Government to improve Aboriginal children's developmental outcomes through Closing the Gap and through cross government work in partnership with Aboriginal communities.

There is evidence that shows that what works well for Aboriginal families, works well for all families. The potential benefits of further embedding Aboriginal ways of knowing, being, and doing, which centre healing, child and family focussed approaches and genuine engagement and understanding, across the NSW Government system should be considered.

Aboriginal children experience poorer developmental outcomes

Aboriginal children experience poorer developmental outcomes due to socio-economic, historical, and structural factors that contribute to ongoing disadvantage and discrimination.

In 2021 Aboriginal children were twice as likely as non-Aboriginal children to be developmentally vulnerable on one or more (42.3% and 22%) or 2 or more AEDC domains (26.5% and 11.4%). Also, although Aboriginal ECE providers often partner with ACCHOs to provide accessible health and development checks, Aboriginal children have been less likely to attend ECE services and are therefore less likely to gain access to health and development checks. The AIHW [Tracking progress against the Implementation Plan goals for the Aboriginal and Torres Strait Islander Health Plan 2013–2023](#) data quoted above showed that in 2020-21, only 26% of NSW Aboriginal children accessed a MBS Aboriginal Child Health Check⁵.

Aboriginal children are significantly more likely to experience risk factors for poor developmental outcomes, including disability (for example low birthweight, housing stress, poverty, family, and domestic violence), and are more likely to live in remote and very remote areas with limited access to services⁶.

Aboriginal children are also more likely to be exposed to multiple concurrent and long-term factors which significantly increase developmental vulnerability. For example, maternal and infant health outcomes worsen with remoteness, and Aboriginal births are more likely to occur in remote or very remote areas (26%) than compared to non-Aboriginal births (2%).

Positive trends in NSW that will lead to improved outcomes for Aboriginal children

These include:

⁵ Tracking progress against the Implementation Plan goals for the Aboriginal and Torres Strait Islander Health Plan 2013-2023. [Tracking progress against the Implementation Plan goals for the Aboriginal and Torres Strait Islander Health Plan 2013–2023, Goal 4: Indigenous-specific health checks – children aged 0–4 - Australian Institute of Health and Welfare \(aihw.gov.au\)](#)

⁶ Ahmed KY, Allan J, Dalton H, Sleigh A, Seubsman SA, Ross AG. Reviewing Publicly Available Reports on Child Health Disparities in Indigenous and Remote Communities of Australia. *Int J Environ Res Public Health*. 2023 May 25;20(11):5959. doi: 10.3390/ijerph20115959. PMID: 37297562; PMCID: PMC10253029.

- The gap in childhood vaccination coverage between Aboriginal and non-Aboriginal 5-year-olds has closed with 96.4% of Aboriginal children fully immunised compared to 93.8% of non-Aboriginal children in 2023.
- Preschool enrolment for Aboriginal children in NSW has also increased significantly in recent years from around 60% in 2016 to 96% in 2022.
- Early access to antenatal care is increasing in Aboriginal mothers. In 2021, 78.9% of Aboriginal women had their first antenatal visit before 14 weeks of pregnancy, compared to 51% in 2012.

Increasing the availability of culturally safe services is a key strategy

Lack of access to cultural safe services, racism, and mistrust are the main barriers to accessing essential services. Transforming mainstream government sector services is a priority, to ensure they are culturally safe for Aboriginal people. Ideally, services delivered by non-Aboriginal private sector providers would also be required to demonstrate delivery of culturally safe services.

Demonstrating cultural safety of services could be achieved by assessing services' adherence to culturally safe principles. The DCJ commissioned a Cultural Safety and Wellbeing Evidence Review conducted by Gamarada Universal Indigenous Resources Pty Ltd and the Social Policy Research Centre. The review identified 6 critical elements of cultural safety as features of what works in Aboriginal communities to ensure that a program is effective and culturally safe:

- Recognising the importance of culture.
- Self-determination.
- Workforce development.
- Whole of organisation approach.
- Leadership and partnership.
- Research, monitoring, and evaluation.

Enhancing and continuing to build the Aboriginal health workforce is a proven strategy to improve outcomes for Aboriginal people. NSW Health is actively strengthening its Aboriginal workforce and is also a strong supporter of the Aboriginal Community Controlled Sector. Direct ministerial-approved recurrent funding for Aboriginal Community Controlled Health Services (ACCHS) has increased from \$19.2 million in 2014-15 to \$36.7 million in 2023-24. Outcomes could be further maximised if the Aboriginal workforce were strengthened across private non-Aboriginal service providers.

Affordability of services is essential if outcomes are to be maximised. Universal access is well supported in the ACCHO sector and across the public health system in NSW through bulk billing. This becomes problematic if private sector specialist consultation is required.

A program under Brighter Beginnings includes the building of 6 new Aboriginal Child and Family Centres (ACFCs) (there are 9 existing services). The ACFCs are funded by the NSW Government (through DCJ) and operated by ACCOs. They operate as community hubs that deliver and coordinate integrated, culturally appropriate, and needs-based services for Aboriginal families and children (including education and health services).

These services are well regarded by Aboriginal community with many having long wait lists. Consultation to establish new centres was met with overwhelming demand.

Eliminating racism from service provision is a vital opportunity to improve community confidence in accessing services

Racism has been shown to be a major source of chronic stress to children and families, that has a significant negative impact on developing brains and other biological systems, and that has intergenerational impacts on health and developmental outcomes (see for example the [Harvard Center on the Developing Child resource](#)). NSW Health is leading development of a

Racism Framework to enhance cultural safety across the health system in NSW. Listening to the Aboriginal voice, working collaboratively, and demonstrating commitment to reconciliation and change is also an opportunity for government and non-government service providers to develop, implement and continually improve services for Aboriginal people.

[The Safe and Supported Aboriginal Action Plan](#), has been endorsed by the NSW Government and includes: “High-quality child and family wellbeing services are designed and delivered by ACCOs to Aboriginal and Torres Strait Islander children, young people and families, in line with families’ needs, and focus on supporting families to stay safe together”. It also includes a deliverable for jurisdictions to redesign funding models to support properly funded local systems with local accountability, and capacity to enable self-determination. These commitments will be central to improving gaps for Aboriginal communities.

Increasing the use of culturally appropriate screening tools supports access

It is imperative that children, young people and their families and carers are given time to tell health workers what is important culturally to them. It is also important that health and development checks are done in a setting which provides a sense of safety, is easily accessible or co-located with other services (though consideration should be given to the nature of the services) such as ACCHOs.

The ASQ-TRAK is a developmental screening tool for observing and monitoring the developmental progress of Aboriginal and Torres Strait Islander children. NSW Health supports the use of the ASQ-TRAK to ensure culturally appropriate assessment for Aboriginal children aged 0-5 ½ years. NSW Health is supporting use of the ASQ-TRAK tool by the Out-of-Home Care Health Pathway Program including through training for staff and purchasing ASQ-TRAK tool kits.

Embedding trauma-informed delivery of care will increase cultural safety

Trauma informed care seeks to provide a safe, supportive environment to clients and staff. The approach reflects available research about the prevalence and effects of trauma-exposure and the best methods for supporting clients exposed. Support and training for Health staff to build capability in trauma-informed care and how to translate principles into practice is needed to embed the approach in practice, improving access to effective support and services for families and children who have experienced trauma.

Implementation of the NSW Health *Integrated Trauma-Informed Care Framework: My story, my health, my future* is expected to go some way to embedding trauma-informed delivery of care in NSW Health system and services.

Cultural safety and accessibility are a key focus for the districts in implementing the [Safe Wayz](#) program. The program includes an emphasis on community engagement and requires cultural consultation by non-Aboriginal staff working with Aboriginal children and families. The Program has been incorporated within the districts’ Sexual Assault Aboriginal Action Plan to ensure that Aboriginal staff working in the Program and Aboriginal children and families receiving a response through the program are culturally safe.

NSW Health has partnered with the [National Association for Prevention of Child Abuse and Neglect](#) on the roll-out of the Safer Communities for Children program in NSW. Safer Communities for Children is a protective behaviours program for ages 4 to 8 years that has been culturally adapted for Aboriginal children in NSW.

4.6 Culturally and linguistically diverse communities

NSW has one of the most culturally, linguistically, and religiously diverse populations in the country. The diversity of the population is reflected in data from the 2021 AEDC, which indicates that more than one in 4 children speak a language other than English at home. The 2021 AEDC also found that children from CALD backgrounds are more likely to be

developmentally vulnerable (for instance score in the lowest 10% in at least one developmental domain measured by the AEDC) than children who are not from CALD backgrounds. While ‘gaps’ across developmental domains in these populations are closing, the existence of greater developmental vulnerability of children from CALD backgrounds is a trend that has remained largely unchanged since 2009.

CALD families experience significant barriers to accessing government services

Children, families, and communities from CALD backgrounds often face acute and compounding barriers to accessing support services. Addressing these additional barriers is critical to ensure that these issues do not further escalate and compound.

Addressing the developmental vulnerability of children from CALD backgrounds recognise that CALD communities are not homogenous. Targeted approaches can complement universal interventions to promote the development of children from CALD backgrounds, informed by evidence, data, and community consultation. Some approaches that can support increased access to child health and development services and address gaps in outcomes for children from CALD backgrounds are outlined below.

Language services are fundamental to inclusive engagement with CALD families

Services need to respond to the specific language needs of children and their families who need to access child health and development services. The delivery of language services extends beyond translation and interpreting services, and also involve broader strategies such as access to bi-cultural workers and community engagement campaigns.

Culturally responsive workforce

A workforce that is culturally responsive and has the capability to meet the needs of diverse groups is another important factor in improving access to services. Approaches to enhancing the culturally responsive practice of the workforce include the implementation of capability frameworks for child health and development services. Capability frameworks can assist services to address barriers to participation by building the intercultural capabilities of staff and the incorporation of best practice principles.

Improving data collection to inform better service delivery

The AEDC is the key data source for analysing the development of young children across Australia. However, there is limited data available specifically on families from CALD backgrounds in NSW, their engagement with child health and development services and developmental outcomes. Improved depth and quality of data could facilitate the identification of barriers to participation and help services to capture the nuance needed to effectively engage families.

4.7 Children experiencing maltreatment

Children who experience maltreatment in their first 5 years of life are also a group at heightened risk of developmental vulnerabilities.

Internationally, immediate, and long-term outcomes of exposure to adverse childhood experiences including all forms of child maltreatment have been documented, with research showing that adverse childhood experiences can result in child learning, mental health and physical health problems as well as adult health issues such as cancer and drug use.

In Australia, children who had a child protection report in their first 18 months of life or children with the highest levels of child protection response (with a substantiated Risk of Significant Harm (ROSH) report or who were placed in out-of-home-care) were most likely to be developmentally vulnerable on one or more AEDC domain.

The [Australian Child Maltreatment Study](#) has found that Australians who experience childhood maltreatment are substantially more likely to experience mental illness, engage in high-risk health behaviours and rely heavily on health services.

Effective child maltreatment prevention programs include prevention and response

Preventing childhood maltreatment protects children from some of the known risks to optimal development. Health checks provide a good opportunity to refer families to evidence based programs to prevent child abuse and neglect, where such services exist, or to identify and respond to risk of maltreatment. The Department of Community Services and the Centre for Evidence and Implementation conducted an evidence review on parenting programs that seek to prevent child maltreatment. The review adopted a core components approach to identify what effective programs have in common to recommend as standard program components for child and family services working with families at risk of child abuse and neglect. The evidence review identified 5 core components to prevent child maltreatment:

- engagement
- case management
- parental education, coaching and modelling
- parental self-care and personal development
- building supportive relationships and social networks.

It is critical that children who have experienced maltreatment are also prioritised and assessed for early identification markers of developmental vulnerabilities prior to starting school, and supported with early intervention approaches and services, to mitigate further negative implications. The [South Australian Royal Commission into Early Childhood Education and Care](#) recommended the development of referral pathways to connect children at risk of child maltreatment with appropriate early childhood education and care services.

5. Recruitment and retention of health professionals to address workforce shortages

5.1 Current state of play

Early childhood health and development checks are delivered by a range of health professionals. Responsibility for the key workforce areas that deliver child health and development checks, and early intervention services is jointly held by state and federal government. NSW Health employs midwives, child and family health nurses, allied health professionals and paediatricians to deliver these services to families. Services are also provided through GPs, NGOs and are privately available in many locations for those that choose to access them.

Workforce shortages are a major barrier to timely health and development check and early intervention

There are critical shortages in a range of health professionals across NSW, particularly in some disadvantaged metropolitan and regional communities. This is having a significant impact on access to quality services for children and their families. There are also difficulties in attracting and retaining early childhood educators and teachers to regional NSW.

Programs are being implemented to improve recruitment and retention of key roles

To help attract and retain key health and education professionals that regional communities need, the Department of Regional NSW has developed [The Welcome Experience](#) (see Section 5.4).

There is evidence that 'rural origin' is a critical factor in retaining workers to rural and remote areas. This supports an emphasis on local 'grow your own' programs to train and develop a skilled workforce sourced from the local community. In the case of allied health, this presents a challenge due to a lack of rural and remote tertiary allied health courses. There are also limited options for students to undertake extended clinical placements in rural settings due to the lack of accommodation for students and the need to maintain employment while studying.

The Department of Regional NSW and NSW Health are partnering on a pilot project to boost allied health supply in regional NSW. The Department of Regional NSW funds 5 local health districts to 30 June 2026, to employ Allied Health Clinical Educators. This project will support the number of student placements in the regions, with a focus on disciplines to support the Brighter Beginnings initiatives.

5.2 Shortfalls are evident in nursing and midwifery, medical and allied health workforces

Delivery of health and development checks and early intervention services is reliant of some core clinician groups, including child and family health nurses and midwives, paediatricians, and allied health professionals. All of these groups are experiencing workforce challenges, impacting on the ability to deliver timely services.

Nursing and Midwifery Workforce

In NSW, the child and family health nursing and midwifery workforce has grown 3.6% over the last 5 years, compared to the 8% growth of the nursing and midwifery across the system. This lower growth rate, along with an aging workforce within this specialty, poses challenges to current and future service delivery.

There are areas of workforce challenge for nurses and midwives linked to geographical locations and small facilities which impact on both general and specialty nursing practice and availability of services, including child and family health. These include challenges for building and sustaining capability through professional development opportunities and supervision.

Child and family health services have traditionally been provided solely by nurses, however, since the introduction of the direct entry pathway for midwifery (Bachelor of Midwifery) some 20 years ago, there has been a need for change to this workforce model nationally. On 6 December 2023, the Nursing and Midwifery Board of Australia (NMBA) released a detailed fact sheet: Maternal, child and family health nurses and midwives in Australia - A regulatory perspective. This provides clarity for the health system and an opportunity to extend the suitable workforce to deliver child and family health services by supporting both registered nurses and midwives to pursue a career pathway in child and family health.

Paediatrics

The workforce data indicates that the number of new paediatric fellows in NSW is static however trainee numbers are increasing, particularly from 2021, which should increase specialist numbers from 2023 onwards.

For Paediatrics, the number of new fellows in NSW is:

It should be noted that most developmental services available in NSW Health are provided by community and general paediatricians rather than paediatric subspecialists. A snapshot of these workforces is provided below:

General Paediatrics:

Currently there are 749 fellows in NSW, working on average 31.3 hours per week. There were 37 new fellows in 2021. There are 319 general paediatric trainees in NSW, which contributes to a 58.2% growth in training numbers between 2018 and 2022. NSW Health trains 33% of all trainees in Australia. Of the general paediatric workforce, 26% work in non-metropolitan Sydney.

Community Child Health Specialists:

Currently there are 47 fellows in NSW, working on average 28.7 hours per week. There were 7 new fellows in 2021. There are 79 general paediatric trainees in NSW, and there was a 97.5% growth in training numbers between 2018 and 2022. NSW Health trains 35.1% of all trainees in Australia. Of the community child health paediatricians, 10.6% work in non-metropolitan Sydney.

Private Paediatricians- as mentioned at the beginning of this chapter, there are also private services available. NSW Health does not hold the workforce data on the number of private paediatricians.

Allied Health Professionals

The table presents the relative size of the allied health workforce (paediatric and adult) and paediatric FTE numbers and its proportion of workforce at December 2022.

Allied Health Workforce	Relative size of total workforce	Paediatric Allied Health (FTE)	Paediatric allied health FTE proportion of the workforce
Dietitians	Medium (600-700 FTE)	36	6%
Occupational Therapists	Large (900-1600 FTE)	89	6%
Physiotherapists	Large (900-1600 FTE)	70	4%
Psychologists	Large (900-1600 FTE)	68	7%
Speech Pathologists	Medium (600-700 FTE)	227	37%
Social Workers	Very large (1900-2200 FTE)	63	3%

Art Therapy, Child Life Therapy, Audiology, Orthoptics and Music Therapy are micro with less than 50 FTE each

Demand for paediatric allied health services far exceeds supply, and NSW Health community paediatric allied health services generally only see children who are preschool age (such as birth to age 5) to manage the high demand for their services and to prioritise early intervention. Although most services are operating as effectively as possible within resource constraints, some children become ineligible during the wait period for paediatric allied health services because they reach school age, where this exclusion criterion is applied to assist in managing demand.

Some districts provide limited allied health outreach services to local schools (for example 3 districts provide limited speech pathology outreach), however this is the exception rather than common practice.

5.3 Allied Health Workforce Modelling

Workforce modelling in 2023 mapped the forecasted labour pool to 2040 for many Allied Health professions against projected and currently funded health service workforce demand (see table below). This information creates a window that districts and speciality health networks could use to guide future workforce planning in adult and paediatric services.

It must be noted, however, that this does not account for currently unfunded and unmet service demand such as has been highlighted and acknowledged by NSW Health through the Henry Review (2020).

Allied Health forecasted labour pool required to 2040

Allied Health Workforce	Demand growth predicted for 2040	New professionals needed per annum to meet community needs in 2040
Dietitians	1.7-2.4%	29-59
Occupational Therapists	1.5-1.7%	12-20
Physiotherapists	1.6-1.9%	36-50
Psychologists	0.2-0.3%	6-7
Speech Pathologists	1.4-1.5%	12-13
Social Workers	1.9-2.2%	20-34

5.4 Retention and recruitment strategies

NSW Health has 2 relevant strategic documents and priorities that relate to retention and recruitment of health professionals that are currently being implemented. These are:

1. [Health professionals Workforce Plan 2022-2023](#), Priority 5: Attract and retain skilled people who put patients first
2. [NSW Regional Health Strategic Plan 2022-2032](#), Priority 1: Strengthen the regional health workforce: Build our regional workforce; provide career pathways for people to train and stay in the regions; attract and retain healthcare staff; address culture and psychological safety, physical safety, and racism in the workplace.

NSW Health has implemented a range of statewide recruitment and retention strategies that are either generalised (all workforces or statewide) or focused on rural workforce and/or specific clinical workforces. Details of the programs are available on the [NSW Health website](#). While these are not specifically targeted at paediatrics, they would support

clinicians seeking to work hard to fill paediatric or early childhood health and development roles in rural areas and to grow the Aboriginal clinical workforce.

The Welcome Experience

The Department of Regional NSW works collaboratively with communities, business, and government to ensure all people and communities have access to the essential services they need to thrive for generations to come. The Department of Regional NSW has developed The Welcome Experience, a new service that provides essential government workers and their families with the support they need to move into regional communities, settle in and become one of the locals. This helps people and their families to relocate, find housing, access education and childcare, make social connections and understand local leisure and recreation options. This initiative is being piloted at eight locations across regional NSW – Bega Valley, Broken Hill, Coffs Harbour, Corowa, Goulburn, Griffith, Muswellbrook, and Walgett.

5.5 Changes to wages and industrial relations

Several NSW Government changes to wages and industrial relations outlined below aim to improve recruitment and workforce retention in the public sector, including those workforces that are essential for the delivery of early childhood health and development checks and services.

Previous NSW Wages Policy

Under the previous NSW Public Sector Wages Policy, increases to remuneration or other conditions of employment was capped. Increases in remuneration or other conditions of employment that increased employee related costs by more than 3% per year could only be considered where sufficient employee related cost savings had been achieved to fully offset the increased employee related costs and required the approval of the Cabinet Standing Committee on Expenditure Review.

The \$3.6 billion Essential Services Fund

The NSW Government has established a \$3.6 billion Essential Services Fund to rebuild essential services and address critical public sector vacancies. The fund is intended to support front line workers.

Current NSW Wages Policy

In June 2023, the NSW Government in recognition of the work of essential workers, created the NSW Government's Fair Pay and Bargaining Policy 2023, which provided for increases to remuneration of up to 4.5% (inclusive of superannuation) for one year for instruments which expired on or after 1 July 2023.

Changes to the Industrial Relations Act

The Industrial Relations Amendment Act 2023 (NSW) provides the Industrial Relations Commission increased power to bring unions and government agencies together to negotiate and facilitate dispute resolution, which may assist in future wage negotiations.

Staff Specialists (State) Award variation

NSW Health has filed a variation to the Staff Specialist (State) Award (which covers paediatricians employed by NSW Health) to make it more fit for purpose and will be participating in mutual gains bargaining in due course. This matter is currently before the Commission.

Commitment to introducing Safe Staffing Levels for nurses and midwives

The NSW Government entered a Memorandum of Understanding with the NSW Nurses and Midwives' Association that commits 2,480 FTE staff, over 4 years, towards minimum safe

staffing levels (SSL), starting in emergency departments, and subsequently being rolled-out into other areas including intensive care units, and those wards currently covered by the existing Nursing Hours per Patient Day system. The roll out of SSL is anticipated to be challenging in rural and remote areas due to workforce shortages.

Allied Health industrial award reform

The NSW Government have committed to reforming the allied health awards. It is anticipated that this process will commence mid-2024. The reforms are intended to modernise and consolidate current industrial awards and support the recruitment and retention of allied health professionals.

5.6 Opportunities

Opportunities to make NSW the employer of choice

The [Allied Health Graduate Workforce Pipeline Report](#) identified high-impact opportunities to make NSW Health the employer of choice for new allied health graduates.

Opportunities for addressing workforce gaps to better meet the needs of children and families

Strategies to address the identified gaps in the paediatric allied health workforce will help to provide equitable access to dedicated multi-disciplinary community-based services across NSW. Increased access to these services represents an important opportunity to support children's healthy development. This is particularly important where population demographics demonstrate increased risk of poor outcomes or clusters of vulnerability, identified through data such as AEDC and Socio-Economic Indexes for Areas (SEIFA).

The modelling explored in this section of the submission demonstrates a gap across all allied health professions, noting that the existing demand and long waitlists for paediatric speech pathology and occupational therapy demonstrate the need to grow these professions as a priority. This initial step would be followed by growing the social work, psychology, physiotherapy, dietetics, exercise physiology and Aboriginal health worker/practitioner workforce to improve access to screening and early intervention services.

Activities to address these gaps are likely to be most effective if they include a focus on ensuring a mix of senior, early career, and new graduate health professionals are available in the community. Strategies also need to consider the importance of including allied health educators to strengthen the workforce pipeline.

There is an opportunity to explore increasing undergraduate nursing clinical placements and graduate employment pathways into child and family health services.

6. Funding for early intervention programs

Early childhood intervention that aims to improve children's developmental outcomes is commonly provided as part of programs designed to meet a range of needs. It is often not possible to accurately identify the proportion of funding that is devoted to early intervention, or more particularly to early intervention for developmental needs.

In recent years, there have been some enhancements specifically aimed to increase the health and development supports available to children and families.

The Parents Package of \$157 million funded in the NSW 2018/19 State Budget, included a range of additional supports for families including enhanced newborn bloodspot screening, additional funding for midwives and child and family health nurses. These services are now embedded within the integrated service system.

More recently, the NSW Government established the Brighter Beginnings initiative, which brings together human services agencies across government to drive changes that will

support improved outcomes for children and families. In 2022-23, \$376.5 million was committed over 4 years to support evidence-based accelerator initiatives targeting child development from pregnancy to age 5 to increase the number of children developmentally on track (details at Section 2.6).

Brighter Beginnings accelerator initiatives complement existing services and programs

The 5 initiatives funded under Brighter Beginnings aim to build on work already undertaken by agencies. In addition to the supports provided by health and education services, the DCJ manages significant funding programs that offer early intervention services that aim to support vulnerable families who experience many of the social and economic factors that can place children at risk of poor developmental outcomes.

Targeted Early Intervention (TEI) and Family Connect and Support (FCS) programs

TEI and FCS funded services offer early help and support, providing targeted services at the point where they can have the most impact, early in life and early in need (see the description in Appendix A).

FCS is a voluntary family service providing a tiered response based on family needs. Core service elements include (but are not limited to) information and advice, comprehensive assessment, proactive outreach, short term case planning and coordination, and active holding to vulnerable children, young people and families in NSW. FCS services are state-wide, existing across all 16 DCJ districts.

The TEI program commissions community or not-for-profit organisations who know their local communities to deliver TEI programs or activities.

In 2021-22, there were 472 service providers in 1,440 outlet locations delivering TEI services across NSW with a program budget of approximately \$172 million. FCS is delivered state-wide by 7 service providers and 4 consortium partners in 24 locations, with a budget of approximately \$19.5 million.

Families impacted by problematic substance use

In response to the Special Commission of Inquiry into the drug ice (Ice Inquiry), the NSW Government invested new funding almost \$500 million over 4 years for health and justice initiatives. Of this, \$358 million over 4 years was allocated to NSW to increase access to alcohol and other drug treatment and support in NSW, particularly in regional and rural NSW.

A range of new and expanded community and residential programs are being established across NSW to ensure increased access to support for parents, children, and young people. This includes expansion of the Substance Use in Pregnancy and Parenting Service (SUPPS) programs; a new residential rehabilitation program for Aboriginal women with children, including pregnant women; and a range of community-based programs specifically for parents with children and with an increased focus on family inclusive practice. It also includes new services for families and carers affected by the substance use of others.

Women who disclose problematic substance use could be provided advice and referred to SUPPS or an alcohol and other drug service for comprehensive assessment and treatment planning, including multidisciplinary support for the family in the early years of childhood.

7. New and emerging technology

The terms of reference for the inquiry direct the Committee's attention to some specific aspects of telehealth and other models of care that may provide new and effective ways to deliver care to children. The NSW Government provides the information below to assist the inquiry determining whether to make recommendations in relation to these matters.

7.1 The role of virtual care

Virtual care (or telehealth) presents innovative ways to address existing system challenges, such as workforce capacity and infrastructure capability. Virtual care modalities, such as remote patient monitoring and videoconferencing platforms, provide essential support for NSW Health's vision for a sustainable health system to deliver outcomes that matter to patients and the community, that is personalised, invests in wellness, and is digitally enabled. For instance, virtual care enhances access to health services, particularly specialist services, and provides patients with more choice about how and where they receive that care. For rural and regional communities, virtual care is providing patients with greater access to health services, as well as reduced travel time and expense.

NSW Health developed [the NSW Virtual Care Strategy 2021-2026](#) that outlines the steps NSW Health will take to further integrate virtual care (previously referred to as 'telehealth') as a safe, effective, accessible option for health care delivery in NSW. It builds on the important and innovative work of many health partners across NSW to provide a coordinated and consistent system approach. The Virtual Care strategy supports timely access to care with increased NSW Health capacity to expand virtually-enabled models of care (including hybrid virtual and in-person models) with service benefits to increase efficiency care delivery, reduce potentially preventable hospitalisations, reduce length of hospital stays and improve system integration between primary care and acute care.

Virtual care can complement delivery of face to face health and development checks

The provision of virtual hybrid models for Health Development Checks in the ECE Program can assist in increasing the proportion of children completing their health and development checks across NSW. The Health and Development Checks in ECE Program is a universal program (see [Section 4.1](#)). In this program, a virtual, hybrid model of care seeks to offer improved access to health and development checks for all children, by providing virtual opportunities to parents who may be working, studying, are from Aboriginal or remote communities, or are not able to attend face-to-face visits. Funding for financial year 2023-2024, for a virtual hybrid model has subsequently been approved to explore 3 virtual care opportunities for testing and refining within existing Health Development Check in ECE Program:

- Digitised questionnaire forms to undertake a Health Development Check pre-assessment.
- Virtual appointments between the clinician, parent and child at time of the check
- Virtual follow-up with the parent/guardian of children who have received a referral from the check.

NSW is making significant investment to embed virtual care as an option for all patients to access when clinically appropriate. Relieving pressures by creating alternative pathways for receiving care.

An example of this is the virtualKIDS Urgent Care Service (virtualKIDS UCS), which expanded statewide on 19 December 2023 under the NSW Urgent Care Service initiative. NSW virtualKIDS UCS accepts referrals from Healthdirect to provide urgent care outside the Emergency Department (ED), avoiding unnecessary ED presentations, and supports families to engage back with local services as needed. The service is staffed with senior

paediatric nursing and medical staff who assess children virtually using audiovisual platform and a clinical decision tool to ensure patients are safely connected with the right healthcare pathway. Since the statewide expansion, the service had supported more than 750 patients. More than 70% of children referred to the service have avoided visiting an emergency department.

NSW Government is monitoring evidence-based technologies to support better care

NSW Government continues to monitor and invest in evidence-based programs and technologies. Through the Office for Medical Research, NSW Health continues to invest in the development of new technologies through research grants.

Health care is not the only service to explore the benefits of virtual and digital service delivery. DCJ contributed to the development of the NGO telepractice venture which aims to build capacity across the child and family NGO sector to support vulnerable children and families using telepractice services. The NGO telepractice venture was developed by Karitane and the Parenting Research Centre. This model of service provision has been particularly important post-COVID, and this venture has identified what works well and enabled us to learn more about it. Since its launch in 2020, families are being offered greater choice for how services are delivered, resulting in greater engagement in services and increased partner-inclusive involvement.

7.2 Single Digital Patient Record (SDPR)

NSW Health is implementing a new, consolidated record system.

The Single Digital Patient Record (SDPR) program will consolidate the 10 Patient Administration Systems, 9 electronic Medical Record systems and 5 Laboratory Information Management Systems across NSW Health into one single digital patient record platform.

SDPR has potential to address the fragmented way that clinicians currently access a child's health record across NSW Health facilities by consolidating information from the first 2000 days which may be captured separately across inpatient, outpatient and community health settings and providing a single unified view of care.

The SDPR will first be available in the Hunter New England Local Health District, followed by a phased rollout throughout NSW. The overall implementation timeline is anticipated to be 5 years (2023-2028/9).

There is potential to leverage benefits of SDPR within the Digital Baby Book project

eHealth NSW is exploring opportunities to improve functionality of health records and access to health and development checks for parents and carers through the Brighter Beginnings funded Digital Baby Book project. The eHealth NSW Digital Baby Book team are investigating potential synergies with the SDPR.

8. Summary of opportunities

There are opportunities to improve access to health and development checks

Opportunities identified throughout the submission include:

- Working with the Australian Government and primary health care stakeholders to incentivise delivery of child health and development checks by GPs and remove financial barriers for families accessing health and development checks for children.
- Replicating successful consumer experience driven strategies that overcome barriers to accessing health checks and increase participation rates in services.
- Further exploring strategies to improve the accessibility and convenience of health checks for children whose parents and carers work or study, including expanding successful strategies that meet the needs of vulnerable groups, and possible enhancement of the Health and Development Checks in ECEC program to provide 3-year health checks in early childhood education settings.
- Improving the take up of services for Aboriginal children and families.
- Continuing to work through the Closing the Gap Delivery Plans to develop stronger partnerships with Aboriginal Community Controlled Health Organisations and increase access to health and development checks and early intervention services for Aboriginal children.
- Making NSW the employer of choice for new graduates.
- Build capacity to recruit and retain the child and family health and paediatric workforce needed to deliver health and development checks, and follow up early intervention services, including child and family health nurses and midwives, allied health and paediatricians)
- Promoting wraparound and integrated service model approaches.
- Seeking to increase the resources for early intervention, and the supports available to children who require early intervention through the reforms of the early childhood pathways and service system.
- Improving the quality and accessibility of information available to parents about early childhood health and development and the importance of health and development checks.
- Providing effective options for additional, accessible support for families and children through digital and telehealth/telepractice services where appropriate.
- Championing holistic, family-centred care and fostering partnerships between healthcare providers, communities, and families, we strive to create a seamless continuum of services that honours the unique needs and aspirations of every child and family.

Appendix A: Examples of Services and systems to support families to improve children's health and developmental outcomes

Models of care for Aboriginal women and families

NSW Health provides culturally safe and appropriate models of maternity care for Aboriginal women and their families. Each district provides services tailored to meet the needs of local Aboriginal women and families.

Aboriginal Maternal and Infant Health Service (AMIHS)

(AMIHS) is provided in over 40 sites across the state using a continuity of care model in which Aboriginal health workers and midwives work together with other services to provide high-quality antenatal and postnatal care. Care starts as early as possible in pregnancy and continues through pregnancy and up to 8 weeks after the baby is born. A recent AMIHS evaluation showed that it is a valued and culturally appropriate service, it is reaching the women who need it most and is contributing to better outcomes for women and babies.

Building Strong Foundations

The Building Strong Foundations (BSF) services provide the full range of child health checks in the child Personal Health Record (Blue Book) as well as health promotion and community development initiatives tailored to the identified need of local communities. BSF Services can be provided in the home, at the local community health centre/clinic, or in a place where families, parents, carers, and children feel safe and comfortable.

Get Healthy in Pregnancy

Get Healthy in Pregnancy is a free telephone-based coaching service available to all pregnant people in NSW providing tailored support to meet health and nutrition recommendations, including abstinence from alcohol. People can be referred to the service by their GP or a health professional and may also register themselves online or by calling the service.

Early Childhood Education

The importance of early childhood education and care is being increasingly recognised by both the Australian and State governments through increased investment and there is a chance to ensure this funding delivers better outcomes for children, families, and the economy.

The NSW Department of Education leads policy on early childhood education in NSW and regulates early childhood education services. Early childhood education provides children with offers children opportunities for development and learning that are difficult to replicate in other ways. The environment allows them to learn skills to be with others, work with others and in groups.

There is robust evidence that access to high quality, inclusive and culturally appropriate ECEC has positive outcomes for children, families and the economy. Research has found that each dollar invested to support children to attend an early childhood program in the year before school often generates \$2 over a child's life.⁷

High-quality ECEC helps children, especially those experiencing disadvantage, build the cognitive and socioemotional skills necessary to navigate through life's challenges. These skills lead to stronger academic performance, with OECD data demonstrating a strong correlation between participation in high quality ECEC programmes and later 'Programme for International Student Assessment' (PISA) reading scores assessed in Year 9.⁸ Attending

⁷ The Front Project. (2019). [A smart investment for a smarter Australia.](#)

⁸ OECD. (2018). [Early learning matters.](#)

quality ECEC also leads to greater likelihood of school completion and further education, with benefits reflected in higher earnings and workforce participation, increased tax revenue and considerable savings in health, education and justice budgets.⁹

There are also benefits for parents, carers and the economy, as affordable early childhood education and care facilitates workforce participation, particularly for women.¹⁰ Currently, early childhood education and care is too expensive for 39% of all families and 48% of low-income families.¹¹ Further, 52% of families say that once the cost of care was considered, it was “hardly worth working”.¹² Almost 140,000 Australians who wanted paid employment did not pursue it, citing childcare as the reason for their choice.¹³ 9 out of 10 of these Australians were women.¹⁴

Early childhood educators are well placed to be able to recognise when children may not be meeting their developmental milestones, and are an important source of information and support to parents about when they may need to have their child’s health and development assessed.

Munch and Move

Munch & Move is a NSW Health physical activity and healthy eating program available to all early childhood education and care services in NSW. Districts health promotion teams support services to implement Munch & Move and monitor and report on program uptake. As of mid-2023, 89% of early childhood education services in NSW were trained in Munch & Move and around 60% were implementing the program.

Wellbeing and Health In-Reach Nurse Coordinator Program

The Wellbeing and Health In-Reach Nurse Coordinator is a partnership between NSW Health and the NSW Department of Education which establishes wellbeing nurses in selected NSW public schools. 106 wellbeing nurse positions have been funded to work in approximately 400 schools across the state. Wellbeing nurses work with students and their families to identify health and social needs and coordinate appropriate early intervention, assessments and referral to services and programs. The most common student needs identified by wellbeing nurses are social and behavioural support, mental health and learning-related issues.

Pregnancy Family Conferencing

Pregnancy Family Conferencing is a joint initiative between NSW Health and the NSW Department of Communities and Justice. The Pregnancy Family Conferencing model links expectant parents with early support to keep their child safe when born, where child protection concerns have been raised.

The Pregnancy Family Conferencing model uses a trauma-informed framework to support families that may have experienced intergenerational trauma from previous removals including Stolen Generations survivors and their descendants. The program is currently

⁹ The Front Project. (2019). [A smart investment for a smarter Australia.](#)

¹⁰ The Front Project. (2021). [Work and play: Understanding how Australian families experience early childhood education and care.](#)

¹¹ Noble, K., & Hurley, P. (2021). [Counting the cost to families: assessing childcare affordability in Australia.](#) Mitchell Institute. Victoria University.

¹² The Front Project. (2021). [Work and play: Understanding how Australian families experience early childhood education and care.](#)

¹³ Hutchens. (2021). [Meet the millions of people who aren’t employed, who aren’t considered ‘unemployed’.](#) ABC News.

¹⁴ Centre for Policy Development. (2021). [Starting better: a guarantee for young children and families.](#)

available in metropolitan Sydney, and through Brighter Beginnings is being expanded to include all districts across the state.

Sustained nurse-led home visiting

[Sustaining NSW Families](#) (SNF) is a structured program of nurse-led, sustained health home visiting for children and families. It is an evidence-based intervention for families at risk of, poor maternal health and wellbeing as well as poorer child health, development, and wellbeing outcomes. Currently, there are 9 sites established across NSW, with a further 8 sites funded as part of Brighter Beginnings, these sites are expected to be up and running during 2024. To ensure the sites are supporting families participating in the program, key performance indicators are set to monitor families completing the program and site capacity.

Aboriginal Child and Family Centres

The Aboriginal Child and Family Centres (ACFCs) program delivers culturally safe services and supports to Aboriginal families with children aged 0-8 years. ACFCs provide quality early childhood education and care, playgroups and integrated health and family services to Aboriginal children, families, and communities.

These centres provide an opportunity for parents, family, and community to play a key role in creating a supportive and nurturing environment for early childhood development. Most importantly, these centres are culturally specific and purpose-built to co-locate multiple services to assist families and work closely with community. These centres seek to address barriers to accessibility for many Aboriginal and Torres Strait Islander families and communities.

The centres are an evidenced community program model that is established in providing a broad range of universal, early intervention and other child and family service needs. Brighter Beginnings committed \$98.7 million over 4 years to continue operating and expand all 9 existing ACFCs and build an addition 6 sites across NSW.

Out of Home Care (OOHC) Health Pathway Program

Children and young people in OOHC often have high and unmet health needs and are more disadvantaged and vulnerable than other children. Through the OOHC Health Pathway Program, NSW Health provides coordinated health assessments for children and young people aged 0- 17 years in statutory OOHC living in NSW who are expected to remain in care for longer than 90 days. Most new entries into care are children aged 0-5 years or primary school aged.

Perinatal and Infant Mental Health Services

Perinatal and Infant Mental Health (PIMH) Services is a state-wide specialist perinatal mental health service for parents (and their infants) with a severe, acute, or complex mental illness, or are at imminent risk of relapse/episode and who are pregnant or have a child under the age of two. PIMH clinicians work from community health centres, hospitals, prisons, or clinic settings. There is a dedicated telehealth outreach service called the State-wide Outreach Perinatal Service which provides consultations to clinicians and their clients in rural and remote regions where there are limited PIMH services. A specialist PIMH service operates within Justice Health and Forensic Mental Health to support perinatal women in custody affected by mental health or trauma related problems.

Head to Health Kids Hubs

Four Head to Health Kids Hubs will be established over 4 years to deliver integrated, comprehensive multi-disciplinary care to children aged 0 to 12 years old under the National Mental Health and Suicide Prevention Agreement – Bilateral Schedule. The Hubs will be in

Central Coast, Wollongong, Orange and Penrith. A [National Service Model](#) has been developed with scope for local Service Guidelines and Models of Care. Multidisciplinary teams tailored to the local community will staff the Hubs and partner with existing child and family wellbeing services to ensure integrated care. Districts will be the lead agency responsible for the development, implementation, and monitoring of Hub services.

Specialist services for those that need it

Nurturing Connection is a new parent-child early intervention mental health program to be established in 2024 which is funded (\$3.3 million per year) through Stronger Communities Investment Unit. The program will be delivered in three Districts (Mid North Coast, South Eastern Sydney, Northern Sydney). This therapeutic child-caregiver relational program aims to address a service-needs gap for primary caregivers with significant mental health, trauma and social adversity who are pregnant or care for infants and young children (0 to 4 years). This innovative program offers mental health supports for the adult, evidence-based child-caregiver relational therapies and other child development and family supports. It is a relational, trauma informed and strengths-driven, which shifts the focus from 'what's wrong with us' to 'what's going well', to promote the protective factors, positive relationships and skills which can further improve adult and child outcomes.

Alcohol and other drugs services

The use of alcohol and certain other drugs in pregnancy is related to a higher risk of developmental delay and physical and mental health concerns in childhood.

NSW Health provides a range of programs and services for those impacted by alcohol and other drug use, including specialist support for pregnant women, families and children, withdrawal management, rehabilitation, counselling and specialised midwifery and obstetric care. These include:

- SUPPS supports pregnant women to reduce substance use and work with them and their families to provide a safe environment for their children up to 2 years.
- The Care and intervention for children and adolescents affected by drugs and alcohol (CICADA) Centre and services brings together experts from the Fetal Alcohol Spectrum Disorder Clinic, Family Service and the Adolescent Drug and Alcohol Service at the Sydney Children's Hospital Network to build leadership and research into the prevention of harm to children and adolescents from drugs and alcohol.
- Drug and Alcohol residential rehabilitation and community services are available for women/parents with children across NSW to remove barriers to treatment by providing childcare and support for parents.
- NSW Health also offers universal screening during pregnancy and after birth to minimise the risks to women and their children, including for FASD. This provides the opportunity to create a tailored care plan.
- NSW Health provides best practice training and advice for clinicians who support pregnant and breastfeeding women. The Clinical Guidance for the Management of Substance Use in Pregnancy, Birth and the Postnatal Period provides clinical guidance to support health workers who care for pregnant and breastfeeding women who use substances and their infants and families. The Nursing and Midwifery Handbook: responding effectively to people who use and alcohol and other drugs also helps clinicians identify FASD and support expecting parents.
- NSW Health also provides the Antenatal Care for Alcohol Consumption During Pregnancy Training Module which provides advice on alcohol consumption during pregnancy and recommended care.
- Drug and Alcohol Specialist Advisory Service (DASAS) is a free 24/7 telephone service that provides general advice to health professionals who require assistance

with the clinical diagnosis and management of patients with alcohol and other drug related concerns. DASAS is funded by NSW Health and managed by St Vincent's Hospital Alcohol and Drug Service in Sydney.

NSW [Parent and Baby Units](#) – RPA & Westmead

When a perinatal parent experiences a severe mental illness and requires more intensive treatment than community mental health services can provide, there are now dedicated public mental health mother-baby units for those who require hospital care. Under the Government's \$700 million Statewide Mental Health Infrastructure Program, two newly established (8-bed) purpose-built, dedicated facilities provide up to 240 women and babies care each year. These units located in Royal Prince Alfred Hospital (called Naamaru) and Westmead Hospital accept statewide referrals for women (from late pregnancy through to one year postnatal) with severe or acute mental illness and their infants who require hospital. They provide treatment and care for the parent's mental illness while also promoting the parent-infant bonding and early caregiving. They engage the partner/carer in the care and rooms are large enough for the woman's partner to 'room-in' to assist with infant caregiving and her recovery. Multidisciplinary teams staff these specialist units, including child and family health, midwives, and perinatal and infant mental health practitioners. The 'boarder' babies receive joint care with their parent, including in-reach from paediatric and maternity services when required.

Child wellbeing and support services to address maltreatment

There are a number of child wellbeing and support services available to assist staff and provide families with trauma informed care. These include:

- [Child Wellbeing Unit](#): The NSW Health Child Wellbeing Unit (CWU) is a telephone support service staffed by child protection professionals proficient in the assessment and management of risk to children and young people. This includes advising Health staff on appropriate referrals and support services which help respond to the needs of children and families in a timely way and divert them from the statutory child protection system.
- [Child Protection Counselling Services \(CPCS\)](#): CPCS are located in all districts. The CPCS is a child and family-centred trauma-specific therapy service. Its overarching purpose is to work towards the recovery and ongoing safety and wellbeing of children and young people involved with the care and protection system. The CPCS works with infants, children and young people and their families and carers where it has been determined by the DCJ that the children and young people are at risk of significant harm due to violence, abuse and/or neglect. The service aims to assist children and young people recover from violence, abuse and/or neglect.
- [NSW Health's Aboriginal Family Wellbeing Workforce](#): NSW Health's Aboriginal Family Wellbeing workforce provides individual and family support activities, including initial crisis support, advocacy, and referral, that specifically address family violence, sexual assault, and child abuse. Their work also comprises broader community development and education strategies, with a focus on prevention and early intervention. These roles are placed statewide in certain districts, ACCHOs, Aboriginal Medical Services and non-government organisations.
- NSW Health developed the [Safe Wayz](#) program for children (0-10 years) with problematic and harmful sexual behaviours and their families. Safe Wayz takes a collaborative, multi-agency, public health approach to support communities to prevent the behaviours from occurring and to provide child and family-focused education and supports, including counselling for children and families who are struggling with and are impacted by the behaviours.

Appendix B: Relevant state and national policies

2.4.1 Universal NSW State based policies

The First 2000 Days

The first 2000 days of life (from conception to age 5) is a critical time for physical, cognitive, social, and emotional health, that inform and impact the child's life into the future.

NSW Health has developed [The First 2000 Days Framework](#), a strategic policy that outlines the action required to ensure all children in NSW have the best possible start in life. The Framework is supported by the [First 2000 Days Implementation Strategy 2020-25](#) to inform local priority planning within districts and speciality health networks. The First 2000 Days Framework objectives are being implemented through 3 goals:

- Objective 1: Understanding the importance of the first 2000 days.
- Objective 2: Care and support for all.
- Objective 3: Specialised services for those who need it.

[Connecting, listening and responding: A Blueprint for Action – Maternity Care in NSW](#) (the Blueprint) was published in March 2023. The Blueprint aims to ensure all women in NSW continue to receive and further advance respectful, evidence-based, and equitable maternity care that improves experiences and health and wellbeing outcomes.

NSW Future Health: Guiding the next decade of care in NSW 2022-2032

The [Future Health: Strategic Framework](#) vision is for a sustainable health system that delivers outcomes that matter most to patients and the community, this includes early childhood health and development care with the following aligned strategic priorities:

1. Patients and carers have positive experiences and outcomes that matter
 - 1.1 Partner with patients and communities to make decisions about their own care
 - 1.2 Bring kindness and compassion into the delivery of personalised and culturally safe care
 - 1.3 Drive greater health literacy and access to information
 - 1.4 Partner with consumers in co-design and implementation of models of care
2. Safe care is delivered across all settings
 - 2.1 Deliver safe, high quality reliable care for patients in hospital and other settings
 - 2.2 Deliver more services in the home, community and virtual settings
 - 2.3 Strengthen equitable outcomes an access for rural, regional and priority populations
3. People are healthy and well
 - 3.1 Get the best start in life from conception through to age five.
 - 3.2 Close the gap by prioritising care and programs for Aboriginal people

The [NSW Regional Health Strategic Plan 2022-2032](#) is a roadmap for the provision of health services in regional, rural and remote NSW. The Plan recognises that children have specific health and service needs and sets out strategic objectives to improve health outcomes for children.

NSW Health's [Supporting Families Early Maternal and Child Health Primary Health Care Policy](#) outlines a model for the provision of universal assessment, coordinated care, and home visiting, by NSW Health's maternity and community health services, for all parents expecting or caring for a new baby.

[Elevating the Human Experience Guide to Action 2021. Elevating the Human Experience: Summary guide to action for patient, family, carer and caregiver experiences](#). This first statewide Guide to Action builds on existing work to outline a coordinated approach and transform us into a truly human-centred health system. The goal is to transform the way staff partner with patients and acknowledge the powerful voice of our consumers.

2.4.2 Targeted NSW State based policies

[The Integrated, Trauma Informed Care Framework](#): brings together elements of trauma-informed care and integrated care to enhance the experiences of clients and their families and carers accessing NSW Health services. It provides guidance to staff, as well as a platform for the changes required to implement this type of care.

[Integrated Prevention and Response to Violence, Abuse and Neglect Framework](#): the framework outlines the vision, guiding principles, objectives and strategic priorities to strengthen NSW Health response to violence, abuse and neglect. The [Violence, Abuse and Neglect \(VAN\) Redesign Program](#) aims to enhance capacity of the public health system to provide 24-hour, trauma-informed and trauma-specific, integrated psychosocial, medical and forensic responses to violence, abuse and neglect. The Redesign Program is underpinned by the Integrated Prevention and Response to Violence, Abuse and Neglect (IPARVAN) Framework which articulates the objectives and strategic priorities to strengthen NSW Health's response to VAN.

The [NSW Health Strategy for Preventing and Responding to Domestic and Family Violence 2021-2026](#) provides strategic direction and guides practical action for NSW Health to strengthen the public health system's role in preventing and responding to domestic and family violence.

[An Investment Plan for human services in New South Wales](#): The investment approach for human services identifies groups of people in the population who are more likely to have poorer life outcomes and directs whole-of-government funding to deliver more coordinated, evidence-based services that achieve measurable and meaningful improvements to people's lives.

[Children First, 2022 - 2031](#)

Children First, together with the NSW Prevention Action Strategy ([Talking About It](#)), provides a sector-wide, multi-agency public health approach to better prevent, identify, and respond to problematic and harmful sexual behaviours by children and young people, improve social outcomes and build system sustainability.

[NSW Health Child Safe Action Plan 2023-2027: Empower, Act and Listen Together](#)

The Action Plan sets out how we will implement the Child Safe Standards across all NSW Health workplaces. It aims to drive cultural change and influence system reform to embed child safety within all parts of the NSW Health system. All NSW Health organisations are required to implement the Child Safe Standards under the Children's Guardian Act 2019.

2.4.2 National Policies

[National Children's Mental Health and Wellbeing Strategy Child Wellbeing](#) - NSW Perinatal, Child and Adolescent Mental Health services are aligned with the national strategy to ensure cost effective, preventative, and targeted mental health supports are more accessible earlier in the lifespan (from as early as the perinatal period through to early childhood) and provide

support for both child and their caregiver. Children's mental health is highly influenced by the quality of the family environment, parenting style and caregiver-child relationship, especially within the critical windows of development in infancy and early childhood.

The [National Fetal Alcohol Spectrum Disorder \(FASD\) Strategic Action Plan 2018-2028](#) provides a clear pathway of priorities and opportunities to improve the prevention, diagnosis, support and management of FASD in Australia.

The [Safe and Supported: the National Framework for Protecting Australia's Children 2021 – 2031](#), provides a national approach to early intervention and targeted support for children and families experiencing vulnerability or disadvantage.

[National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030](#)

Provides a nationally coordinated, strategic framework for preventing and responding to child sexual abuse. It seeks to reduce the risk, extent and impact of child sexual abuse and related harms in Australia.

Appendix C: Agency partnership initiatives to improve children's outcomes

Human Services Dataset

NSW Health has partnered with DCS to link violence, abuse and neglect data with other NSW Government datasets including the [Human Services Dataset](#). This will allow analysis to be undertaken on factors that can contribute to improved broader health and wellbeing outcomes for children and their families. This evidence base will be critical in supporting decision making to improve service planning for NSW Health violence, abuse and neglect services and inform partnerships with other government agencies and non-government organisations.

Joint Child Protection Response Program

The Joint Child Protection Response Program is a tri-agency program delivered by the Department of Communities and Justice, the NSW Police Force, and NSW Health. The program operates statewide and provides a comprehensive and coordinated safety, criminal justice and health response to children and young people alleged to have experienced sexual abuse, serious physical abuse and serious neglect.

Safer Pathway

[Safer Pathway](#) is the NSW whole-of-government response designed to provide accessible and effective domestic violence support services to victims. Key components of Safer Pathway include: a common risk assessment tool (Domestic Violence Safety Assessment Tool); a network of local coordination points providing case coordination and support for victims; and sharing key information and working together to provide victims 'at serious threat' with a targeted, priority response through Safety Action Meetings.

NSW Government Domestic and Family Violence Plan

The [NSW Government's Domestic and Family Violence Plan 2022–2027](#) provides strategic direction and sets out focus areas for action across the continuum of prevention, early intervention, response, recovery and healing from domestic and family violence. It also recognises the need for an accountable, well-coordinated and evidence-based service system. The plan provides the NSW Government with strategic direction to prevent and respond to domestic and family violence from 2022-2027. The plans enable all services, including NSW Health, to take action and contribute to the social change required to prevent and respond to domestic and family violence.

The Domestic, Family and Sexual Violence Board is comprised of NSW Government Agency representatives, including NSW Health, the Department of Communities and Justice, NSW Police and The Cabinet Office who provide their agency view on domestic, family and sexual violence. The Board provides strategic oversight, advice and decision making on a variety of programs and plans, including the development and implementation of the next whole of government NSW Plans for domestic, family and sexual violence; Target 13 under Closing the Gap and other cross agency or high priority domestic, family and sexual violence reforms as agreed.

The NSW Child and Youth Sexual Behaviour Context and Response Tool

[The NSW Child and Youth Sexual Behaviour Context and Response Tool](#) ("CaRT") is a tool for anyone working with children or young people to identify when to be concerned about a child or young person's sexual behaviour and to guide a response, including whether a child protection report is required. The tool is currently in development. The development of the CaRT is a key initiative under Children First, 2022 - 2031 led by NSW Health on behalf of

NSW Government in collaboration with SME Professor Simon Hackett, Durham University, UK. There are significant benefits from using the CaRT in NSW, including earlier and consistent identification of PHSB and appropriate responses to children and young people and their families and reducing the number of inappropriate reports via the DCJ Mandatory Reporter Guide (MRG). The CaRT has been developed through extensive stakeholder codesign processes including government and non-government agencies, CALD representative organisations and Aboriginal stakeholders. All government agencies have agreed to use the CaRT, additionally non-government organisations working with children and young people have expressed strong interest in using the CaRT. Further consultation with Office of Senior Practitioner, DCJ is required to inform options for integration of the CaRT within the MRG with the aim to ensure seamless integration for users and avoid unnecessary duplication.

Paediatric Improvement Collaborative (PIC)

A PIC between Clinical Excellence Queensland, the NSW Agency for Clinical Innovation, Safer Care Victoria, and the Royal Children's Hospital was formed in 2018. The PIC aims to improve the safety, reliability, and effectiveness of care for children in any acute setting by jointly committing funds to further enhance the quality of the Statewide Clinical Guidelines for Paediatrics, actively promote their use, and assess their impact on patient care. The Agency for Clinical Innovation, NSW Health is committed to the PIC in working towards the transitioning of the Clinical Guidelines to a standardised format accessible across all three states (NSW, Queensland, and Victoria), and reviewing Clinical Guidelines every 2 years to ensure they contain current best medical practice.

NSW Department of Education Specialist Allied Health and Behaviour Support Provider Scheme

There are no publicly funded Allied Health practitioners employed by the NSW Department of Education. Private allied health providers can be engaged through the [NSW Department of Education Specialist Allied Health and Behaviour Support Provider Scheme](#).

The Department of Communities and Justice (DCJ) Early Intervention Evidence Portal

The DCJ Early Intervention team are committed to building an effective and efficient service system for better support children and families in need. This is evident in their commitment to continue to build the evidence base including via the Evidence Portal and commissioning of evidence reviews to assist in improving outcomes for children, young people, families and communities. The current evidence reviews commissioned include:

- Preventing child maltreatment
- Cultural safety and wellbeing
- Youth socioemotional wellbeing
- Youth work – Agency and empowerment
- Youth mentoring
- Community strengthening
- Reducing child harm and maltreatment
- Improving school readiness.

NSW GOVERNMENT RESPONSE TO THE DISABILITY ROYAL COMMISSION

31 July 2024

ACKNOWLEDGEMENTS

Acknowledgement of Country

The NSW Government acknowledges First Nations people across NSW as the Traditional Custodians of the lands, seas and waters of Australia and pay respect to all First Nations Elders past, present and emerging.

We extend this respect to all First Nations people, acknowledging their resilience, wisdom, and contributions to our shared communities. We recognise the unique insights they bring to understanding disability and inclusion.

We pay our respects to all First Nations people with disability and recognise the distinct contributions they made to the outcomes of the Disability Royal Commission, NDIS Review and the development of this response.

People with disability

We acknowledge people with disability who fought and campaigned long and hard for the establishment of the NDIS and for a Royal Commission into violence, abuse, neglect and exploitation of people with disability.

We acknowledge the strength of people with lived experience of disability who shared their knowledge, insights and experiences all of which have contributed to the development of the NSW Government response.

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SUPPORT SERVICES

This response contains material that may be triggering or upsetting for some people. If you or someone you know need support at any time, you can contact the following confidential services.

Beyond Blue Support Service – 1300 224 636 or www.beyondblue.org.au

Lifeline Crisis Support – 13 11 14 or www.lifeline.org.au

1800 Respect - 1800 737 732 or www.1800respect.org.au

13YARN – 13 92 76 or www.13yarn.org.au

NSW Ageing and Disability Commission - 1800 628 221 or www.ageingdisabilitycommission.nsw.gov.au

NDIS Quality and Safeguards Commission - 1800 035 444 or www.ndiscommission.gov.au/complaints

National Disability Insurance Agency - 1800 800 110 or www.ndis.gov.au

Disability Gateway – 1800 643 787 or www.disabilitygateway.gov.au

NSW Disability Advocacy Providers - <https://dcj.nsw.gov.au/community-inclusion/disability-and-inclusion/disability-advocacy-futures-program.html>

National Disability Advocacy Providers - <https://www.dss.gov.au/disability-and-carers-programs-services-for-people-with-disability-ndis-appeals/support-services-for-people-with-disability-new-south-wales>

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MINISTER'S FOREWORD



The Disability Royal Commission's final report and the NDIS Review report together present an extraordinary opportunity to create fundamental change for people with disability and our society.

The Royal Commission's final report marked the end of a 4½-year journey that opened our eyes to the violence, abuse, neglect and exploitation people with disability face right across our society. The report sets out recommendations for change, aimed at transforming our society to a place where the rights of people with disability are upheld and their dignity is respected.

The NDIS Review report, released in December 2023, contains 26 recommended changes with 139 supporting actions to create a unified disability ecosystem of supports for people with disability. This comprehensive ecosystem, which extends beyond the NDIS, aims to ensure Australians with disability can enjoy the same opportunities as others in the Australian community.

Although the Royal Commission final report and NDIS Review differ in scope, there are many common themes and recommendations. Both call for a unified and contemporary approach to disability rights, discrimination and inclusion legislation. They both aim to improve the safety and quality of disability supports, and to increase the scale and pace of mainstream inclusion.

It is important that we look at the Disability Royal Commission final report and NDIS Review together.

People with disability fought long and hard for these reviews and, often at great personal expense, shared their experiences so that they might help make our society better for others. I would like to express my deep gratitude to every person with disability, their families and communities, for their courage and willingness to share their stories. From your experiences and insights, we have many of the ideas for change.

Experience has shown us that meaningful and effective change cannot be achieved without people with disability being firmly at the centre. That is why we have been hearing from people with disability and the disability community as we developed our response. As we move to implement the recommendations of these reports, we commit to ongoing partnership with people with disability.

The disability reforms before us are wide reaching and ambitious. Bringing them about requires a long-term commitment and a clear plan. This response sets out the NSW Government's positions on the recommendations in the Disability Royal Commission final report. It also sets out how NSW will progress a broader disability reform agenda that encompasses the recommendations of both reports. This response is an initial step in an ongoing program to drive lasting change.

The Hon Kate Washington MP

Minister for Disability Inclusion

Minister for Families and Communities

1 INTRODUCTION

The need for change

The final reports of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (**Disability Royal Commission**) and the Independent Review of the National Disability Insurance Scheme (**NDIS Review**) have shone a light on the experiences of people with disability.

The recommendations of both reports present a blueprint for generational change in the way society supports and enables people with disability to live in safe and inclusive communities.

Taken together they provide us with a roadmap for doing things differently. They set out a way to recognise human rights and increase safeguards against abuse, neglect, violence, and exploitation. They also outline what is needed to ensure appropriate services and supports are in place for all who need them.

The NSW Government recognises the courage and advocacy of all those who have contributed to the development of these recommendations. Nearly 10,000 people with disability, their family, friends, supporters and advocates shared their experiences and recommendations with the Royal Commission, including through 34 public hearings. The NDIS Review heard from 10,000 people, received 4000 submissions, and collected more than 2,000 hours of deeply personal stories from people with disability.

The NSW Government acknowledges that change is needed and is committed to working with people with disability, their families, carers and supporters to deliver on this.

The NSW Government is committed to recognising and responding to the intersectional and diverse experiences of people with disability and their carers at all life stages. We must work together to create a safe and inclusive society where all people, regardless of disability, gender, age, race, culture, religion, or sexual orientation, can thrive.

A detailed NSW Government response to each of the Disability Royal Commission recommendations is at **Appendix A**.

This formal response does not represent our final response to these complex and deeply considered recommendations. It is the first step in our long-term commitment to meaningful change.

Our next steps

Over the next year, the NSW Government will be progressing work in response to the Royal Commission and the NDIS Review, including to establish foundational supports. We will also commit to new actions under Australia's Disability Strategy, develop the next NSW Disability Inclusion Plan and remake a large number of Disability Inclusion Action Plans under the *NSW Disability Inclusion Act 2014*.

Throughout this document we have called out specific actions the NSW Government will take in the next year, and there is more information about these in the 2024-25 Implementation Plan at **Appendix B**.

We will continue to refine the implementation plan with stakeholders.

We will hold a series of stakeholder forums over the next year with people with disability and the organisations that support them. These forums will allow us to test reform ideas and listen to feedback.

Through the Disability Reform Ministerial Council, we will support regular reporting on progress by all governments on the Disability Royal Commission recommendations. The first report is expected to cover the period to March 2025 with reports every six months after that.

How we developed this response

A safe, inclusive, and responsive disability ecosystem is everybody's business.

There are about 1.35 million people in NSW with disability, which is almost one in every five people. People with disability engage with and contribute to all areas of the community.

That's why we have taken a whole of government approach to the recommendations. We established a Disability Royal Commission Taskforce working across NSW Government agencies to share information and combine efforts. We have also worked closely with the Australian Government and other states and territories to take a coordinated approach to the recommendations that all governments need to consider.

Our approach has also been informed by ongoing stakeholder consultation, including through stakeholder forums held on 23 October 2023, 1 February 2024 and 3 June 2024, a submissions process in January and February 2024, and other targeted consultation.

A summary of our stakeholder engagement is at **Appendix C**.

The NSW Government will:

1. Work with other governments on a review of Australia's Disability Strategy and creating new Targeted Action Plans
2. Deliver the next Disability Inclusion Plan for NSW
3. Develop a new approach to Disability Inclusion Action Planning (DIAP) for NSW
4. Hold a series of stakeholder forums with a particular focus on progressing the recommendations that require further consideration
5. Report every six months on progress against Disability Royal Commission recommendations

2 RECOGNISING THE RIGHTS AND AUTONOMY OF PEOPLE WITH DISABILITY

Strengthening disability rights

A contemporary approach to disability rights is needed to achieve equality and inclusion for people with disability. The NSW Government is strongly committed to upholding the rights of people with disability and is closely considering recommendations to achieve this.

Rights set out in the United Nations *Convention on the Rights of Persons with Disabilities* are enlivened in NSW in a range of ways, including legislation, strategies and safeguards. The *NSW Anti-Discrimination Act 1977* makes unlawful both direct and indirect discrimination on the basis of disability. The NSW Law Reform Commission is currently looking at whether the Anti-Discrimination Act could be modernised and simplified to better promote the equal enjoyment of rights and reflect contemporary community standards. This review includes an examination of the adequacy of protections against vilification, and the adequacy and accessibility of complaints procedures and remedies.

We are working with other governments to consider the most appropriate and effective ways to strengthen disability rights protections. Recommendations made by the Royal Commission and the NDIS Review are being considered alongside the recently published findings and recommendations of the Parliamentary Joint Committee on Human Rights' Inquiry into Australia's Human Rights Framework.

Reducing the use of restrictive practices

Addressing the misuse and overuse of restrictive practices is critical to upholding the rights and safety of people with disability. The NSW Government is committed to reducing the use of restrictive practices and, where possible, eliminating the use of restrictive practices against people with disability.

Having strict rules about the use of restrictive practices is critical to achieving this goal. NSW is currently investigating the Royal Commission recommendation to enact a legal framework to regulate the authorisation of the use of restrictive practices. People with disability and other stakeholders will be consulted should the NSW Government decide to pursue legislation in this area.

We will work with the Australian Government and other states and territories to look at ways to improve data on the use of restrictive practices and to develop targets to drive a reduction in their use. As a first step, we are prioritising establishing consistent targets and measures for disability settings.

Guardianship and supported decision making

We have heard about the importance of supporting people with disability to make decisions about themselves, for themselves. People with disability have told us that when other people make decisions about where they live, the services they use, their medical treatment and finances, the decisions made don't always reflect their wishes.

The NSW Government is giving detailed consideration to the recommendations about guardianship and supported decision-making. Before the Disability Royal Commission delivered its report, the NSW Government established the Guardianship Reform Working Group to engage with community representatives on the NSW guardianship framework and to make recommendations for reform.

This group included community stakeholders, including disability advocacy organisations, peak legal stakeholders, and relevant government departments and agencies, including NSW Health, NSW Trustee and Guardian and the Ageing and Disability Commission. The advice of the Working Group will be used to support further consideration of relevant recommendations.

Strong safeguard and oversight mechanisms

A strong safeguarding system, with accessible and responsive complaints mechanisms and robust oversight processes, is critical to reducing violence and abuse against people with disability.

The Royal Commission recognised the valuable role the NSW Ageing and Disability Commission plays safeguarding the rights of people with disability in NSW, highlighting it as an adult safeguarding model. The NSW Ageing and Disability Commission was formed in 2019 to respond to allegations of abuse, neglect and exploitation of adults with disability and older people. The Ageing and Disability Commission maintains the NSW Ageing and Disability Abuse Helpline. It also coordinates the Official Community Visitor scheme to supported disability accommodation settings, among other important functions.

The *NSW Ageing and Disability Commissioner Act 2019* was recently amended to implement recommendations from an independent statutory review. One of the changes has expanded the Commissioner's information-sharing powers to include a wider range of organisations and individuals for certain purposes related to the safety of an adult with disability.

We are committed to working together with the Australian Government and other states and territories to consider opportunities for nationally consistent approaches to safeguarding and developing a coordinated approach to embedding more accessible and integrated complaints reporting pathways.

The NSW Government will:

6. Consider recommendations arising from the NSW Law Reform Commission review of the *Anti-Discrimination Act 1977*
7. Investigate a legislative framework for restrictive practices authorisation
8. Consider the advice of the NSW Guardianship Working Group about the recommendations on reforming guardianship and administration laws to embed supported decision-making

3 BETTER OUTCOMES FOR FIRST NATIONS PEOPLE WITH DISABILITY

First Nations governance and leadership

First Nations people know what is best for their families and communities and that self-determination means they need to be equal partners in decision-making.

The NSW Government recognises the value of shared decision-making and formal partnerships in line with Priority Reform One of the National Agreement on Closing the Gap. Together with other Australian governments, the NSW Government supports the establishment of a First Nations Disability Forum to strengthen the voices of First Nations people with disability.

On 1 February 2024, the NSW Government, in partnership with the First Peoples Disability Network and the Disability Council NSW, held its second stakeholder forum on the Disability Royal Commission final report. The forum was an opportunity to give voice to First Nations stakeholders to inform the NSW Government response to the final report. Here we heard about the importance of establishing an ongoing First Nations Disability Forum with authority and that is properly resourced, that can support continuing sector consultation on key issues impacting First Nations people with disability. We are also examining what an ongoing state-based forum could look like and what role it might play in NSW disability policy and system reform.

NSW takes a partnership approach to delivering its Closing the Gap commitments. We worked with the NSW Coalition of Aboriginal Peak Organisations, in consultation with Aboriginal communities, to develop the NSW Closing the Gap Implementation Plan 2022-2024. The Plan recognises the need to consider Aboriginal people with disability under Closing the Gap and to bring an Aboriginal lens to key disability reforms, such as Australia's Disability Strategy. This includes designing an Indigenous Data Sovereignty and Indigenous Data Governance model to strengthen partnerships and shared decision making. The NSW Coalition of Peak Aboriginal Organisations has been holding Aboriginal Data Sovereignty Governance workshops to get community feedback on the issue over April-June of 2024.

Culturally grounded, safe services and systems

Despite high rates of disability among First Nations people, services and systems too often fail to recognise and respond to the distinct needs of First Nations people with disability. This drives further inequality in social, economic, wellbeing and health outcomes.

We recognise that Aboriginal Community Controlled Organisations are critical to delivering effective services to First Nations people with disability in a way that is grounded in Aboriginal knowledge and culture. We heard through our consultation that First Nations communities are inclusive of people with all capabilities, and how culture plays a critical role in inclusion and safety for First Nations people with disability.

We agree that building the Aboriginal community-controlled disability sector is needed to address inequities and improve outcomes for First Nations people with disability. This includes strengthening First Nations disability services and all community-controlled sectors, such as health, housing and early childhood. NSW reaffirms its commitment to the Disability Sector Strengthening Plan (DSSP) and, with other governments, commits to work with First Peoples Disability Network through 2024 to strengthen implementation of the DSSP to support improved outcomes against the existing actions.

Work to build the Aboriginal community-controlled disability sector needs to be complemented by a culturally safe and responsive non-Indigenous disability sector, to enable choice and control for First Nations people with disability to access any organisation they choose.

First Nations children and parents in the child protection system

We know that Aboriginal children and families have been, and continue to be, disproportionately impacted by child protection practices. Our commitment to do better for Aboriginal children, families and communities means we need to address long-standing issues. We need to do things differently.

We are improving the child protection system by implementing recommendations of the Family is Culture review. The Family is Culture Bill resulted in amendments to the *Children and Young Persons (Care and Protection) Act 1998* embedding the Aboriginal and Torres Strait Islander Child Placement Principle and imposing obligations for practitioners to take 'active efforts' to prevent all children from entering out-of-home care (OOHC) and restore children to their parents. The amendments also require the Department of Communities and Justice to consider alternative options to OOHC and ensure families and communities have a voice in decision making.

In August 2023, the Minister for Families and Communities hosted the Aboriginal Child Safety and Wellbeing Reform Forum with Aboriginal stakeholders, leaders and community representatives to hear what is required to build a more responsive, culturally safe and accountable system. An outcome was the establishment of the Ministerial Aboriginal Partnership Group to help design significant structural reform and oversee its implementation.

Work is underway to design a new approach to assessing families in our statutory child protection system. This work, guided by the Ministerial Aboriginal Partnership Group, is being undertaken in partnership with AbSec and the Aboriginal Legal Service. A priority is to deliver more contemporary, equitable, fair and culturally safe assessment tools that will improve decision making and support better outcomes for children and families in NSW including families where a child, parent or caregiver has a disability.

We support the use of culturally adapted developmental screening, including the Ages and Stages Questionnaire-Talking about Raising Aboriginal Kids (ASQ-TRAK). The NSW Health OOHC Health Pathway Program provides coordinated health assessments for children and young people aged 0-17 years in statutory OOHC. NSW Health is exploring opportunities to further improve culturally appropriate assessment and health management planning for Aboriginal children and young people in OOHC and is supporting use of ASQ-TRAK in the program.

NSW is also working to better understand disability prevalence and enhance our capacity to meet the disability-related needs of families, children and young people in contact with the child protection system. NSW led the National Disability Data Asset pilot on early childhood and are collaborating with the National Disability Insurance Agency to integrate NDIS data with our OOHC data.

The NSW Government will:

9. With other governments and First Nations people with disability, establish a First Nations Disability Forum that builds on Closing the Gap partnerships and mechanisms
10. Continue working in partnership with the NSW Coalition of Aboriginal Peak Organisations to implement the NSW Closing the Gap Implementation Plan 2022-2024
11. Work with other governments and First Peoples Disability Network to strengthen implementation of the Disability Sector Strengthening Plan
12. Continue to implement the accepted recommendations of Family is Culture review
13. Work with the Ministerial Aboriginal Partnership Group to help design significant structural reform of the child protection system and consider disability in this process

4 ADDRESSING BARRIERS TO PROMOTE INCLUSION AND ACCESS

Improving access to disability advocacy services

Advocacy is a crucial tool to support people with disability to defend and protect their rights. Governments play an important role in providing advocacy services and are working together to ensure people with disability have access to effective advocacy.

The NSW Government continues its commitment to advocacy through the Disability Advocacy Futures Program, which funds organisations to deliver individual, systemic and representative advocacy to people with disability in NSW. In 2024 we will begin to implement a new outcomes framework to monitor, evaluate and improve outcomes for people with disability accessing disability advocacy programs.

We will work with the Australian Government and other states and territories to build upon the National Disability Advocacy Framework 2023-2025. We will continue work to increase culturally appropriate and accessible advocacy services for people with disability from diverse groups and communities.

Making information accessible

Accessible information and communications are critical for the autonomy and safety of people with disability. We are working towards making NSW Government information easy to read, easy to find, easy to use. The first step to develop an Easy Read Style Guide in partnership with people with intellectual disability, is already underway.

NSW Government digital products and services are expected to meet accessibility standards. These standards include the Australian standard AS EN 301 549 Accessibility requirements for ICT products and services, and the current version of the Web Content Accessibility Guidelines (WCAG) to level AA for Government websites, web content and apps. We have produced an Accessibility and Inclusivity Toolkit to help public servants build and buy digital products and services everyone can use.

We require public authorities to report annually on the implementation of their Disability Inclusion Action Plans, which include a focus on accessible systems and processes, including accessible information.

We will work with other governments to develop a national plan to improve the accessibility of information and communications for people with disability, in connection with Australia's Disability Strategy. We are committed to making sure this plan is developed with people with disability and their representative organisations, particularly diverse people with disability who may face additional barriers to accessing the information and communications they need. Governments have agreed that scoping and development of the plan will commence in 2024.

We realise the vital role Auslan and Deaf interpreters play in supporting people who are Deaf or hard of hearing to access the information and communications they need. As part of developing the national plan on accessibility of information and communications, the Disability Reform Ministerial Council will consider strategies, initiatives and approaches to boost the Auslan and Deaf interpreter and translator workforce.

Improving community attitudes

NSW has an enduring focus on improving community attitudes so that people with disability are respected, valued and able to contribute to society. We heard through consultation on our first state Disability Inclusion Plan that real change won't happen without shifting attitudes.

We will work with all governments to develop a new Targeted Action Plan under Australia's Disability Strategy focused on community attitudes. An important way that NSW will deliver on this is through our Disability Inclusion Plan and Disability Inclusion Action Plans, which have a focus area on positive community attitudes and behaviours.

Better public sector employment opportunities

The NSW Government has an important role to play in promoting inclusive employment. We are the largest single employer in Australia, with about 400,000 employees. Our actions matter and can offer a model of best practice inclusion that influences other employers and workplaces. Specific employment targets can have a positive impact and we are committed to public reporting on public sector disability employment strategies and targets.

As part of making our workplaces accessible and inclusive, public service commissioners or their equivalents across Australia will consider common principles to underpin adjustment policies in the public sector. The Office of the Public Service Commissioner is currently finalising a principles-based model workplace adjustment policy for the NSW public sector that can be shared with other jurisdictions.

The Department of Communities and Justice is working with our partner Get Skilled Access to support disability employment in the sector through targeted opportunities with a number of agencies, with actions including developing Disability Inclusion Action Plans and better understanding workplace adjustments. Annual reporting by public authorities on the implementation of Disability Inclusion Action Plans includes a focus on employment.

We will also encourage inclusive employment practices and work to incorporate minimum accessibility and inclusion requirements into procurement policies.

The NSW Government will:

14. Support advocacy in NSW through the Disability Advocacy Futures Program and implement an outcomes and reporting framework
15. Work with other governments to build on the National Disability Advocacy Framework 2023-2025, prioritising work to increase culturally appropriate and accessible advocacy services for people with disability from diverse communities
16. Work with other governments, people with disability and their representative organisations to develop a new national plan to improve the accessibility of information
17. Continue work to have all NSW Government information relevant to people with intellectual disability in Easy Read by 2025 and developing an Easy Read Style Guide
18. Develop a principles-based workplace adjustment policy
19. Continue work at agency level to increase the number of employees with disability
20. Continue work to integrate accessible procurement practices

5 BUILDING A STRONG ECOSYSTEM OF DISABILITY SUPPORTS

A better NDIS for participants

The NSW Government is committed to the future of the NDIS. In 2024/25 the NSW Government will invest \$3.96 billion in the NDIS, which supports more than 193,000 people across the state.

NSW was the first state or territory to sign up to the NDIS. We led the country in pilot sites in the Hunter and the Blue Mountains and were the first state or territory to transition to full scheme arrangements.

We will continue to work with the Australian Government and other states and territories to ensure changes to the NDIS improve the experience of participants, increase the quality and safety of services and secure the NDIS into the future.

National Cabinet in December 2023 agreed to adjust state and territory NDIS contribution escalation rates in line with actual annual scheme growth (capped at 8 per cent) commencing 1 July 2028.

Investing in foundational supports

The NSW Government has committed to invest in foundational supports for people with disability, their families and carers. NSW is working with the Australian Government and other states and territories on the design and implementation of foundational supports that will provide people with disability and their families access to more disability support outside the NDIS.

Inclusive mainstream services

Provision of accessible and inclusive mainstream services is a critical part of the unified disability support ecosystem described by the NDIS Review. NSW is committed to continuous improvement of our services, including improved universal design and making adjustments, so that mainstream services are safe, accessible and meet the needs of people with disability. This is discussed in more detail in the next section about housing, health and education services.

Better data drives reform

The National Disability Data Asset will enable more effective data gathering, sharing and reporting. NSW has led the development of the data asset by initiating pilots and leading the National Project Team.

The data asset safely, legally, and ethically combines Australian Government, state and territory datasets to better understand the experiences of people with disability and to improve ways for government systems to serve the needs of people with disability.

Insights from the Early Childhood Pilot led by NSW show the benefits of data sharing across state and national health, education and human services systems. From this, we can see what delivers the best results and identify ways to drive better educational outcomes and meet developmental goals.

The National Disability Data Asset will start coming online this year. The first data transfers of Commonwealth and NSW data will occur mid-year with the first analytics projects expected to commence in late 2024.

We are committed to monitoring and reporting under the outcomes framework for Australia's Disability Strategy. This includes work through a Data Improvement Plan to address data gaps by the end of 2024.

Strong governance to embed reforms

We will work with the Australian Government and other states and territories to improve national governance arrangements. All governments are committed to ensuring intergovernmental structures and arrangements support collaboration to advance equality, inclusion, and the rights of people with disability.

The Disability Council NSW is the official advisory body to the NSW Government on issues impacting people with disability and disability inclusion, established under the *Disability Inclusion Act 2014*. Through its advisory role, the Disability Council NSW will play an important role in the successful implementation of government actions in response to the final report.

We will deliver a new five-year NSW Disability Inclusion Plan that will be released before the end of 2024. Our next plan will bring together actions that respond to the Royal Commission and other initiatives to improve the quality, safety and accessibility of all mainstream services. We will consult with people with disability, the Disability Council NSW, stakeholders and the broader sector in coming months to develop our next plan. This will also include reforms to how we develop, implement and evaluate our Disability Inclusion Action Plans to drive outcomes and hold public authorities to account.

The NSW Government will:

21. Work with other governments and the disability community to design and implement foundational supports.
22. Implement the National Disability Data Asset

6 SERVICES THAT ARE SAFE AND INCLUSIVE

Housing and homelessness

The NSW Government recognises the fundamental importance of having a safe and secure home. We are working with all governments to implement national housing and homelessness reforms. There is an opportunity to set up the homelessness system to better respond to the needs of people with disability.

We are taking steps to make our processes for allocating and modifying social housing more accessible and inclusive for people with disability. In July 2022 the NSW Ombudsman released the report *Modifying public housing properties to meet the needs of tenants with disability*. We are working with the disability sector and peak bodies to revise our policies and processes on home modifications and alterations. The new policies and processes are expected to commence by the end of 2024.

The NSW Government is committed to ending ‘no grounds’ terminations by requiring owners to have a good reason to end a lease and is working to deliver a more modern and fair rental market.

The NSW Government supports improving protections for renters, as well as residents in boarding houses and other shared accommodation. A statutory review of the *Boarding Houses Act 2012* has been completed. Specific elements of the Disability Royal Commission recommendation on assisted boarding houses will be considered as part of the development and drafting of future legislation.

Health care

NSW is committed to ensuring that people with disability have access to high-quality health care and can achieve the same health outcomes as other people in our community.

The Royal Commission identified NSW as a leader in the delivery of health and mental health services for people with intellectual disability and recommended that similar services be established across Australia. The evaluation of our Intellectual Disability Mental Health Hubs identified significant benefits of this service, including decreased emergency department presentations by 28% and increased capacity of mainstream mental health services. An independent evaluation of our Intellectual Disability Health Service has been commissioned with a final report expected by June 2025. We will work with partners in the disability sector to improve these services and identify opportunities to address broader system gaps.

We are working with all governments to ensure health policy instruments and planned healthcare services meet the needs of people with disability. This includes providing adaptations and tailored supports and involving the support network of a person with disability during health treatment when appropriate.

We recognise that people with disability may require additional support to navigate the healthcare system and will work with the Australian Government and other states and territories to develop a nationally consistent health navigation framework. We continue to support the significant reform efforts being made under the National Roadmap for Improving the Health of People with Intellectual Disability.

Education

Access to safe, equitable, and inclusive education profoundly impacts the life trajectories of children and young people with disability. Under the *Education Act 1990*, all students in NSW, including those with disability, have a legal right to enrol in their local schools. The Education Act, along with NSW school registration requirements, mandates that all schools provide a safe and supportive environment for students. The NSW Government is committed to improving the safety, inclusivity, and quality of education for students with disability by considering amendments to school registration requirements and enhancing regulatory oversight. We are dedicated to offering clear and accessible resources for students with disability and their families, detailing their rights, the obligations of schools, and review processes.

The NSW Government is a strong advocate of embedding inclusive practices within our education system. The Department of Education launched a comprehensive Disability Strategy in 2019 and has designed and

delivered programs and initiatives under this strategy. We released the Inclusive Education Statement for Students with Disability in 2020 outlining the six core principles of inclusive practice as 1) student agency and self-determination, 2) parent and carer inclusion, 3) social and cultural inclusion, 4) curriculum inclusion, 5) workforce capability for inclusion, 6) system inclusion. The Inclusive Education for Students with Disability Policy and a range of supporting practice resources were implemented in 2022 to further embed inclusive learning in our schools.

We have invested in accessible school facilities, improvements in complaint handling, new professional learning courses and training, and enhanced support for specialist learning. The Inclusive Assessment program will be available in NSW public schools this year, including a world-first set of integrated online assessment tools. The tools will help teachers understand the literacy and numeracy skills of their students with complex learning needs, enabling them to plan an effective and targeted learning program.

The Disability Royal Commission has shown the need for better direction and guidance for educators about the requirements under the *Disability Discrimination Act 1992* (Cth) (DDA) and the *Disability Standards for Education 2005* (Cth) (Education Standards). Since July 2020, the Department of Education has provided school leaders, including principals, with training in the DDA and the Education Standards. The department's website now provides additional resources that outline the legal obligations of educators in our state, and the training available to support their skills and capabilities in this area.

The NSW Government has established an inclusive education unit that fulfills the functions envisaged by the Royal Commission. Inclusion is embedded in all aspects of school life, and is supported by culture, policies and everyday practices. Inclusion means education environments that adapt the design and physical structures, teaching methods, and curriculum as well as the culture, policy and practice of education environments so that they are accessible to all students without discrimination.

NSW is committed to collaborating with other governments to develop a National Roadmap to Inclusive Education for students with disability. By reporting on milestones and performance measures, states and territories can collectively tackle barriers and enhance the inclusivity of our education systems. We fully support the transition to needs-based funding and already use the Nationally Consistent Collection of Data (NCCD) to inform our disability equity loading.

Justice

The NSW Government recognises that people with disability are significantly over-represented across the criminal justice system and is committed to addressing this. We support evidence-based programs that assist people with disability and reduce inappropriate contact with the criminal justice system. Drawing on what we heard during the Royal Commission, the NSW Government expanded the Justice Advocacy Service to include a diversion service for defendants with cognitive impairment (JAS Diversion). An independent process evaluation of this service, including JAS Diversion, has been completed. An independent outcomes evaluation and economic analysis of JAS will be initiated in 2024/25.

Work to improve conditions in custody is taking place through the Corrective Services Strategic Plan and Youth Justice's Disability Action Plan. Under its Disability Action Plan, Youth Justice has taken steps to enhance screening and assessment and improve workforce capability and training. Youth Justice's next Disability Action Plan will have a strong focus on First Nations young people with disability.

The NSW Government recognises the need for systems and services that properly support and supervise forensic patients with cognitive impairment. We have a cross-agency team reviewing current step-down transitional support and accommodation arrangements for forensic patients with cognitive impairment and identifying options for reform. NSW Health will review its policy on the use of Seclusion and Restraint in NSW Health settings, which supports minimising the use of seclusion.

We will work with all governments to develop a consistent national approach for screening for disability in custody. We agree the development and use of culturally appropriate screening tools is an important area to progress. This needs to be done in partnership with First Nations communities and organisations.

We are committed to improving police responses to people with disability, recognising the critical role police play in promoting and maintaining people's rights. We will work with people with disability to design, implement and evaluate strategies to improve police responses.

Women and girls with disability

The NSW Government is undertaking significant reform to prevent and respond to gender-based violence. Women and girls with disability are a priority in this work.

NSW domestic violence legislation reflects best practice and is a model for other governments. The definition of 'domestic relationship' in the *Crimes (Domestic and Personal Violence) Act 2007* includes both paid and unpaid carer relationships and relationships between co-residents in same residential setting. Since February 2024, the Act includes a new definition of domestic abuse supported by a non-exhaustive list of examples, including physical abuse, sexual abuse, economic abuse, intimidation and stalking. This captures specific forms of violence experienced by people with disability, such as withholding necessary medical or other care, support, aids, equipment or essential support services from a person, or compelling the person to take medication or undertake medical procedures.

Through the National Plan to End Violence Against Women and Children 2022-2032, all governments agreed that the findings of the Royal Commission would guide future work to end violence against women and girls with disability. We are implementing initiatives with this focus, including through the NSW Domestic and Family Violence Plan 2022-2027 and the NSW Sexual Violence Plan 2022-2027.

The NSW Government will:

23. Revise home modification and alteration policies in consultation with the disability sector and peak bodies, with new policies expected to begin in late 2024
24. Consider specific elements of the recommendations relating to Assisted Boarding Houses as part of the development/drafting of future legislation
25. Work with other governments to make sure the healthcare needs of people with disability are considered in national health policies and develop a national health navigation framework
26. Evaluate our Intellectual Disability Health Service
27. Work with other governments to develop a 'National Roadmap to Inclusive Education' for students with disability
28. Continue to embed inclusive education principles in all NSW public schools guided by the Inclusive Education Statement for Students with Disability and with support from the Inclusive Education Unit
29. Consider the capital investment needs for educational infrastructure arising from the Royal Commission's recommendations
30. Review the NSW Department of Education's enrolment policy, including the obligations of schools relating to applications to attend a local school as well as enrolment review processes
31. Consider amendments to school registration requirements and regulatory oversights to improve the safety, inclusivity and quality of education for students with disability
32. Consult with partners and stakeholders, including students, parents and carers, teachers and community members about actions to continue delivering resources and advice to schools and teachers about implementing inclusive education
33. Work with other governments to refine Nationally Consistent Collection of Data on School Students with Disability (NCCD) levels of adjustments and associated funding for students with disability
34. Build workforce capability to foster inclusive learning environments
35. Evaluate the Justice Advocacy Service diversion service, with an independent outcomes evaluation and cost-benefit analysis planned for 2024
36. Work with other states and territories to develop a consistent national approach for screening for disability in custody

APPENDICES

Appendix A: Response to Disability Royal Commission recommendations

Appendix A is available at: [Appendix A: Response to Disability Royal Commission recommendations](#)

Appendix B: Implementation Plan

Appendix B is available at: [Appendix B: Implementation Plan](#)

Appendix C: Engagement Summary

Appendix C is available at: [Appendix C: Engagement Summary](#)

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Appendix A: NSW Government response to Disability Royal Commission recommendations

31 July 2024

The tables below provide NSW Government responses to the 222 recommendations in the 12 volumes of the Disability Royal Commission's final report, which was published on 29 September 2024 and is available at: <https://disability.royalcommission.gov.au/publications/final-report>.

The first recommendation is Recommendation 4.1. There are no recommendations in volumes 1, 2 or 3.

At the Disability Reform Ministerial Council meeting on 3 November 2023, Australian Government, State and Territory Disability Ministers agreed in-principle to the allocation of recommendations across the Australian Government and States and Territories, as follows:

- Joint Australian Government, and States and Territories: 85 recommendations.
- Australian Government: 84 recommendations.
- States and Territories: 50 recommendations. This includes 44 recommendations for all States and Territories and 6 recommendations for specific States and Territories, including 2 for NSW.
- Non-government and Australian Government: 3 recommendations.

There is one joint recommendation (Recommendation 4.30) with two distinct parts, the first directed to the Australian Government and the second to States and Territories. The NSW Government has noted the first part and responded to the second.

This means the NSW Government response includes joint responses to 84 recommendations and NSW responses to 47 recommendations, a total of 131 responses. In some instances, the NSW Government response includes a NSW-specific comment in addition to the joint response, and this is clearly indicated in the tables. The NSW Government notes the remaining 91 recommendations allocated for other governments to respond.

Volume 4: Realising the Human Rights of People with Disability

Volume 4 includes 34 recommendations. Two recommendations have been allocated for joint response by the Australian Government and States and Territories. The remaining 32 recommendations have been allocated to the Australian Government and are noted by the NSW Government.

Recommendation	Response
Recommendation 4.1 Establish a Disability Rights Act The Australian Government should commit to the enactment of a Disability Rights Act and take the necessary steps to introduce the legislation into Parliament and support its enactment. The necessary steps should include consultation with people with disability, disability representative organisations and other key stakeholders.	NSW Response to recommendations 4.1 to 4.21: <u>Note</u> This recommendation is directed at the Australian Government.
Recommendation 4.2 Objects of the Disability Rights Act The objects of the Disability Rights Act should include giving effect to Australia's obligations under, and the general principles set out in, the <i>Convention on the Rights of Persons with Disabilities</i> .	
Recommendation 4.3 Principles in the Disability Rights Act The Disability Rights Act should include a set of guiding principles designed to promote and advance the rights of people with disability in Australia. The Disability Rights Act should require that a person or entity exercising functions under the Act have regard to the principles.	
Recommendation 4.4 Future review of the Disability Rights Act a) The Australian Government should ensure that a review of the Disability Rights Act is undertaken in consultation with people with disability within five years of the commencement of the Act. The review should include consideration of: <ul style="list-style-type: none"> • how the Act should be improved • the effectiveness of compliance mechanisms 	

- the availability of appropriate remedies that meet the needs of people with disability whether and how duties in the Act should be extended or applied to additional persons or entities, including private sector providers under the National Disability Insurance Scheme (NDIS).

b) Commissioners Bennett, Galbally and McEwin alternatively recommend the final point above be considered by the Australian Government as a priority and that these additional duty-holders be included from the commencement of the Act.

Recommendation 4.5 The right to non-discrimination and equality before the law

The Disability Rights Act should recognise all human beings are equal in worth and dignity and every person with disability:

- a) has the right to enjoy their human rights without discrimination (on the ground of disability or on a combination of protected grounds where one of those grounds is disability)
- b) is equal before the law, is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination.

Recommendation 4.6 The right to equal recognition before the law

a) The Disability Rights Act should recognise that people with disability have the right to recognition as a person before the law. Accordingly, they have the same rights as other members of the community to make decisions that affect their lives to the full extent of their ability to do so.

b) The Disability Rights Act should recognise:

- the right of people with disability to access and use supports in making and participating in decisions that affect them, communicating their will and preferences, and developing their decision-making ability

<ul style="list-style-type: none"> the right of people with disability to access and use advocacy services in making and participating in decisions, communicating their will and preferences, and developing their decision-making ability. <p>c) The Disability Rights Act should define ‘supports’ broadly.</p> <p>d) The Disability Rights Act should require supports for people with disability from First Nations communities and culturally and linguistically diverse backgrounds to be provided in a way that:</p> <ul style="list-style-type: none"> recognises that cultural, language and other differences may create barriers to providing the supports addresses those barriers and the needs of those people with disability is informed by consultation with their communities. <p>e) The definition of ‘advocacy service’ in section 7 of the <i>Disability Services Act 1986</i> (Cth) should be amended to include a reference to a service that seeks to support people with disability to exercise their rights and freedoms under domestic law, including under the Disability Rights Act. This would be in addition to the existing reference to rights and freedoms under the ‘Disabilities Convention’.</p>	
<p>Recommendation 4.7 The right to live free from exploitation, violence and abuse</p> <p>The Disability Rights Act should recognise:</p> <ul style="list-style-type: none"> people with disability have the right to live free from all forms of exploitation, violence and abuse, including the right to freedom from gender-based violence and abuse people with disability have the right to accessible information and education on how to avoid, recognise and report exploitation, violence and abuse people with disability who are victims of any form of exploitation, violence or abuse have the right to: 	

<ul style="list-style-type: none"> – access protection services that promote the health, welfare, dignity and autonomy of such persons – access protection services that are sensitive and responsive to the different needs and experiences of people with disability, due to one or more attributes such as sex; gender identity; sexual orientation; ethnicity; language; race; religion, faith or spirituality; socio-economic status; age; neurodiversity; culture; residency status; geographic disadvantage; and experiences of trauma – report allegations of exploitation, violence and abuse, with protection from victimisation for making a report. 	
<p>Recommendation 4.8 The right to liberty and security of person</p> <p>The Disability Rights Act should recognise every person with disability has the right to liberty and security of person. In particular, no person with disability may be arbitrarily arrested or detained. No person with disability may be deprived of liberty, except on the grounds and in accordance with the procedures established by law.</p>	
<p>Recommendation 4.9 The right to equitable access to health services</p> <p>The Disability Rights Act should recognise the right of people with disability to equitable access to health services. This right should include:</p> <ul style="list-style-type: none"> a) the right to the same range, quality and standard of free and affordable health care and programs as people without disability b) the right to exercise choice about healthcare options and between available services c) the right to access and receive quality health services appropriately adapted or specifically designed to meet the needs of the person with disability 	

d) the presumption of legal capacity and provision for supported decision-making

e) the right to adjustments required to access services and to receive treatment and care (to the extent that a duty-holder is required to provide adjustments in accordance with the *Disability Discrimination Act 1992* (Cth))

f) the right to accessible information

g) the right of First Nations people with disability to receive health care that is culturally safe and recognises the importance of their personal connection to community and Country

h) the right to access health services that are safe, sensitive and responsive to the intersectional needs and experiences of the person with disability, noting that intersectional needs and experiences may be due to a variety of attributes, including sex; gender identity; sexual orientation; ethnicity; language; race; religion; faith or spirituality; socio-economic status; age; neurodiversity; culture; residency status; geographic disadvantage; and experiences of trauma

i) the right to voice opinions and to make complaints about health services.

Recommendation 4.10 Public authority conduct

- a) The Disability Rights Act should make it unlawful for a 'public authority' to:
- act in a way that is incompatible with a right in the Disability Rights Act
 - fail to give proper consideration to a right where relevant to the decision being made.
- b) 'Public authority' should be defined to include:
- a minister of the Australian Government when exercising a statutory power or authority
 - a Commonwealth entity defined in the *Public Governance, Performance and Accountability Act 2013* (Cth)

- an official of a Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act 2013* (Cth)
- an individual who is employed by, or engaged in assisting, a Commonwealth entity or a staff member of a Commonwealth entity on behalf of the entity or the Commonwealth
- a contracted service provider for the Commonwealth when providing goods or services under a Commonwealth contract, as well as an officer or employee of the contracted service provider for the contract, and someone who provides goods and services for the purposes of the contract
- an individual who is appointed or engaged as an officer or employee of a federal court or tribunal when acting in an administrative capacity
- other entities prescribed by regulations as public authorities for the purposes of the Disability Rights Act.

c) The Disability Rights Act should provide for a mechanism through which a non-Commonwealth entity could ask the minister to declare that the entity is subject to the obligations of a public authority under the Act and for a register of such entities to be published.

Recommendation 4.11 Consultation with people with disability

a) The Disability Rights Act should require Commonwealth entities (as defined in the *Public Governance, Performance and Accountability Act 2013* (Cth)), in developing and evaluating policies, laws and programs and in planning new initiatives or making major changes to services that are provided to the public, or have a direct and significant impact on the public, to consult with:

- people with disability (including disability representative organisations), recognising the special importance of consulting

<p>and actively involving First Nations people with disability in issues that affect them</p> <ul style="list-style-type: none"> • children and young people with disability where appropriate, or representatives of children and young people (including, as relevant, disability representative organisations, the National Children's Commissioner, the Aboriginal and Torres Strait Islander Social Justice Commissioner or equivalents in the States and Territories) • families, carers and supporters of people with disability (which could include their representative organisations) on issues that will or could affect families, carers and supporters in their caring role. <p>b) The Disability Rights Act should specify the nature of any consultation required and the consequences of a failure to consult.</p> <p>c) The Disability Rights Act should provide that the consultation requirement does not give rise to a civil cause of action in any person or organisation.</p> <p>d) The <i>Human Rights (Parliamentary Scrutiny) Act 2011</i> (Cth) should be amended, or an accompanying legislative instrument be prepared, requiring statements of compatibility accompanying Bills and legislative instruments to provide information about relevant actions taken by Commonwealth entities to comply with the consultation requirement in the Disability Rights Act.</p>	
<p>Recommendation 4.12 Positive duty to promote disability equality and inclusion</p> <p>a) The Disability Rights Act should include a requirement for a Commonwealth entity, in the exercise of its functions, to have due regard to the need to take necessary and proportionate action to advance the policy objectives of equality, inclusion and respect for the dignity of people with disability.</p>	

b) The requirement in a) should include the Commonwealth entity having due regard to the need to:

- ensure equality of rights, opportunities, responsibilities and outcomes between people with disability and other members of the Australian community
- act consistently with its obligations under the *Disability Discrimination Act 1992* (Cth), including the duties recommended in Chapter 4 to:
 - take reasonable and proportionate measures to eliminate all forms of discrimination on the grounds of disability
 - make adjustments for people with disability so they can enjoy their human rights without discrimination, unless it would cause an unjustifiable hardship
 - address barriers that disadvantage people with disability, including barriers compounded by a person with disability's combination of attributes and experiences
 - promote accessibility and universal design, and appropriate remedial action to existing infrastructure
 - address stigma, stereotyping, prejudice, violence, abuse, neglect and exploitation affecting people with disability
 - foster good relations between people with disability and other members of the community.

Recommendation 4.13 The duty to provide an interpreter

a) The Disability Rights Act should require Commonwealth entities to provide (arrange and fund) an appropriately trained and credentialed interpreter when required by a person with disability who is accessing or using its services or engaging with its statutory functions. Interpreters may be required in Auslan, First Nations sign languages or spoken languages other than English.

b) The Disability Rights Act should provide that it is not a breach of the above duty if the relevant Commonwealth entity can demonstrate that:

<ul style="list-style-type: none"> • there was no appropriately qualified interpreter available after reasonable enquiry • the conversation or activity that the interpreter was required for could not reasonably have been undertaken at an alternative time when an interpreter would have been available. 	
<p>Recommendation 4.14 The duty to provide accessible information</p> <p>The Disability Rights Act should provide that a Commonwealth entity must ensure that its communications are provided in at least two formats accessible to people with disability when:</p> <ul style="list-style-type: none"> • publishing public information • consulting or engaging with persons with disability. 	
<p>Recommendation 4.15 Duties supporting compliance with the Disability Rights Act</p> <p>To support compliance with the Disability Rights Act, the Act should require Commonwealth entities to:</p> <ol style="list-style-type: none"> a) report annually on action they have taken to implement their duties under the Disability Rights Act b) conduct a disability impact assessment when developing or reviewing any policy or law administered, or program or service provided, by the entity that has a direct and significant impact on the public c) undertake a self-assessment audit for disability inclusion at least every four years d) publish their specific and measurable objectives to further the aims of the positive duty to promote disability equality and inclusion at least every four years. 	
<p>Recommendation 4.16 Interpretation of the Disability Rights Act consistently with international human rights</p> <p>The Disability Rights Act should require interpretation of the Act to be compatible, as far as possible, with the international human rights</p>	

treaties to which Australia is a party, including the *Convention on the Rights of Persons with Disabilities*, and with the United Nations Declaration on the Rights of Indigenous Peoples.

Recommendation 4.17 Limitations on rights

- a) The Disability Rights Act should require that rights in the Act be subject only to such limitations that are reasonable and justified in a free and democratic society based on human dignity, equality and freedom, and taking into account all relevant factors (to be specified in the legislation).
- b) The Disability Rights Act should make clear that the right to recognition before the law (see Recommendation 4.6), as an absolute right under international law, is not subject to any limitations.
- c) This issue should be subject to consultation prior to enactment of the Disability Rights Act.

Recommendation 4.18 Functions of the National Disability Commission to support compliance with the Disability Rights Act

To support compliance with the Disability Rights Act, the Act should provide the National Disability Commission (recommended in Volume 5, Governing for inclusion) with functions and powers to:

- a) promote understanding and acceptance of the rights of people with disability under the Act
- b) undertake research in relation to the rights and duties under the Act
- c) issue guidelines on any matter relating to the Act
- d) review a person or entity's compliance with the Act (or an aspect of the Act) at that person or entity's request
- e) receive complaints or anonymous or confidential reports alleging a contravention of the Act
- f) inquire into and report on any act or practice that may be inconsistent with or contrary to the Act
- g) require the giving of information and the production of documents

during the conduct of a formal inquiry

h) require the examination of witnesses under oath or affirmation during the conduct of a formal inquiry

i) enter into an enforceable undertaking with a person or entity in relation to compliance with the Act (engaging Part 6 of the *Regulatory Powers (Standard Provisions) Act 2014* (Cth))

j) issue a compliance notice where the National Disability Commission reasonably believes that the relevant person or entity, without reasonable excuse, has failed to comply with the Act

k) apply to the Federal Court of Australia or the Federal Circuit and Family Court of Australia for enforcement of a compliance notice

l) apply to the Federal Court of Australia or the Federal Circuit and Family Court of Australia for an injunction (engaging Part 7 of the *Regulatory Powers (Standard Provisions) Act 2014* (Cth)) to prevent or stop a contravention of the Act

m) intervene in any proceedings before a court or tribunal that relate to the application or interpretation of the Act.

These functions would be in addition to those recommended for the National Disability Commission in Volume 5, Governing for inclusion, and Volume 12, Beyond the Royal Commission. The Australian Government should provide the National Disability Commission with dedicated resources to undertake these functions.

Recommendation 4.19 Co-design a new complaints mechanism for people with disability

- a) The National Disability Commission should co-design its complaints mechanism under the Disability Rights Act with people with disability, taking into account:
- the national guideline for accessible and responsive complaint handling and investigative practice to be co-designed with people

<p>with disability (recommended in Volume 11, Independent oversight and complaint mechanisms)</p> <ul style="list-style-type: none"> • processes to support referrals to police and other regulatory or oversight bodies (noting that Volume 11 recommends a ‘one-stop shop’ independent complaint reporting, referral and support mechanism in each State and Territory) • key features for effective remedies outlined in this Final report. <p>b) Acts, omissions or practices that are unlawful under the Disability Rights Act (with the exception of duties supporting compliance with the Act, such as reporting obligations) should be added to the definition of ‘unlawful discrimination’ under section 3(1) of the <i>Australian Human Rights Commission Act 1986</i> (Cth). This would enable the Australian Human Rights Commission to offer dispute resolution for relevant Disability Rights Act matters alongside related human rights and discrimination complaints involving a public authority.</p>	
<p>Recommendation 4.20 Enabling remedies through the courts</p> <p>The Disability Rights Act should establish a standalone cause of action under which:</p> <p>a) the following persons can bring a claim to the Federal Court of Australia or the Federal Circuit and Family Court of Australia that a relevant duty-holder has acted in contravention of the Disability Rights Act (other than compliance with the consultation requirement, notices of the National Disability Commission, duties supporting compliance with the Act such as reporting and self-audit obligations, and the positive duty to promote disability equality and inclusion):</p> <ul style="list-style-type: none"> • an aggrieved person on their own behalf; an aggrieved person on behalf of themselves and others who are also aggrieved • two or more aggrieved persons on behalf of themselves or others who are also aggrieved (a group claim) • a person or disability representative organisation on behalf of one or more aggrieved persons (a representative claim). 	

<p>b) where a claim is brought before a court under a) and the court finds that a person or entity has acted incompatibly with the Disability Rights Act, it can make any order it considers just and appropriate, including damages</p> <p>c) provisions in relation to costs are aligned with Commonwealth discrimination law, as amended following the 2022–23 review by the Australian Government Attorney General's Department.</p>	
<p>Recommendation 4.21 Strengthening awareness and understanding of disability rights</p> <p>a) The Disability Rights Act should provide the National Disability Commission with statutory functions to:</p> <ul style="list-style-type: none"> • promote understanding and acceptance, and the public discussion, of the rights of people with disability under the Act • develop and deliver guidance materials and educational and training programs in relation to the rights and duties under the Act. Guidance should include how the intersectional experiences and identities of people with disability can affect the ways in which rights are limited or promoted in practice. <p>b) The National Disability Commission should co-design and co-deliver training programs and resources with people with disability, and with the Australian Human Rights Commission where relevant, to provide a complete picture of human rights protections for people with disability under Disability Rights Act and <i>Disability Discrimination Act 1992</i> (Cth).</p> <p>c) The Australian Government should provide the National Disability Commission and the Australian Human Rights Commission with dedicated resources to undertake these roles.</p>	
<p>Recommendation 4.22 Strengthening disability rights protection in State and Territory laws</p> <p>a) States and Territories should enact legislation complementary or equivalent to the Australian Disability Rights Act, taking into account</p>	<p>Joint Response: <u>Subject to further consideration</u></p> <p>The Australian Government and State and Territory governments are committed to working with people with disability, their families, carers, supporters and representative organisations to consider the most</p>

<p>their own legal frameworks.</p> <p>b) The Disability Rights Act should provide that the Act is not intended to exclude or limit the operation of a State or Territory law that furthers the objectives of the <i>Convention on the Rights of Persons with Disabilities</i> and is capable of operating concurrently with the Act.</p>	<p>appropriate and impactful ways to strengthen disability rights protections.</p> <p>This recommendation is being considered alongside the findings and recommendations of the Parliamentary Joint Committee on Human Rights Inquiry into Australia's Human Rights Framework.</p>
<p>Recommendation 4.23 Burden of proof in direct discrimination</p> <p>The <i>Disability Discrimination Act 1992</i> (Cth) should be amended by inserting new subsections 5(1) and 5(1A). The subsections would read as follows:</p> <p>(1) For the purposes of this Act, a person (the alleged discriminator) directly discriminates against another person (the aggrieved person), if the person treats, or proposes to treat, the aggrieved person unfavourably on the ground of the aggrieved person's disability.</p> <p>(1A) For the purposes of subsection (1), an alleged discriminator who has treated, or proposes to treat, the aggrieved person unfavourably bears the burden of proving that the treatment or proposed treatment was not on the ground of the aggrieved person's disability.</p>	<p>NSW Response to recommendations 4.23 to 4.29: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>
<p>Recommendation 4.24 Reforming indirect discrimination</p> <p>The <i>Disability Discrimination Act 1992</i> (Cth) should be amended by inserting a new subsection 6(3) to substitute existing subsections 6(3) and (4) as follows:</p> <p>6(3) Subsection (1) or (2) does not apply if avoiding the discrimination would impose an unjustifiable hardship on the alleged discriminator.</p>	
<p>Recommendation 4.25 Adjustments</p> <p>The <i>Disability Discrimination Act 1992</i> (Cth) should be amended by replacing all references to 'reasonable adjustments' with 'adjustments'.</p>	
<p>Recommendation 4.26 Standalone duty to make adjustments</p> <p>The <i>Disability Discrimination Act 1992</i> (Cth) should be amended to include</p>	

the following provision:

Duty to make adjustments

It is unlawful for a person to fail or refuse to make an adjustment for:

- (a) a person with a disability; or
- (b) a group of persons with disability

unless making the adjustment would impose an unjustifiable hardship on the person.

Recommendation 4.27 Positive duty to eliminate disability discrimination

The *Disability Discrimination Act 1992* (Cth) should be amended to introduce a positive duty on all duty-holders under the Act to eliminate disability discrimination, harassment and victimisation, based on the December 2022 amendments to the *Sex Discrimination Act 1984* (Cth):

Duty to eliminate discrimination on the ground of disability

- (1) A person must take reasonable and proportionate measures to eliminate all forms of discrimination on the ground of disability.
- (2) In determining whether a measure is reasonable and proportionate the following factors must be considered —
 - (a) the size of the person's business or operations;
 - (b) the nature and circumstances of the person's business or operations;
 - (c) the person's resources;
 - (d) the person's business, risk management plans and operational priorities;
 - (e) the practicability and the cost of the measures;
 - (f) whether the person has a disability action plan;
 - (g) nature and extent of the person's consultation with any person with disability concerned; and
 - (h) all other relevant facts and circumstances.

Other duties not limited or otherwise affected

- (3) This section does not limit, or otherwise affect, a duty that a duty-holder has under:

- (a) the *Work Health and Safety Act 2011* (Cth); or
- (b) a law of a State or Territory that deals with work health and safety.

Recommendation 4.28 Systemic discrimination

- a) Division 4A (ss 35A–35K) of the *Australian Human Rights Commission Act 1986* (Cth) should be amended by inserting the words ‘or disability discrimination’ after ‘sex discrimination’ where these words appear.
- b) A reference to ‘disability discrimination’ means any conduct that is unlawful under the *Disability Discrimination Act 1992* (Cth).

Recommendation 4.29 Offensive behaviour

The *Disability Discrimination Act 1992* (Cth) should be amended by inserting a new provision:

Section 39A Offensive behaviour because of disability

(1) It is unlawful for a person (the first person) to do an act, otherwise than in private, if:

- (a) the act is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people; and
- (b) the act is done because of the disability of the other person or because some or all of the people in the group have or are perceived by the first person to have a disability.

(2) For the purposes of subsection (1), an act is taken not to be done in private if it:

- (a) causes words, sounds, images or writing to be communicated to the public; or
- (b) is done in a public place; or
- (c) is done in the sight or hearing of people who are in a public place.

(3) In this section:

public place includes any place to which the public have access as of right or by invitation, whether express or implied and whether or not a charge is made for admission to the place.

<p>Recommendation 4.30 Vilification because of disability</p> <p>a) The <i>Disability Discrimination Act 1992</i> (Cth) should be amended by inserting a new provision as follows:</p> <p><i>Section 39C Vilification because of disability</i></p> <p><i>It is unlawful for a person (the first person) to do an act otherwise than in private, if:</i></p> <ul style="list-style-type: none"> <i>(a) the act involves threats by the first person to perpetrate or encourage violence or serious abuse directed at another person or group of people;</i> <i>(b) the act is reasonably likely, in all the circumstances, to incite hatred towards another person or a group of people; and</i> <i>(c) the act is done because of the disability of the other person or because some or all of the people in the group have or are perceived by the first person to have a disability.</i> <p>b) States and Territories that already have legislation imposing criminal penalties for vilification of people on grounds that do not include disability should extend the legislation to vilification of people on the ground of disability.</p>	<p>NSW Response:</p> <p>Recommendation 4.30(a) <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p> <p>Recommendation 4.30(b) <u>Subject to further consideration</u></p> <p>NSW is committed to providing appropriate protections for people with disability. Reviews are currently being undertaken by the NSW Law Reform Commission into the <i>Anti-Discrimination Act 1977</i> (NSW) and section 93Z of the <i>Crimes Act 1900</i> (NSW). The outcomes of, and recommendations arising from, these reviews will need to be considered by NSW and may directly impact recommendation 4.30(b).</p>
<p>Recommendation 4.31 Disability discrimination and migration law</p> <p>a) The Australian Government should initiate a review of the operation of section 52 of the <i>Migration Act 1958</i> (Cth), insofar as it authorises discrimination against people with disability seeking to enter Australia temporarily or permanently. The review should consider changes to the legislation and migration practices to eliminate or minimise the discrimination.</p> <p>b) The review should be conducted with particular reference to the rights recognised by the <i>Convention on the Rights of Persons with Disabilities</i> and the Concluding observations on the combined second and third periodic reports of Australia made by the United Nations Committee on the Rights of Persons with Disabilities.</p>	<p>NSW Response for recommendations 4.31 to 4.34: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

Recommendation 4.32 Unjustifiable hardship

Section 11 of The *Disability Discrimination Act 1992* (Cth) should be amended by inserting the new subsections 11(1)(aa), 11(1)(ab) and 11(1A) as follows:

11 Unjustifiable hardship

(1) For the purposes of this Act, in determining whether a hardship that would be imposed on a person (the first person) would be an unjustifiable hardship, all relevant circumstances of the particular case must be taken into account, including the following:

- (a) the nature of the benefit or detriment likely to accrue to, or to be suffered by, any person concerned;
- (aa) the nature and extent of the first person's consultations with any person with disability concerned;
- (ab) the first person's consideration of all available and appropriate alternative measures or actions;
- (b) the effect of the disability of any person concerned;
- (c) the financial circumstances, and the estimated amount of expenditure required to be made, by the first person;
- (d) the availability of financial and other assistance to the first person;
- (e) any relevant action plans given to the Commission under section 64.

Example: One of the circumstances covered by paragraph (1)(a) is the nature of the benefit or detriment likely to accrue to, or to be suffered by, the community.

(1A) The person relying on unjustifiable hardship must:

- (a) create and retain all documents recording the person's consideration (if any) of each of the factors in subsection (1); and
- (b) provide reasons to the person concerned, if so requested, for contending that unjustifiable hardship existed at the time of the alleged unlawful discrimination.

(2) For the purposes of this Act, the burden of proving that something would impose unjustifiable hardship lies on the person claiming unjustifiable hardship.

Recommendation 4.33 Reference to the *Convention on the Rights of Persons with Disabilities*

The *Disability Discrimination Act 1992* (Cth) should be amended to insert a new subsection 3(d) as follows:

(d) to give effect to Australia's obligations under the Disabilities Convention.

Recommendation 4.34 Interpretation of the *Disability Discrimination Act 1992* (Cth)

The *Disability Discrimination Act 1992* (Cth) should be amended by inserting a new subsection 4(3):

(3) This Act must be interpreted in a way that is beneficial to a person or persons with disability, to the extent it is possible to do so consistently with —

- (a) the objects of this Act
- (b) the Convention
- (c) the Covenant on Civil and Political Rights
- (d) the Disabilities Convention
- (e) the International Covenant on Economic, Social and Cultural Rights.

Volume 5: Governing for Inclusion

Volume 5 includes seven recommendations.

Recommendation	Response
<p>Recommendation 5.1 Development of a National Disability Agreement</p> <p>The Australian Government and State and Territory governments should develop a new National Disability Agreement through the Disability Reform Ministerial Council, to be signed by first ministers. The fundamental objective of the Agreement should be to advance equality, inclusion and the rights of people with disability in Australia. The Agreement should provide the framework for intergovernmental collaboration to:</p> <ul style="list-style-type: none"> • develop and implement reforms requiring national attention and coordination, including recommendations of this Royal Commission • implement Australia's Disability Strategy 2021–2031 (ADS) and the National Disability Insurance Scheme (NDIS). <p>The ADS, NDIS national agreements and policies, and other national disability frameworks should be schedules to the new National Disability Agreement.</p> <p>The Agreement should clearly set out roles and responsibilities of parties to the Agreement.</p> <p>The new National Disability Agreement should be developed and finalised by the end of 2024.</p>	<p>Commonwealth: <u>Subject to further consideration</u> ACT, NSW, NT, QLD, SA, TAS, VIC, WA: <u>Accept in Principle</u></p> <p>The Australian Government and State and Territory governments are committed to ensuring intergovernmental arrangements support collaboration to advance equality, inclusion and the rights of people with disability in Australia and ensure appropriate governance of the disability ecosystem.</p> <p>All governments have agreed to work together, and with the disability community, to:</p> <ul style="list-style-type: none"> • Implement legislative and other changes to the NDIS to improve the experience of participants and restore the original intent of the Scheme, within a broader ecosystem of supports. • Jointly design additional Foundational Supports to be jointly funded through new Federal Funding Agreements, with additional costs split 50-50 between the Commonwealth and jurisdictions. • Undertake a targeted review of Australia's Disability Strategy 2021-31 to identify practical process, governance and reporting improvements in response to issues identified in the Disability Royal Commission's inquiry and final report. <p>Governments will respond this recommendation by 31 December 2024, following further consideration alongside relevant recommendations of the NDIS Review.</p>
<p>Recommendation 5.2 Review and update of Australia's Disability Strategy</p>	<p>Joint Response: <u>Accept</u></p> <p>The Australian Government, State and Territory governments, and the</p>

<p>The signatories to Australia's Disability Strategy 2021–2031 (ADS) (the Australian Government, State and Territory governments and the Australian Local Government Association) should review and update the ADS to ensure it reflects the issues raised and recommendations made by this Royal Commission.</p> <p>This review and update should:</p> <ul style="list-style-type: none"> • consider the ADS and all its implementation mechanisms, including Targeted Action Plans, Engagement Plan, Outcomes Framework, Guiding Principles, reporting arrangements and Data Improvement Plan • be undertaken in partnership with people with disability and their representative organisations. <p>An updated ADS should be released by the end of 2024.</p>	<p>Australian Local Government Association have commenced a focused review of Australia's Disability Strategy 2021-31 to consider the issues raised in the Disability Royal Commission and to take account of feedback from the first two years of Australia's Disability Strategy 2021-31 implementation.</p> <p>The review is being undertaken with the active involvement of the Australia's Disability Strategy Advisory Council and will consider the Australia's Disability Strategy 2021-31 and its artefacts and processes, including Targeted Actions Plans (concluding and new). It will focus on identifying practical process, governance and reporting improvements, and addressing key gaps or missing elements.</p> <p>The review will inform the publication of changes to Australia's Disability Strategy 2021-31 and implementation processes before the end of 2024.</p> <p>A separate major evaluation of Australia's Disability Strategy 2021-31, focused on outcomes, is due to commence in 2025 and be completed in 2026.</p>
<p>Recommendation 5.3 Review and update of disability strategies and plans</p> <p>State and Territory governments should review and update their disability strategies and plans to ensure they reflect the issues raised and recommendations made by this Royal Commission.</p> <p>These reviews and updates should:</p> <ul style="list-style-type: none"> • consider how these strategies and plans align with Australia's Disability Strategy 2021–2031, including outcomes of Recommendation 5.2 • be undertaken in partnership with people with disability and their representative organisations. <p>The reviews and updates should be completed by mid-2025.</p>	<p>NSW Response: <u>Accept in principle</u></p> <p>The NSW Disability Inclusion Plan 2021–2025 (DIP) is intended to align with Australia's Disability Strategy (ADS).</p> <p>The NSW Government will undertake a strategic review of the NSW DIP. This review will examine further opportunities for alignment between the next DIP and the ADS, including the outcomes of recommendation 5.2.</p> <p>Following this review, the NSW Government is expecting to launch a refreshed NSW DIP which will incorporate commitments of the NSW Government in response to the Disability Royal Commission. The NSW Government will partner with people with disability and their</p>

	<p>representative organisations, including the Disability Council NSW, to prepare the refreshed NSW DIP and Disability Inclusion Action Plans (DIAPs).</p> <p>NSW Government departments and prescribed entities will prepare new or remade DIAPs by mid-2025.</p>
<p>Recommendation 5.4 Review of national agreements, strategies and plans</p> <p>The Australian Government and State and Territory governments, should review national agreements, strategies and plans that affect people with disability. This work should be undertaken through the Disability Reform Ministerial Council in conjunction with other ministerial councils.</p> <p>Reviews should consider:</p> <ul style="list-style-type: none"> the alignment of national agreements, strategies and plans with Australia's Disability Strategy 2021-2031 how funding allocations should recognise the needs and rights of people with disability the inclusion of specific outcome measures related to people with disability the development of specific action plans relating to people with disability. <p>National agreements that should be reviewed include the:</p> <ul style="list-style-type: none"> National Agreement on Closing the Gap National Housing and Homelessness Agreement National School Reform Agreement National Health Reform Agreement National Mental Health and Suicide Prevention Agreement National Agreement for Skills and Workforce Development. <p>Other national agreements, strategies and plans to be reviewed should include, but not be limited to, those relating to:</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments are committed to ensuring national agreements, strategies and plans support an inclusive Australian society that ensures people with disability can fulfil their potential as equal members of the community, consistent with the vision and purpose of Australia's Disability Strategy 2021-31 and responsibilities under the United Nations <i>Convention on the Rights of Persons with Disabilities</i>.</p> <p>These considerations will be incorporated into future reviews of relevant agreements, strategies and plans as they become due for renegotiation. This will be considered through the respective governance mechanisms and structures for each agreement, in consultation with disability portfolios.</p> <p>Given the scope and complexity of reviewing these agreements, flexibility for delivery timeframes will be required in undertaking this action.</p> <p>Through a targeted review in 2024, governments will also consider how Australia's Disability Strategy 2021-31 can be improved to more effectively drive work towards a more inclusive society across all portfolios (see recommendation 5.2).</p>

<ul style="list-style-type: none"> • emergency management, such as those for pandemics and natural disasters • children and young people, such as the National Framework for Protecting Australia's Children 2021–2031 • employment, education, training and skills, such as the National Workforce Strategy 2022–2027 • legal support, such as the National Legal Assistance Partnership 2020–2025 • health services, such as those for preventative health, community health, and mental health • family and sexual violence, such as the National Plan to End Violence against Women and Children 2022–2032. <p>The reviews of current agreements, strategies and plans should be completed by the end of 2025.</p>	
<p>Recommendation 5.5 Establishment of a National Disability Commission</p> <p>The Australian Government should establish the National Disability Commission as an independent statutory body under the Disability Rights Act (see Volume 4). The National Disability Commission should:</p> <ul style="list-style-type: none"> • support the realisation of the human rights of people with disability through monitoring and oversight of the Disability Rights Act • monitor and report on outcomes for people with disability across Australia • promote best practice and innovative approaches to improving outcomes for people with disability by sharing information across governments, the community sector, the private sector and the broader community. <p>The Commission should be chaired by a person with disability and comprise a small group of commissioners. The majority of commissioners should be people with disability, and represent the diversity of people</p>	<p>NSW Response for recommendations 5.5 to 5.6: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

with disability.

The National Disability Commission should be established by mid-2025.

In addition to functions proposed in Volume 4 and Volume 12, its functions should include:

- developing an Outcomes for People with Disability report every two years and tabling it in the Australian Parliament.

The report should:

- detail outcomes achieved under Australia's Disability Strategy 2021–2031 (ADS)
- provide comparative performance assessments on outcomes for people with disability, including the implementation of the ADS, through traffic light reporting across each jurisdiction
- analyse data, including outcomes data from National Disability Insurance Scheme reporting and other relevant reporting from the Australian Government and State and Territory governments. This includes reporting on jurisdictional disability strategies and plans, and reporting from relevant oversight bodies
- include the views and experiences of people with disability, as well as those of families and carers of people with disability
- recommend to governments actions needed to improve outcomes for people with disability
- promote and disseminate information, research and evidence on best practice models for – and innovative approaches to – improving outcomes for people with disability.

This information should be shared across governments, the non-government sector, the private sector and the broader community

- partnering with a diverse range of people with disability, and their families and carers, to develop advice and key reports.

<p>Recommendation 5.6 New governance arrangements for disability</p> <p>The Australian Government should establish:</p> <ul style="list-style-type: none"> • a portfolio responsible for the disability and carers policies and programs currently the responsibility of the Social Services portfolio • a ministerial position – the Minister for Disability Inclusion – responsible for disability inclusion strategy, policies and programs that are currently under the remit of the Minister for Social Services • a Department of Disability Equality and Inclusion, responsible for the national disability and carers policies and programs that are currently the responsibility of the Department of Social Services. <p>People with disability should be recruited to positions within the new department, including into leadership positions.</p> <p>These new arrangements should be established by the end of 2024.</p>	
<p>Recommendation 5.7 Focal points across jurisdictions to implement the CRPD</p> <p>The Australian Government and State and Territory governments should ensure each jurisdiction has a designated focal point for matters relating to implementation of the <i>Convention on the Rights of Persons with Disabilities</i> (CRPD).</p> <p>At the Australian Government level, this should be the new Department of Disability Equality and Inclusion, alongside the Attorney General's Department.</p> <p>Each CRPD focal point should include people with disability in leadership positions.</p> <p>Each jurisdiction should designate focal points by the end of 2024.</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support designating a focal point, or focal points, in each government to support work relating to implementation of the United Nations <i>Convention on the Rights of Persons with Disabilities</i>.</p>

Volume 6: Enabling Autonomy and Access

Volume 6 includes 41 recommendations.

Recommendation	Response
<p>Recommendation 6.1 A national plan to promote accessible information and communications</p> <p>The Australian Government and State and Territory governments should develop and agree on an Associated Plan in connection with Australia's Disability Strategy 2021–2031 to improve the accessibility of information and communications for people with disability. The Associated Plan should be co-designed with people with disability and their representative organisations. It should be finalised by the end of 2024. The Associated Plan should:</p> <ul style="list-style-type: none"> • consolidate and build on existing initiatives and commitments by governments • recognise the diversity of people with disability and the many formats and languages that people may require information to be provided in • consider the roles of various stakeholders, including the Australian Government, State and Territory governments, disability service providers, disability representative organisations and organisations representing people from culturally and linguistically diverse backgrounds • focus, in the first instance, on information and communications about preparing for and responding to emergencies and natural disasters, and public health • include targeted actions to ensure access to information and communications for people with disability in the criminal justice system; supported accommodation, including group homes; Australian Disability Enterprises; and day programs 	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments recognise that people with disability have a right to access information and communications on an equal basis with others.</p> <p>All governments support the development of an Associated Plan to Australia's Disability Strategy 2021-31 to improve the accessibility of information and communications for people with disability.</p> <p>The Australian Government will lead the development of the Associated Plan, building on existing initiatives to deliver a unified approach. The Associated Plan will be developed in consultation with States and Territory governments.</p> <p>The Associated Plan will be developed with people with disability and their representative organisations. This includes First Nations people with disability, people with disability from culturally and linguistically diverse backgrounds, people who are Deaf or hard of hearing, people who are blind or have low vision, Deafblind people, people with intellectual disability, and other people with disability who may face additional barriers to accessing the information and communications they need.</p> <p>Scoping and development will commence in 2024.</p>

<ul style="list-style-type: none"> • identify and allocate appropriate funding and resources for delivery • include mechanisms for review and public reporting of progress made against the Associated Plan. 	
<p>Recommendation 6.2 Increase the number of Auslan interpreters The Australian Government and State and Territory governments, through the Disability Reform Ministerial Council, should commission the development of a workforce strategy to increase the number and quality of Auslan interpreters. The strategy should:</p> <ul style="list-style-type: none"> • be based on a robust demand-supply analysis to quantify the current gaps and shortages in interpreting services. This includes analysis of qualifications, specialisations, geographic coverage, and the availability and use of face-to-face interpreting and Video Remote Interpreting • include costed initiatives to: <ul style="list-style-type: none"> – increase the number of Auslan interpreters, including the provision of scholarships and stable ongoing employment opportunities, particularly in under-serviced areas – support specialisations in health, legal and other critical sectors (including minimum qualifications) – provide ongoing professional development and industry standards to support a high-quality interpreter workforce – increase and retain Auslan interpreters who are First Nations or from culturally and linguistically diverse backgrounds – raise awareness and promote pathways to becoming an Auslan interpreter. <p>The strategy should be developed by September 2024, and implementation of the strategy should begin by January 2025.</p>	<p>Joint Response: <u>Accept in principle</u> The Australian Government and State and Territory governments recognise the critical role Auslan interpreters play in supporting people who are Deaf or hard of hearing to access the information and communications they need.</p> <p>Governments also recognise Deaf interpreters and translators who support people from culturally and linguistically diverse backgrounds or are more familiar with foreign sign languages, people with sensory or cognitive disability, people who are educationally or linguistically disadvantaged, or people who have limited conventional Auslan.</p> <p>All governments support nationally coordinated work to boost the Auslan and Deaf interpreter workforce. As part of its work developing an Associated Plan under Australia’s Disability Strategy 2021-31 to improve the accessibility of information and communications for people with disability consistent with recommendation 6.1, the Disability Reform Ministerial Council will consider strategies, initiatives and approaches to boost the Auslan and Deaf interpreter workforce.</p>

Recommendation 6.3 Access to appropriately skilled and qualified interpreters

The Australian Government, the National Accreditation Authority for Translators and Interpreters (NAATI) and the National Disability Insurance Agency (NDIA) should take steps to ensure people with disability have access to appropriately skilled and qualified interpreters as needed.

NAATI should require interpreters to complete training in disability awareness before receiving accreditation and as part of their ongoing professional development to maintain accreditation.

Interpreters in disability service provision

The NDIA should:

- ensure staff are aware of the NDIA's Practice Guide on Accessible Communication and the provisions of the Practice Guide for Aboriginal and Torres Strait Islander planning support relating to interpreters and translation
- provide training for staff on how to arrange and work with an interpreter.

The Minister for the National Disability Insurance Scheme (NDIS), in consultation with States and Territories, should:

- amend the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018* (Cth) to introduce a standard on effectively working with interpreters
- amend the *National Disability Insurance Scheme (Quality Indicators for NDIS Practice Standards) Guidelines 2018* (Cth) to include indicators relevant to the standard on working effectively with interpreters, including that providers have relevant policies and procedures in place.

NSW Response: Note

This recommendation is directed at the Australian Government.

<p>The NDIS Quality and Safeguards Commission should amend the NDIS Workforce Capability Framework to provide that the Communicate Effectively Core Capability for Advanced Support Work explicitly includes working with interpreters.</p>	
<p>Recommendation 6.4 Terms and definitions in guardianship and administration legislation</p> <p>a) States and Territories should amend their guardianship and administration legislation to:</p> <ul style="list-style-type: none"> • include the terms ‘support order’, ‘support agreement’ and ‘supported persons’ • remove the terms ‘guardianship order’ and ‘administration order’ or ‘financial management order’, and replace these with ‘representative order’ • remove the terms ‘guardian’ and ‘administrator’ or ‘financial manager’, and replace these with ‘representative’ • remove the term ‘enduring guardian’ and replace this with ‘enduring representative’ • remove the terms ‘enduring guardianship’ and ‘enduring power of attorney’, and replace these with ‘enduring representation agreement’ • remove the terms ‘decision-making capacity’, ‘capacity’ and ‘mental incapacity’, and replace these with ‘decision-making ability’. <p>b) The new and replacement terms should be defined consistently with the definitions provided in Table 6.2.11.</p> <p>c) States and Territories should amend the title of their guardianship and administration legislation to refer to decision-making. For example, ‘Supported and represented decision-making Act’ or ‘Decision-making Act’.</p>	<p>NSW Response: <u>Subject to further consideration</u></p> <p>[Text covering Recommendations 6.4 6.5, 6.7, 6.8, 6.9, 6.10, 6.12, 6.13, 6.14 and 6.16, noting the additional responses provided for specific recommendations]</p> <p>The NSW Government is closely considering the recommended reforms in relation to supported decision making and reform of the guardianship framework. A Guardianship Working Group, made up of both government and non-government stakeholders has been engaged to inform the development of the NSW response to these recommendations. The Government is also undertaking a detailed assessment of the operational and resourcing impacts of reforms.</p>

<p>Recommendation 6.5 Objects of guardianship and administration legislation</p> <p>States and Territories should review and reform their guardianship and administration legislation to include a statement of statutory objects which:</p> <ul style="list-style-type: none"> a) recognises and promotes the rights of people with disability consistent with the <i>Convention on the Rights of Persons with Disabilities</i> (CRPD) b) includes the text of article 12 of the CRPD c) recognises the role of support to enable people who may require support to make, participate in and implement decisions that affect their lives. 	<p>NSW Response: <u>Subject to further consideration</u></p> <p>See Rec 6.4</p>
<p>Recommendation 6.6 Supported decision-making principles</p> <p>a) States and Territories which have not already done so should review and reform their guardianship and administration legislation to include the following supported decision-making principles. The legislation should oblige all persons exercising powers, carrying out functions or performing duties under the legislation to have regard to the principles.</p> <p>Principle 1 – Recognition of the equal right to make decisions All people have an equal right to make decisions that affect their lives and to have those decisions respected.</p> <p>Principle 2 – Presumption of decision-making ability All people must be presumed to be able to make decisions.</p> <p>Principle 3 – Respect for dignity and dignity of risk All people must be treated with dignity and respect and supported to take risks to enable them to live their lives the way they choose, including in their social and intimate relationships.</p> <p>Principle 4 – Recognition of informal supporters and advocates The role of informal supporters, support networks and advocates who provide support for decision-making should be acknowledged and respected.</p> <p>Principle 5 – Access to support</p>	<p>Commonwealth, ACT, NT, QLD, TAS, VIC, WA: <u>Accept in principle</u></p> <p>NSW and SA: <u>Subject to further consideration</u></p> <p>The Australian Government and State and Territory governments recognise and respect the inherent dignity and individual autonomy of all people with disability, and are committed to ongoing work to ensure people with disability who may require support to make decisions are provided that support. All governments recognise substituted decision-making should only be used as a last resort.</p> <p>Recommendation 6.6 (a) The Australian Capital Territory, Northern Territory, Queensland, Tasmania and Victoria accept in principle the principles outlined by the Disability Royal Commission.</p> <p>New South Wales, South Australia and Western Australia note that consideration of the Disability Royal Commission’s supported decision-making principles is subject to respective legislative review processes in their respective jurisdictions.</p> <p>Recommendation 6.6 (b)</p>

People who may require supported decision-making should be provided with equitable access to appropriate support to enable the person, as far as practicable in the circumstances, to:

- make and participate in decisions affecting them
- communicate their will and preferences
- develop their decision-making ability.

Principle 6 – Decisions directed by will and preferences

The will and preferences of people who may require supported decision-making must direct decisions that affect their lives.

Principle 7 – Inclusion of safeguards

There must be appropriate and effective safeguards where people may require supported decision-making, including to prevent abuse and undue influence.

Principle 8 – Co-designed processes

People with disability, in particular people with cognitive disability, their supporters and representative organisations, should be involved in the development and delivery of policies and practices on supported decision-making.

Principle 9 – Recognition of diversity

The diverse experiences, identities and needs of people who may require supported decision-making must be actively considered.

Principle 10 – Cultural safety

First Nations people and cultural and linguistically diverse people with disability are entitled to supported decision-making that is culturally safe, sensitive and responsive. This includes recognising the importance of maintaining a person's cultural and linguistic environment and set of values.

b) The Australian Government and State and Territory governments should also take steps to review and reform other laws concerning individual decision-making to give legislative effect to the supported decision-making principles.

The Australian Government and State and Territory governments support taking steps to identify other relevant laws concerning decision-making that may require review regarding approaches to supported decision-making.

Recommendation 6.7 Decision-making ability

States and Territories should review and reform their guardianship and administration legislation to:

- ensure consistency with Principle 2 in Recommendation 6.6 that all people should be presumed to be able to make decisions
- provide that this presumption cannot be rebutted solely on the basis that a person has a disability
- require that anyone responsible for deciding whether the presumption has been rebutted that a person has decision-making ability for the relevant decision, must consider:
 - the supports available to the person, including the quality of existing support relationships
 - that decision-making ability is specific to the decision being made
 - the nature and complexity of the specific decision to be made
 - the views of the person and, with their consent, the views of family and informal supporters who have significant involvement in the person's life.

NSW Response: Subject to further consideration

See Rec 6.4

Recommendation 6.8 Formal supporters

States and Territories should introduce into guardianship and administration legislation provisions to enable statutory and personal appointments of one or more supporters for personal and financial matters, following the approach taken by Victoria in Part 4 of the *Guardianship and Administration Act 2019* (Vic) and Part 7 of the *Powers of Attorney Act 2014* (Vic). This includes provisions on:

- appointment of supporters
- role, powers and duties of supporters
- safeguards in relation to supports
- review and revocation of support agreements and orders.

Recommendation 6.9 Representatives as a last resort

States and Territories should review and reform their guardianship and administration legislation to provide that representation orders should be made only as a last resort and in a way that is least restrictive of a person's rights, autonomy and actions, as practicable in the circumstances. The reforms should include:

a) the repeal of provisions authorising plenary representation orders

b) a requirement that the relevant tribunal should make an order appointing a representative only if satisfied that:

- the proposed represented person does not have decision-making ability for one or more decisions
- the order is necessary, taking into account:
 - the will and preferences of the proposed represented person
 - the availability and suitability of less intrusive and restrictive measures, including formal and informal support arrangements, negotiation and mediation
- the order will promote the person's personal and social wellbeing

c) a provision that the tribunal must take into account, in deciding whether a person (other than a public official) is suitable for appointment as a representative:

- the will and preferences of the proposed represented person
- the nature of the relationship between the proposed representative and the proposed represented person
- whether the proposed representative is likely to act honestly, diligently and in good faith
- whether the proposed representative has or may have a conflict of interest in relation to any of the decisions referred to in the order

d) a prohibition on a representation order made in the absence of the proposed represented person, unless the tribunal is satisfied that either:

<ul style="list-style-type: none"> • the represented person does not wish to attend the hearing in person • the personal attendance of the represented person at the hearing is impracticable or cannot reasonably be arranged <p>e) a requirement that when considering whether a support or representation order should be made for a First Nations person, the tribunal should take into account:</p> <ul style="list-style-type: none"> • the likely impact of the order on the person's culture, values, beliefs (including religious beliefs) and linguistic environment • the likely impact of the order on the person's standing or reputation in their community • any other considerations pertaining to the person's culture <p>f) provisions on the review and revocation of representation orders, including that:</p> <ul style="list-style-type: none"> • a representation order lapses on the expiration of three years after the date on which it is made, unless the tribunal has specified an expiry date (earlier than three years) in the order or the order is renewed • a tribunal must conduct a review of representation order at least once within each three-year period after making the order • when reviewing an order, the tribunal should consider: <ul style="list-style-type: none"> – whether the order is still necessary, considering the factors listed in b) – whether the representative is still eligible and suitable – whether the representative is meeting their responsibilities and carrying out their required functions. 	
<p>Recommendation 6.10 Decision-making process</p> <p>States and Territories should review and reform their guardianship and administration legislation to include a decision-making process that appointed supporters and representatives are required to follow.</p>	

<p>The decision-making process for both supporters and representatives should involve:</p> <ul style="list-style-type: none"> • supporting the person to express their will and preferences • assisting the person to develop their own decision-making ability. <p>The decision-making process for representatives should also include the following steps and considerations:</p> <ul style="list-style-type: none"> • the person's will and preferences must be given effect • where the person's current will and preference cannot be determined, the representative must give effect to what they believe the person's will and preferences are likely to be, based on all the information available • if it is not possible to determine what the person would likely want, the representative must act to promote and uphold the person's personal and social wellbeing with the least possible restriction on their dignity and autonomy • a representative may override the person's will and preferences only where necessary to prevent serious harm. In these circumstances, the representative must act to promote and uphold the person's personal and social wellbeing with the least possible restriction on their dignity and autonomy. 	
<p>Recommendation 6.11 Guidelines on maximising participation</p> <p>a) The Australian Guardianship and Administration Council should update the Guidelines for Australian Tribunals: Maximising the participation of the Person in guardianship proceedings to align with our recommendations on guardianship and supported decision-making (see in particular Recommendations 6.4–6.10 and 6.19).</p> <p>b) The guardianship division or list in each State and Territory tribunal should consider adopting, through practice directions or other appropriate means, the updated Guidelines for Australian Tribunals: Maximising the participation of the Person in guardianship proceedings.</p>	<p>NSW Response: <u>Accept in principle</u></p> <p>NSW notes that updating the Guidelines is the responsibility of the Australian Guardianship and Administration Council (AGAC). . The Guardianship Division of the NSW Civil and Administrative Tribunal (NCAT) already dedicates resources to comply with its statutory obligation to take into account the views of the subject person. This includes through pre-hearing outreach to ensure that the subject person attends the hearing and suitable arrangements are made to facilitate their attendance and participation.</p>

	NCAT is committed to implementing the existing AGAC Guidelines for participation and in many areas exceeds that recommended by the Guidelines.
<p>Recommendation 6.12 Public disclosure and confidentiality restrictions States and Territories should amend their guardianship and administration laws or tribunals acts, to:</p> <ul style="list-style-type: none"> • repeal provisions prohibiting publication of material identifying a party to the proceedings as the default position • empower the tribunal to make an order prohibiting publication of material identifying the party to the proceedings, if the circumstances justify such an order, taking into account the will and preferences of that party. 	<p>NSW Response: <u>Subject to further consideration</u> The NSW Government supports the overarching principle that a person to whom a guardianship or financial management order relates should be able to tell their story. However, any amendment would need to appropriately balance privacy concerns with this objective. The NSW Government will consider this issue in light of the recommendations about these provisions made by the NSW Law Reform Commission in its Open Justice review. Also see Rec 6.4</p>
<p>Recommendation 6.13 Information and education on supported decision-making a) States and Territories should ensure that, where legislation to this effect is not already in place, the functions of public advocates and public guardians include providing information, education and training on supported decision-making to people requiring supported decision-making and their families, private supporters and representatives (present or prospective), disability service providers, public agencies, the judiciary, tribunal members and legal representatives. b) States and Territories should ensure that, where legislation to this effect is not already in place, public advocates and public guardians are empowered to provide advice and assistance to people who may require decision-making support, including in relation to applications for support and representation orders.</p>	<p>NSW Response: <u>Subject to further consideration</u> The Government will consider whether further reform in relation to information and education functions is required in conjunction with its further consideration of other supported decision-making recommendations.</p> <p>In NSW, the Public Guardian already provides a range of information and education to guardians, service providers and the broader community about the role and function of a guardian, alternatives to guardianship, and the process for applications for and reviews of guardianship orders. It also provides support to private and enduring guardians. The NSW Trustee and Guardian also provides information and education to private financial managers.</p> <p>The Ageing and Disability Commission (ADC) also has functions in relation to information, education and advice and assistance in relation to the abuse, neglect and exploitation of adults with disability and older adults.</p>

	Also see Rec 6.4
<p>Recommendation 6.14 Systemic advocacy to promote supported decision-making</p> <p>States and Territories should ensure that, where this is not already the case, a statutory body has a function to undertake systemic advocacy to promote supported decision-making. This function should include:</p> <ul style="list-style-type: none"> • monitoring, investigating, researching, reporting, making recommendations and advising on any aspect of relevant decision-making legislation • encouraging the development and improvement of programs, services and facilities that promote the autonomy of people with disability • supporting organisations that undertake advocacy and education on supported decision-making. 	<p>NSW Response: <u>Subject to further consideration</u></p> <p>The Government will consider whether further reform in relation to systemic advocacy functions is required in conjunction with its consideration of other supported decision-making recommendations.</p> <p>The <i>Ageing and Disability Commissioner Act 2019</i> provides that one of the Commissioner's functions is to inquire into and report on systemic issues relating to the protection and promotion of the rights of adults with disability and older adults or the abuse, neglect or exploitation of adults with disability or older adults. Systemic issues relating to supported decision-making are directly relevant to this function.</p> <p>The Commissioner is also empowered to advise and make recommendations to the Minister on matters relating to the abuse, neglect and exploitation of adults with disability and older adults.</p> <p>Also see Rec 6.4</p>
<p>Recommendation 6.15 Updating the national standards for public advocates, public guardians and public trustees</p> <p>Public advocates, public guardians and public trustees, through the Australian Guardianship and Administration Council, should update the National Standards of Public Guardianship and National Standards for Financial Managers to:</p> <ul style="list-style-type: none"> • include the supported decision-making principles • align with reforms to State and Territory guardianship and administration legislation that give effect to Recommendations 6.4–6.10 • amend the relevant standards to provide that public officials acting as representatives should have frequent meetings and 	<p>NSW Response: <u>Accept in principle</u></p> <p>Accept in principle, noting that changes to the Standards are a matter for AGAC.</p>

<p>ongoing, accessible communication with the represented person to get to know the person and develop a trusted relationship. Meetings should take place in line with a represented person's preferences as to format and attendees, wherever practicable</p> <ul style="list-style-type: none"> • amend the relevant standards to recognise the importance of ensuring all engagement with First Nations and culturally and linguistically diverse people is culturally safe and responsive and that appropriate training for staff is provided to enable them to do so • amend the relevant standards to recognise the importance of public officials acting as representatives facilitating connections between a represented person and advocates and informal supporters. 	
<p>Recommendation 6.16 Financial skills development programs</p> <p>a) All public trustees should offer a financial skills development program to people under a representation order appointing the public trustee as a representative. The program should promote financial independence and:</p> <ul style="list-style-type: none"> • be developed in partnership with representative organisations of people with disability, including organisations representing people with intellectual disability, and financial counselling community support organisations • incorporate broad eligibility criteria • be actively promoted, especially among people entering administration. <p>b) Upon successful completion of the program, public trustees should support a person to apply for a review of their order. If a person is not eligible for the program, the public trustee must advise them of their right to apply to the relevant tribunal for review of their order.</p> <p>c) Public trustees should report annually on the number of people who have participated in the program, the number who have completed it and</p>	<p>NSW Response: <u>Subject to further consideration</u></p> <p>In NSW, section 71 of the <i>NSW Trustee and Guardian Act 2009</i> provides that the NSW Trustee and Guardian may authorise a person under financial management to deal with specified financial matters.</p> <p>The NSW Trustee and Guardian has established a financial independence team to support this function as highlighted in the Disability Royal Commission Report. The NSW Government is considering whether further reform is required in conjunction with its consideration of the other supported decision-making recommendations.</p> <p>Also see Rec 6.4</p>

the number who have subsequently transitioned out of administration arrangements.	
<p>Recommendation 6.17 Transparency of public trustee fees and charges Public trustees in each State and Territory should:</p> <ul style="list-style-type: none"> publish accessible information about the services they provide to people under administration orders, the fees and charges applicable for those services and the ways in which fees are calculated for each individual on appointment, annually and following any significant change to a person's circumstances, send to people under administration orders individualised and accessible information detailing the services they will receive and the fees for those services. 	<p>NSW Response: <u>Accept in principle</u> In NSW, information about services, fees and charges are already publicly available and provided directly to people under financial management.</p> <p>Fees for financial management are set out in the NSW Trustee and Guardian Regulation 2017. The NSW Trustee and Guardian also has discretion to waive or reduce fees.</p> <p>Current fee structures are published on the NSW Trustee and Guardian website and are provided to people under financial management when a new order is made. Fees and charges are also recorded in a person's transaction statement.</p>
<p>Recommendation 6.18 Review of public trustees fees and charges State and Territory governments should ensure that public trustees' fees and charges have been independently reviewed since 2019. Where such a review has not been conducted since this time, state and territory governments should arrange a comprehensive review of the fees and charges payable by people under administration orders to the public trustee in their jurisdiction. The reviews should make recommendations to ensure fees and charges are fair and equitable for all people under administration orders.</p>	<p>NSW Response: <u>Accept in principle</u> On 18 May 2023, the Audit Office of NSW released an independent assessment of whether NSW Trustee and Guardian is effectively delivering public guardianship and financial management services, which included recommendations about how NSW Trustee and Guardian could improve its processes to inform on actual costs of service delivery and identify and address cross-subsidisation. The NSW Trustee and Guardian has committed to a range of actions in response to the findings of the Audit Office report that are detailed in the report's appendix.</p>
<p>Recommendation 6.19 Data collection on support and representation arrangements The Australian Government and States and Territories should develop and implement a national approach to collecting and publishing de-identified data on support and representation arrangements, led by the</p>	<p>Joint Response: <u>Accept in principle</u> The Australian Government and State and Territory governments recognise the benefits of a nationally consistent approach to data collection and reporting on support and representation arrangements to support an evidence-based approach to reform in this area.</p>

<p>Australian Institute of Health and Welfare.</p> <p>The national approach should consistently use definitions of ‘disability’, ‘representation’ and ‘support’ arrangements proposed in this Final report, and should employ methodologies which enable reporting on comparisons across jurisdictions and trends over time.</p> <p>The national approach should include collection and publication of data on:</p> <ul style="list-style-type: none"> • numbers of formally appointed representatives and supporters, disaggregated appropriately • the extent to which people with disability who are the subject of the proceedings participate in the proceedings and the manner in which they participate (for example, in person or via alternative technological means) • numbers of representative agreements commenced, terminated, revoked, varied or reviewed • the extent to which people with disability who are the subject of the proceedings are legally represented. <p>The data should identify, to the greatest extent practicable, types of impairment, age, First Nations people with disability, culturally and linguistically diverse people with disability, LGBTIQ+ people with disability, women with disability and National Disability Insurance Scheme participants.</p>	<p>In January 2024, Disability Ministers agreed Commonwealth, State and Territory officials focus and accelerate work to resolve data gaps in relation to the reporting requirements under Australia’s Disability Strategy 2021-2031 Outcomes Framework by the end of 2024. All governments are also working together to develop an action plan, with agreed timeframes, to drive data collection (including gender disaggregated data) and reporting on data-related Disability Royal Commission recommendations. The action plan is expected to be published in 2024.</p>
<p>Recommendation 6.20 Interpretative declaration</p> <p>Commissioners Bennett, Galbally, Mason and McEwin recommend the Australian Government withdraw its interpretative declaration in relation to article 12 of the <i>Convention on the Rights of Persons with Disabilities</i>.</p>	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>
<p>Recommendation 6.21 Additional funding for advocacy programs</p> <p>a) For the financial years 2024–25 and 2025–26, the Australian Government should commit additional funding of:</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and the state and territory governments recognise the importance of advocacy in supporting people with disability to defend and protect their rights.</p>

<ul style="list-style-type: none"> • \$16.6 million per annum for the National Disability Advocacy Program • \$20.3 million per annum for the National Disability Insurance Scheme Appeals Program. <p>These amounts should be indexed to maintain their value in real terms from year to year.</p> <p>b) From 1 July 2026, the Australian Government should ensure long-term and stable funding for national disability advocacy programs to meet demand. This should be informed by improved data in line with Recommendation 6.22.</p> <p>c) From at least 1 July 2026, State and Territory governments should ensure long-term and stable funding for disability advocacy programs in their jurisdictions to meet demand. This should be informed by improved data in line with Recommendation 6.22.</p>	<p>On 21 April 2023, Disability Ministers endorsed the National Disability Advocacy Framework 2023-2025 (NDAF) and associated Disability Advocacy Work Plan. The NDAF commits all governments to work together to improve national consistency and access to advocacy services for people with disability across Australia. Its purpose is to ensure people with disability have access to effective disability advocacy that promotes, protects and ensures their full and equal enjoyment of all human rights, enabling community participation and inclusion.</p> <p>All governments support prioritising work on increasing culturally appropriate and accessible advocacy services for First Nations people with disability, people with disability from culturally and linguistically diverse backgrounds and LGBTIQ+ people with disability.</p>
<p>Recommendation 6.22 Improved data collection and reporting on met and unmet demand for disability advocacy</p> <p>The Australian Government and State and Territory governments should improve data collection and reporting on met and unmet demand for disability advocacy within their jurisdiction. At a minimum, this data should:</p> <ul style="list-style-type: none"> • be collected and published on an annual basis • include demographic indicators that show geographic location, First Nations and culturally and linguistically diverse status • identify, where possible, whether a request for disability advocacy is from or concerns a person with disability who lives in supported accommodation or is in prison or juvenile detention. <p>This data should be collected and reported on an ongoing basis. The Australian Government and State and Territory governments should include data collection and reporting as a priority work area in the Disability Advocacy Work Plan associated with the 2023–2025 National</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>See Rec 6.21</p>

<p>Disability Advocacy Framework, and progress this as part of future National Disability Advocacy Frameworks or equivalents.</p> <p>The Australian Government and State and Territory governments should work together to ensure consistent definitions and methodologies allowing comparisons across jurisdictions and trends over time.</p> <p>Publication of the data should commence no later than 1 July 2026.</p>	
<p>Recommendation 6.23 Culturally safe disability advocacy</p> <p>The Disability Advocacy Work Plan associated with the 2023–2025 National Disability Advocacy Framework should be amended to include priority work areas on increasing culturally appropriate and accessible advocacy services for people with disability from culturally and linguistically diverse backgrounds and LGBTIQ+ people with disability. Efforts under these priority work areas, and the priority work area on increasing culturally appropriate and accessible advocacy services for First Nations people with disability, should include training led by First Nations, culturally and linguistically diverse and LGBTIQ+ people with disability and their representative organisations. This work should be progressed as part of future National Disability Advocacy Frameworks or equivalents.</p>	
<p>Recommendation 6.24 Improve implementation planning and coordination for the cognitive disability health capability framework</p> <p>The Australian Government Department of Health and Aged Care should:</p> <ul style="list-style-type: none"> • expand the role of the Intellectual Disability Education and Training Expert Advisory Group to develop an implementation plan for the cognitive disability health capability framework, including key steps for embedding the capabilities from the framework in curricula in education and training programs for health practitioners across all training stages 	<p>NSW Response for recommendations 6.24 – 6.25: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

<ul style="list-style-type: none"> • develop a monitoring and evaluation framework to coordinate and measure delivery of the expanded capability framework and its implementation. 	
<p>Recommendation 6.25 Expand the scope of health workforce capability development to include all forms of cognitive disability at all stages of education and training</p> <p>The Australian Government Department of Health and Aged Care should:</p> <ul style="list-style-type: none"> • immediately expand the scope of the work on an intellectual disability health capability framework and associated resources to address all forms of cognitive disability, to apply at all stages of education and training. This expansion should include autism-specific content, and address specific healthcare issues for people with learning disability, dementia and acquired brain injury • allocate additional funding to support the expanded scope of health workforce capability development. 	
<p>Recommendation 6.26 Expand the role of the Health Ministers Meeting to monitor health workforce capability development</p> <p>The Health Ministers Meeting should expand its role in monitoring progress of the intellectual disability health capability framework to encompass the expanded capability framework proposed in Recommendation 6.25. This should include annual reporting to the Health Ministers Meeting on the progress of actions.</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>Health Ministers have committed to annual reporting on progress of actions under the Roadmap for Improving the Health of People with Intellectual Disability. Ongoing annual reporting will consider any expansion to activities.</p>
<p>Recommendation 6.27 Establish regular progress reporting by accreditation authorities</p> <p>Accreditation authorities for registered health professions and the peak professional bodies for non-registered health professions should:</p> <p>a) review and amend accreditation standards and evidence requirements where necessary to address whether cognitive disability health is sufficiently covered. If it is not, they should amend their accreditation</p>	<p>NSW Response for recommendations 6.27 – 6.30: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

standards or evidence requirements (as the case may be) accordingly

b) encourage or mandate education providers to develop specific cognitive disability health curriculum content and deliver such content using inclusive teaching practices, involving people with cognitive disability where possible

c) report annually to the Australian Government Department of Health and Aged Care on their progress in implementing this recommendation. Where accreditation authorities have only recently undertaken their five-yearly review, annual reporting should include progress on implementation planning to address this recommendation pending the next scheduled review.

Recommendation 6.28 Improve access to clinical placements in disability health services

The Australian Government Department of Health and Aged Care should include improved access to clinical placements in disability health services as an immediate priority, including by:

- exploring increased opportunities for student learning and development in cognitive disability health, including as part of interprofessional teams, with education providers and clinical placement providers
- considering mechanisms to enhance funded supervised clinical and work-based training placements to train students in providing quality health care to people with cognitive disability. This should include enhanced financial support for clinical placement and supervision in community settings.

Recommendation 6.29 Improve specialist training and continuing professional development in cognitive disability health care

a) The Royal Australasian College of Physicians, Royal Australian and New Zealand College of Psychiatrists, Australian and New Zealand College of Anaesthetists, Royal Australian College of General

Practitioners, Australasian College of Emergency Medicine and Australian College of Rural and Remote Medicine should each:

- develop specialised training content in cognitive disability health for different areas of specialisation, building on the capability framework and the core set of learning resources, so that future specialists can develop skills and competencies in cognitive disability health
- expand and promote pathways for sub-speciality training in cognitive disability health.

b) These groups, as well as the Australian Dental Association and professional bodies responsible for continuing professional development (CPD) in the nursing and allied health professions should each:

- review CPD programs in their respective health discipline or specialty to determine whether CPD for the provision of health care to people with cognitive disability, including intellectual and/or developmental disabilities, should be enhanced
- promote the development of CPD opportunities on the provision of health care to people with cognitive disability, including intellectual and/or developmental disabilities
- raise awareness of such CPD opportunities among members.

c) The Australian Government Department of Health and Aged Care should reprioritise the National Roadmap for Improving the Health of People with Intellectual Disability action to embed training and CPD within all specialist training programs from a medium-term action (four to six years), to a short-term action (one to three years).

Recommendation 6.30 Expand the scope of the National Centre of Excellence in Intellectual Disability Health

The Australian Government Department of Health and Aged Care should expand the remit of the National Centre of Excellence in Intellectual Disability Health to include autism and other forms of cognitive impairment.

<p>Recommendation 6.31 Embed the right to equitable access to health services in key policy instruments</p> <p>a) The Australian Commission on Safety and Quality in Health Care should:</p> <ul style="list-style-type: none"> • amend the Australian Charter of Healthcare Rights to incorporate the right to equitable access to health services for people with disability and align with the scope of this proposed right in the Disability Rights Act recommended in Volume 4, Realising the human rights of people with disability • review and revise the National Safety and Quality Health Service Standards and the National Safety and Quality Primary and Community Healthcare Standards to provide for the delivery of safe and high-quality health care for people with disability and align with the scope of the proposed right to equitable access to health services in the Disability Rights Act recommended in Volume 4 • as part of this review, consider how the national standards support equal access to health services for people with disability throughout life, including (but not limited to) prevention and health promotion, diagnosis and early intervention and rehabilitation services. <p>b) The Australian Government Department of Health and Aged Care and State and Territory counterparts should review all policies and protocols to ensure people with disability are permitted to be accompanied by a support person in any health setting. This should apply at all times, including when in-person healthcare restrictions are in place, such as during COVID-19.</p>	<p>Joint Response: <u>Accept</u></p> <p>Recommendation 6.31 (a)</p> <p>The Australian Government and state and territory governments are committed to ensuring key policy instruments and plans support an inclusive Australian society that ensures people with disability have access to health care services that address their needs. The Australian Government, through the Australian Commission on Safety and Quality in Health Care will provide a plan and timeline to update key policy instruments to ensure they articulate the requirements for safe and equitable access to health services for people with disability. Enacting this recommendation will enable a more person-centred approach to health care planning and delivery, reduce health disparities, provide guidance to patients, and set clear expectations on health services and clinicians.</p> <p>Joint Response: <u>Accept in principle</u></p> <p>Recommendation 6.31 (b)</p> <p>The Australian Government and State and Territory governments are committed to reviewing all policies and protocols to support an inclusive Australia that ensures people with disability have access to high-quality health care. This includes permission to be accompanied by a support person in as many health settings as possible.</p> <p>There may be some situations where disability support workers are not able to accompany patients (e.g. during surgical procedures; some involuntary or forensic spaces). These instances will be minimised, and state and territory governments will ensure that disability adjustments and supports are fully provided where support workers cannot be present.</p>
<p>Recommendation 6.32 Increase capacity to provide supports and adaptations through improved guidance, funding and accessible</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments</p>

<p>information</p> <p>The Australian Government and State and Territory governments, in consultation with people with disability, should:</p> <p>a) identify and publish a list of frequently needed adaptations and supports (including communication supports) to enable people with disability to receive high-quality health care in all publicly funded settings. Adaptations and supports may need to be tailored to individual needs and additional supports may be required. These should include:</p> <ul style="list-style-type: none"> • environmental modifications and aids to reduce sensory loads, such as dimmer lighting, reduced background noise and noise-cancelling headphones • preparatory action to familiarise the person with disability with clinical environments, such as hospital tours and animated videos • different modes of service delivery, such as home visits, and taking a forward-looking approach to minimise distress associated with certain procedures – for instance, taking extra blood to reduce the need for additional blood draws, or undertaking multiple procedures at once if sedation is required to decrease the number of hospital visits • novel and flexible approaches to pre-medication, including sedation, to reduce distress and anxiety before critical medical procedures. <p>b) review hospital (admitted and non-admitted care) and primary health care funding models to ensure these adaptations and supports can be implemented in all relevant settings</p> <p>c) disseminate information about the provision of adaptations and supports in a range of accessible formats.</p>	<p>recognise that people with disability have a right to receive high-quality health care and that adaptations and supports may need to be tailored to individual needs. Further, that access to information and communications are on an equal basis with others.</p> <p>All governments acknowledge that aspects of this recommendations require further consideration in the context of any changes to Australia's human rights framework. This recognises that the Disability Royal Commission's proposed <i>Disability Rights Act</i> will be considered alongside the recently published recommendations of the Parliamentary Joint Committee on Human Rights Inquiry into Australia's Human Rights Framework.</p> <p>This recommendation also requires consideration of any activities that are in-scope of National Health Reform Agreement public hospital services. As well as consideration of any activities that align with reforms considered for the 2025-30 National Health Reform Agreement Addendum.</p>
<p>Recommendation 6.33 Develop specialised health and mental health services for people with cognitive disability</p> <p>State and Territory governments should establish and fund specialised</p>	<p>NSW Response: <u>Accept in principle</u></p> <p>The NSW Government is committed to the provision of high-quality health care for all people with disability including people with cognitive disability.</p>

<p>health and mental health services for people with cognitive disability to provide:</p> <ul style="list-style-type: none"> • specialist assessment and clinical services, including preventive medicine, for people with cognitive disability and complex or chronic health and mental health needs • training and support for health providers to build their capacity to provide safe, high-quality health care to people with cognitive disability. <p>These services should be delivered through a model that includes:</p> <ul style="list-style-type: none"> • specialist roles and multi-disciplinary teams embedded in local health service delivery • statewide specialised services that can be accessed by people with cognitive disability and health professionals regardless of their location • participation in a national network of specialised disability health and mental health services • evaluation of the impact of specialised services and publication of evaluation findings. <p>Planning to implement specialised services in each jurisdiction should begin as soon as practicable and take into account existing services and needs in each jurisdiction. These changes should be introduced by September 2026.</p>	<p>Specialised health and mental health services for people with intellectual disability are in place and deliver a statewide service across NSW. These specialised services offer a clinical service as well as training and support that builds the capacity of other health providers. The NSW Intellectual Disability Health Service (IDHS) provides a comprehensive health assessment, time-limited clinical service and recommendations for people with intellectual disability with complex needs. An evaluation of the IDHS is expected to be finalised by June 2025.</p> <p>The NSW Intellectual Disability Mental Health Hubs (Mental Health Hubs) help people with intellectual or developmental disability and co-occurring mental health problems access specialised mental health assessment and care.</p> <p>Further enhancement to health services for people with intellectual disability and cognitive disability will be informed by service evaluations, consideration of best practice approaches in other jurisdictions and consultation with people with disability.</p>
<p>Recommendation 6.34 Introduce disability health navigators to support navigation of health care for people with disability</p> <p>Through the Health Ministers Meeting, the Australian Government and State and Territory governments should:</p> <p>a) jointly fund a national workforce of ‘disability health navigators’ to support people with cognitive disability and complex health needs access health services and to embed safe, accessible and inclusive practice in everyday health service provision</p> <p>b) develop a national evaluation framework to assess the impact of</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and States and Territory governments are committed to ensuring people with disability have access to health care services that address their needs and recognise that people with disability may require additional support to navigate the health care system. All governments are committed to ensuring all Australians have access to safe and high-quality healthcare that meets their needs.</p> <p>This recommendation also required consideration of any activities that</p>

<p>disability health navigators and share lessons learned across jurisdictions. Evaluation findings should be published.</p>	<p>are in-scope of National Health Reform Agreement public hospital services as well as consideration of any activities that align with reforms considered for the 2025-30 National Health Reform Agreement Addendum.</p> <p>All governments are committed to working together to support the development of a nationally consistent health navigation framework, which will be coordinated and aligned to complement the reshaped disability navigation function of the NDIS and would include scoping of disability health navigation in partnership with State and Territory governments.</p> <p>Scoping of disability health navigation would be required to identify what is currently available, what is working well and what gaps or missing elements in the support system need to be addressed to help people with disability and complex health needs navigate and access all aspects of the health and mental health systems. Scoping would include system navigation services that already exist within the State and Territory health system. Stakeholders, including people with disability, would be consulted as part of the scoping of disability health navigation.</p> <p>All governments acknowledge that there are significant workforce challenges across the health care system, therefore the scoping of disability health navigators would also involve consideration of this issue.</p>
<p>Recommendation 6.35 Legal frameworks for the authorisation, review and oversight of restrictive practices</p> <p>a) States and Territories should ensure appropriate legal frameworks are in place in disability, health, education and justice settings, which provide that a person with disability should not be subjected to restrictive practices, except in accordance with procedures for authorisation, review</p>	<p>NSW Response: <u>Subject to further consideration</u></p> <p>The NSW Government is committed to reducing the use of restrictive practices and, where possible, eliminating the use of restrictive practices against people with disability.</p>

and oversight established by law.

b) The legal frameworks should incorporate the following requirements, appropriately adapted to sector-specific contexts:

- Restrictive practices should only be used:
 - as a last resort, in response to a serious risk of harm to a person with disability or others, and only after other strategies, including supported decision-making, have been explored and applied
 - as the least restrictive response possible to ensure the safety of the person with disability or others
 - to the extent necessary to reduce the risk of harm and proportionate to the potential negative consequences from the use of restrictive practices
 - for the shortest time possible.
- Decisions to authorise restrictive practices should be subject to independent review.
- The use of restrictive practices should be subject to independent oversight and monitoring.

c) The legal frameworks should set out the powers and functions of a Senior Practitioner for restrictive practices in disability service provision (or equivalent authority). These powers and functions should include:

- promoting the reduction and elimination of the use of restrictive practices
- protecting and promoting the rights of people with disability subjected to restrictive practices
- developing and providing information, education and advice on restrictive practices to people with disability, their families and supporters, and the broader community
- considering applications to use restrictive practices in disability service settings and authorising their use according to

The NSW Government is carefully considering the best method and legislative framework for achieving this. People with disability and other stakeholders will be consulted should the NSW Government decide to pursue a legislative framework.

It is important that solutions take account of the context and existing operating systems in each different setting.

<p>procedures consistent with the Draft Principles for Consistent Authorisation</p> <ul style="list-style-type: none"> • developing guidelines and standards, and providing expert advice, on restrictive practices and behaviour support planning • receiving complaints about the use of restrictive practices and the quality of behaviour support planning • investigating the use of restrictive practices and the quality of behaviour support planning, either in response to complaints or of its own motion • acting in response to complaints and investigations where appropriate. 	
<p>Recommendation 6.36 Immediate action to provide that certain restrictive practices must not be used</p> <p>State and Territory governments should immediately:</p> <ul style="list-style-type: none"> • Adopt the list of prohibited forms of restrictive practices agreed by the former Disability Reform Council in 2019 and provide that the use of seclusion on children and young people is not permitted in disability service settings. • Provide that the following are not permitted in health and mental health settings: <ul style="list-style-type: none"> – using seclusion and restraint as a means to reduce behaviours not associated with immediate risk of harm – using seclusion and restraint as a form of discipline, punishment or threat – restrictive practices that involve or include deliberate infliction of pain to secure compliance – using prone or supine holds, using any restraint intended to restrict or affect respiratory or digestive function, or forcing a person's head down to their chest – secluding a person who is also mechanically restrained – secluding a person who is actively self-harming or suicidal 	<p>NSW Response: <u>Subject to further consideration</u></p> <p>NSW Government is committed to ensuring people with disability are not subjected to prohibited restrictive practices. Reducing and eliminating the use of seclusion and restraint where possible remains a priority of NSW Health. Seclusion and restraint are only used in accordance with legislation, to manage the risk to the safety of the patient, staff and public. NSW Health is undertaking further analysis, consideration and consultation on this recommendation.</p> <p>The NSW Department of Education remains committed to the national goal of reducing and eliminating the unnecessary or inappropriate use of restrictive practices. The department supports clarity on prohibited forms of restrictive practices. However, further consideration and agreement of the definitions are required state-wide or nationally</p>

- using metal handcuffs or hard manacles as a form of mechanical restraint (unless under police or other custodial supervision while in the health facility)
- vest restraints for older people
- neck holds
- drugs, or higher doses of drugs, that create continuous sedation to manage behaviour
- seclusion of children and young people.
- Provide that the following are not permitted in education settings:
 - the use of restrictive practices:
 - as a form of discipline, punishment or threat
 - as a means of coercion or retaliation
 - in response to property destruction
 - for reasons of convenience
 - life threatening physical restraints, including physical restraints that restrict a student's breathing or harm the student by:
 - covering the student's mouth or nose, or in any way restricting breathing
 - taking the student to the ground into the prone or supine position
 - causing hyperextension or hyperflexion of joints
 - applying pressure to the neck, back, chest or joints
 - deliberately applying pain to gain compliance
 - causing the student to fall
 - having a person sit or kneel on the student
 - chemical restraints
 - mechanical restraints
 - clinical holding:
 - as a behaviour support strategy
 - to enforce the compliance of a student in undertaking personal care that is non-urgent and does not present

<p>a risk to the student to punish a student – denial of key needs, such as food and water.</p>	
<p>Recommendation 6.37 Data collection and public reporting on psychotropic medication The NDIS Quality and Safeguards Commission, the Australian Commission on Safety and Quality in Health Care and the Aged Care Quality and Safety Commission should:</p> <ul style="list-style-type: none"> • publish joint annual progress reports on implementation of measures under the Joint statement on the inappropriate use of psychotropic medicines to manage the behaviours of people with disability and older people • commission an independent evaluation of these measures to determine whether they have resulted in a reduction in the use of psychotropic medicines against people with cognitive disability. The evaluation should be co-designed with people with cognitive disability and their representative organisations, and its results should be publicly reported. 	<p>NSW Response to recommendations 6.37 to 6.38: <u>Note</u> This recommendation is directed at the Australian Government.</p>
<p>Recommendation 6.38 Strengthening the evidence base on reducing and eliminating restrictive practices The National Disability Research Partnership should commission a longitudinal study of the impact of positive behaviour support and other strategies to reduce and eliminate restrictive practices. This study should:</p> <ul style="list-style-type: none"> • be co-designed with people with disability and relevant experts and professionals from the disability, health, education and justice sectors, to ensure the findings are relevant across a range of settings • include the experiences and identify the intersecting needs of a broad range of people with disability, such as First Nations people 	

<p>with disability, LGBTIQ+ people with disability, and culturally and linguistically diverse people with disability.</p> <p>Upon completion, the findings of the study should be made publicly available. Interim findings should be published at regular intervals.</p>	
<p>Recommendation 6.39 Improving collection and reporting of restrictive practices data</p> <p>The Australian Institute of Health and Welfare should work with State and Territory governments to develop consistent data definitions and collection methods on restrictive practices across all jurisdictions, and align reporting periods. These definitions and collection methods should be finalised by the end of 2024. Using consistent definitions and collection methods, State and Territory governments should collect and publish data on the use of restrictive practices in health, education and justice settings. This data should be collected and published on an annual basis, with publication commencing by the end of 2025 at the latest. Data should identify, to the greatest extent practicable:</p> <ul style="list-style-type: none"> • restraint type, including chemical, physical, mechanical, environmental and seclusion • disability status • types of impairment • age • gender • First Nations people • culturally and linguistically diverse people • people who identify as LGBTIQ+. 	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments are committed to working together to improve the collection and reporting of restrictive practices data and to considering sector-specific targets and performance indicators to drive the reduction and elimination of restrictive practices across all settings.</p> <p>As a first step, and consistent with Action 18.1 of the NDIS Review, the Disability Reform Ministerial Council will prioritise action to establish consistent targets and performance indicators to drive the reduction and elimination of restrictive practices in the NDIS and will task officials to develop a Joint Action Plan to reduce and eliminate restrictive practices in the NDIS.</p> <p>Given the complexity and variation of data collection processes across jurisdictions, consultation with all sectors and flexibility on the timeframe for implementing these recommendations may be required.</p> <p>Additional NSW comment:</p> <p>In developing consistent definitions and data collection methodology in relation to educational settings, NSW will need to give careful consideration to the administrative burden this record-keeping will create for schools, and consider whether there are opportunities to enhance existing data collections, such as the Nationally Consistent Collection of Data on school students with disability (NCCD) to reduce duplication.</p>

	NSW supports further analysis and consultation on targets and performance indicators to drive the reduction and elimination of restrictive practices.
<p>Recommendation 6.40 Targets and performance indicators to drive the reduction and elimination of restrictive practices</p> <p>The Australian Government and State and Territory governments should establish sector-specific targets and performance indicators to drive the reduction and elimination of restrictive practices over time. This should be at both the national and State and Territory levels for disability, health, education and justice settings. These targets and performance indicators should be established by 1 July 2025 at the latest.</p>	<p>Joint Response: <u>Accept in principle</u> See 6.39.</p>
<p>Recommendation 6.41 Legislative prohibition of non-therapeutic sterilisation</p> <p>a) All jurisdictions should amend or enact legislation prohibiting non-therapeutic procedures resulting in permanent sterilisation of people with disability, except where:</p> <ul style="list-style-type: none"> • there is a threat to the life of the person with disability were the procedure not performed or • the person with disability is an adult and has given voluntary and informed consent to the procedure, with support for decision-making if required. <p>b) All jurisdictions should amend or enact legislation in accordance with paragraph a) by the end of 2024.</p> <p>c) The Australian Guardianship and Administrative Council (AGAC) should expand its annual collation and publication of data on the sterilisation of people with disability. This data should include the number of applications, reasons for applications, reasons for the outcomes of applications and the number of approvals to conduct a sterilisation procedure.</p>	<p>Joint Response: ACT and WA: <u>Accept in principle</u> Commonwealth, NSW, NT, QLD, SA, TAS, VIC: <u>Subject to further consideration</u></p> <p>The Australian government and State and Territory governments are committed to protecting the human rights of people with disability and will work to strengthen protections in relation to non-therapeutic procedures resulting in permanent sterilisation of people with disability.</p> <p>The need to protect the privacy of individuals is relevant in considering approaches to expanding data collection and reporting.</p> <p>The Commonwealth, NSW, NT, QLD, SA, TAS and VIC governments will further consider issues raised by this recommendation noting differences between jurisdictions' legislative frameworks and current reform processes underway in some jurisdictions.</p>

Where this does not already occur, the data should be collected and provided to AGAC annually by:

- the Federal Circuit and Family Court of Australia
- state and territory superior courts
- state and territory guardianship and administration bodies.

The data should be de-identified, as appropriate. It should be disaggregated, to the greatest extent possible, by:

- disability status
- types of impairment
- age
- gender
- First Nations people
- culturally and linguistically diverse people
- people who identify as LGBTIQ+.

A review of legislation enacted or amended according to paragraph a) of this recommendation should be conducted every five years, in light of the data published according to paragraph c). This review should aim to strengthen protections for people with disability and avoid consequences which hamper reproductive autonomy.

Volume 7: Inclusive Education, Employment and Housing

Volume 7 includes 44 recommendations, split across three parts which deal with inclusive education, employment and housing.

Part A - Inclusive Education

Volume 7 Part A includes 15 recommendations.

Recommendation	Response
<p>Recommendation 7.1 Provide equal access to mainstream education and enrolment</p> <p>States and Territories should amend education Acts (or the equivalent) to:</p> <ul style="list-style-type: none"> • create a legal entitlement for students with disability to enrol in a local mainstream school • provide that the right to enrolment is subject only to ‘unjustifiable hardship’ in the sense used in the <i>Disability Discrimination Act 1992</i> (Cth). <p>State and Territory governments should take the following actions to prevent gatekeeping in mainstream schools:</p> <ul style="list-style-type: none"> • maintain a central record of decisions on enrolment refusal or cancellation and provide an annual report to the responsible minister for education on trends and any additional actions required to address barriers • establish an independent review process to enable a parent or supporter of a child or young person with disability to challenge a refusal to enrol the child or young person in a school. <p>State and Territory educational authorities should disseminate clear, accessible, transparent material for students with disability and their families on their rights, the obligations of schools relating to applications to attend a local school, and review processes.</p>	<p>NSW Response: <u>Accept in part</u></p> <p>The NSW Government supports legal entitlement for students with disability to enrol in their local mainstream schools. This is an existing entitlement in NSW under the <i>Education Act 1990</i> (NSW). The NSW Government also supports, and will continue to provide and disseminate, clear and accessible material for students with disability and their families on their rights. This includes the obligations of schools relating to applications to attend a local school as well as enrolment review processes.</p> <p>The NSW Department of Education is currently reviewing its enrolment policy. This review of enrolment procedures is intended to support the department to confidently deliver on its legislative requirement to provide equal access to mainstream education and enrolment consistently across the state.</p> <p>Further consideration is required in relation to other components of this recommendation to ensure:</p> <ul style="list-style-type: none"> • undue confusion and administrative complexity is not created for families and schools by introducing an additional caveat to existing legislation, e.g. ‘unjustifiable hardship’) noting that existing NSW legislation adequately addresses this intent

	<ul style="list-style-type: none"> data collection, reporting and review processes of enrolment decisions do not impose undue administrative burden on schools and/or families.
<p>Recommendation 7.2 Prevent the inappropriate use of exclusionary discipline against students with disability</p> <p>State and Territory educational authorities should review all regulations, rules, procedures and other instruments regulating exclusionary discipline to ensure they:</p> <ul style="list-style-type: none"> adopt the principle that education providers: <ul style="list-style-type: none"> should avoid the use of exclusionary discipline on students with disability unless exclusion is necessary as a last resort to avert the risk of serious harm to the student, other students or staff in considering the use of exclusionary discipline, consider the student's disability, needs and age, and the particular effects of exclusionary discipline for young children require steps to be taken before exclusion to ensure an individual behaviour plan and reasonable adjustments have been implemented for the student, including consultation with the student and their family, carers or supporters. include a duty for principals to report the repeated use of exclusionary discipline involving a student with disability to an escalation point within educational authorities for independent case management include a robust review or appeals process for students with disability and their families or carers and supporters ensure students with disability have access to educational materials appropriate to their educational and behavioural needs while subject to exclusionary discipline 	<p>Joint Response for recommendations 7.2 to 7.3: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support the Disability Royal Commission's vision for more accessible and inclusive education for school students with disability.</p> <p>Education Ministers commit to work in partnership with people with disability to set out how this vision will be achieved over time.</p> <p>Additional NSW comment:</p> <p>The NSW Government is committed to inclusive education. This is underpinned by a focus on prevention and positive approaches to student behaviour support and management. This includes evidence-based practices such as positive behaviour for learning, trauma informed and inclusive education practices. Suspension remains a critical safeguard if student behaviour poses a risk to the health and safety, learning and/or wellbeing of others.</p> <p>The NSW Department of Education's 2024 Student Behaviour Policy, developed with extensive collaboration with stakeholders, reflects a balanced approach to student welfare and safety.</p> <p>Additionally, school registration requirements currently include an obligation for all schools to have discipline policies including but not limited to suspension, expulsion and exclusion of students that are based on procedural fairness.</p>

<ul style="list-style-type: none"> • support students with disability to re-engage in education post exclusion. <p>State and territory educational authorities should review provisions governing the registration of non-government schools to impose obligations relating to exclusionary discipline in the non-government sector that are commensurate with those of the government sector. Section 22(2)(b) of The <i>Disability Discrimination Act 1992</i> (Cth) should be amended to cover ‘suspension and exclusion’ as well as expulsions.</p>	<p>The department acknowledges there is more to do to address the disproportionate suspension rates for students with disability and is committed to driving early intervention and support for this cohort of students.</p> <p>The NSW Government supports the provision of accessible information and guidance to support schools, principals, teachers, and staff in fulfilling their obligations regarding the provision of reasonable adjustments to students with disability.</p>
<p>Recommendation 7.3 Improve policies and procedures on the provision of reasonable adjustments to students with disability</p> <p>a) State and Territory educational authorities should develop and make available in accessible form:</p> <ul style="list-style-type: none"> • guidelines to enable schools, principals and teachers to comply with their statutory obligations to provide adjustments for children and young people with disability • guidelines addressing the relationship between the statutory duty to provide adjustments and duties of care imposed on educational authorities, schools, principals, teachers and staff, such as those imposed by occupational health and safety legislation and the general law • guidelines addressing the processes for identifying, planning, implementing and evaluating adjustments required for individual students with disability • guidelines explaining the nature and content of the obligation under the <i>Disability Standards for Education 2005</i> (Cth) (Education Standards) to consult with students with disability and their parents, carers and supporters • information explaining the sources of funding for providing supports to students with disability and the procedures governing the allocation of funds for that purpose 	<p>In addressing additional requirements for record keeping, the NSW Government recognises the importance of minimising administrative burdens on schools and notes existing record keeping requirements under the Nationally Consistent Collection of Data on school students with disability (NCCD).</p>

<ul style="list-style-type: none"> • requirements for schools and principals to keep records and to report on the provision of adjustments for individual students with disability • guidelines for developing individual learning plans for students with disability, including requirements for keeping records on the learning program for each student and for making the records available to parents, carers and supporters • guidelines for ensuring equal access to consent, relationships and sexuality education for students with disability through learning resources, including for neurodiverse students and LGBTIQ+ students. <p>b) State and Territory educational authorities should ensure that education providers have greater access to tools and resources to:</p> <ul style="list-style-type: none"> • assist principals and teachers to adapt the curriculum and teaching and assessment practices to enable diverse learners, especially those with complex communication or support needs, to participate in learning experiences on the same basis as students without disability enrolled in the same course (subject to the unjustifiable hardship qualification in the <i>Disability Discrimination Act 1992</i> (Cth)) • support culturally safe adjustments to teaching strategies for particular students with disability, such as First Nations students and students from culturally and linguistically diverse communities. <p>c) The Australian Government, through the responsible minister, should consider whether the Education Standards should be amended to address the proposals in a) and b). However, any such consideration should not delay State and Territory educational authorities implementing a) and b).</p>	
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<p>Recommendation 7.4 Participation in school communities State and Territory school educational authorities should:</p> <ul style="list-style-type: none"> • wherever practicable, locate any new non-mainstream schools and, over time, relocate existing non-mainstream schools within or in close proximity to mainstream schools • facilitate, to the maximum extent feasible, participation by individual students and groups of students enrolled in non-mainstream schools in educational, cultural, sporting, recreational and celebratory activities with their peers (whether with or without disability) enrolled in mainstream schools • create partnerships between mainstream and non-mainstream schools as a means of encouraging and arranging regular interchange between students enrolled in each setting. 	<p>NSW Response: <u>Accept in part</u> The NSW Government supports the need to embed inclusive practices in all educational settings.</p> <p>The NSW Government recognises the value of forging partnerships between mainstream and non-mainstream schools to create opportunities for students from diverse backgrounds to interact and learn from one another, contributing to a more inclusive and diverse educational environment that benefits all.</p> <p>Further consideration, which will include undertaking a process of funding prioritisation, is required for infrastructure decisions such as co-location or relocation of non-mainstream schools within NSW. This reflects the complexity of and need for careful evaluation of factors such as land availability. Any co-location plans must prioritise meaningful integration and seamless operation.</p>
<p>Recommendation 7.5 Careers guidance and transition support services State and Territory educational authorities should implement a careers guidance and transition support service for students with disability to aid transition from all educational institutions to further education and/or open employment. The service should:</p> <ul style="list-style-type: none"> • commence transition planning in year 9 in collaboration with students, their parents and carers to help students define and articulate their goals and aspirations beyond school • take into account the diversity of students with disability, including students with higher levels of support needs, First Nations students and students from culturally and linguistically diverse backgrounds • provide students with disability and their families access to clear and accessible information and resources about future study options and labour market opportunities 	<p>NSW Response: <u>Accept in part</u> The NSW Government supports a consistent approach to supporting students as they transition from school to post school options.</p> <p>Given that the post-school landscape can be complex, with numerous training organisations and universities nationwide, the NSW Government is working to ensure a consistent approach to assist students transition to post-school pathways options aligned to their goals. Current support initiatives encompass government-subsidised training, funding for TAFE NSW, and collaboration with industry to create workplace engagement models.</p> <p>Supporting students with disability through access to, and participation in, quality career learning is essential for students to develop their personal identity, a sense of belonging and ideas about their future in a</p>

<ul style="list-style-type: none"> • provide students with opportunities to undertake work experience in open employment aligned with their goals and interests • provide linkages to further education providers, employment service providers and government services (including the National Disability Coordination Officer Program, the National Disability Insurance Scheme (NDIS) School Leaver Employment Support, Disability Employment Services, and NDIS Local Area Coordinators). 	<p>rapidly changing world as they transition from educational institutions to further education and/or open employment.</p> <p>The NSW Department of Education acknowledges the value of the Commission's findings in these transition points, and is committed to delivering on its goal in providing comprehensive career resources and support services, to all students, including those with disability, to navigate their post-school options as effectively as possible.</p>
<p>Recommendation 7.6 Student and parental communication and relationships</p> <p>a) State and Territory educational authorities should update their policies and guidance for schools to support the implementation and continuous improvement of requirements for student and parental communication and relationships. These should:</p> <ul style="list-style-type: none"> • include clear, accessible material for students with disability and their families on their rights and school obligations • target decision-making for individual students and at the whole-of-school-level • cover applications to attend a local school and address how students and parents should expect to be involved in decision making, adjustments and complaints handling and informal resolution processes • indicate types of decisions that require formal parental agreement, such as approaches to behaviour management • be co-designed with people with disability and their families. <p>b) State and Territory educational authorities should develop material similar to that outlined in a) specifically for First Nations students with disability in consultation with First Nations students with disability, parents and kinship carers. The cultural diversity and understanding of disability in Aboriginal and Torres Strait Islander cultures should be considered in this process.</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support the Disability Royal Commission's vision for more accessible and inclusive education for school students with disability.</p> <p>Education Ministers commit to work in partnership with people with disability to set out how this vision will be achieved over time.</p> <p>Additional NSW comment:</p> <p>The NSW Government is committed to providing clear guidance for schools to enhance communication and relationships between students, parents, and staff. This includes supporting the development of specific guidance tailored for Aboriginal and Torres Strait Islander students with disability.</p>

<p>c) School principals should work with their governing bodies and school communities to establish local school policies, procedures and practices to enable students with disability and their parents, carers and advocates to fully and effectively take part in the school community and decisions that affect a student's educational experience.</p> <p>d) In undertaking c), school principals should consult with First Nations parents and kinship carers and consider the cultural diversity and understanding of disability in Aboriginal and Torres Strait Islander cultures.</p> <p>e) The Australian Government through the responsible minister, should consider updating the <i>Disability Standards for Education 2005</i> (Cth) to:</p> <ul style="list-style-type: none"> • ensure students with disability can participate as fully as possible in an age-appropriate manner in decision making concerning their educational programs and the adjustments they require • entitle parents, supporters and carers of students with disability to be assisted by schools or principals on decisions relating to school-wide adjustments to facilities and classroom practices of particular significance to students with disability. 	
<p>Recommendation 7.7 Inclusive education units and First Nations expertise</p> <p>a) State and Territory educational authorities should establish inclusive education units within the relevant departments. These units should provide:</p> <ul style="list-style-type: none"> • advice to educational authorities, educational institutions and principals on inclusive education issues and policies, and on funding priorities • resources and advice to schools and teachers about implementing inclusive education. <p>b) Educational authorities should ensure that inclusive education units contain First Nations expertise to allow them to take actions required to</p>	<p>NSW Response: <u>Accept</u></p> <p>The NSW Government supports the establishment of inclusive education units within relevant departments. The NSW Department of Education has an existing inclusive education unit, performing education support functions that include advising educational authorities, educational institutions and principals on inclusive education issues and policies, and on funding priorities. The department's Inclusive Education unit also provides extensive resources and advice to schools and teachers about implementing inclusive education.</p> <p>Taking into account the current NSW Auditor-General's Review of 'Supporting students with a disability in NSW Public schools', and the NSW Parliamentary Inquiry examining 'Children and young people with</p>

<p>improve access to inclusive and culturally appropriate education for First Nations students with disability.</p>	<p>disability in NSW educational settings’, the department intends to consult with partners and stakeholders in 2024/2025 about actions to continue delivering resources and advice to schools and teachers about implementing inclusive education. This will include close consideration of the procedures and practices of applying reasonable adjustments in the classroom.</p> <p>The NSW Government is committed to improving the educational outcomes and wellbeing of First Nations students so that they excel and achieve in every aspect of their education, as set out in our Aboriginal Education Policy and our Innovate Reconciliation Action Plan. The department is committed to ensuring that First Nations students have access to an education and training system that values their cultural heritage. We will measure our progress through a number of ways in schools. This includes the School Improvement Plan and reporting through the Annual School Report.</p> <p>The NSW Education Standards Authority (NESA) similarly operates an inclusive education unit, aligning with the educational support functions of the recommendation.</p>
<p>Recommendation 7.8 Workforce capabilities, expertise and development Knowledge and skills</p> <p>a) The Education Ministers Meeting should commission the Australian Institute for Teaching and School Leadership (AITSL) to review and amend the Australian Professional Standards for Teachers (APST) to embed a human rights based approach to inclusive education for students with disability across teachers’ careers.</p> <p>b) To provide guidance for teachers on the revised APST, the Education Ministers Meeting should instruct AITSL to develop an inclusive education capability framework, setting out the knowledge, skills and attitudes to deliver inclusive education.</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments supports the Disability Royal Commission’s vision to build workforce capability and expertise and strengthen complaints management practices.</p> <p>Considerable progress has already occurred in relation to these recommendations as part of the National Teacher Workforce Action Plan and the review of the <i>Disability Standards for Education 2005</i> Review undertaken in 2020.</p>

<p>Continuing professional development</p> <p>c) State and Territory educational authorities should create and implement professional development strategies based on an inclusive education capability framework for principals, teachers, teaching assistants and teachers of deaf children.</p> <p>Disability expertise and skills shortages</p> <p>d) The Education Ministers Meeting should expand the National Teacher Workforce Action Plan to identify actions that can strengthen initial teacher education in inclusive education and attract and retain people with disability and others with expertise in delivering inclusive education.</p> <p>e) State and Territory governments should increase access to expertise in inclusive education in government schools by:</p> <ul style="list-style-type: none"> • employing lead practitioners specialising in inclusive teaching, behavioural support and deaf education to work across schools in a regional catchment to initiate and lead activities that focus on improving educational opportunities for students with disability, including by establishing inclusive learning environments that meet the needs of students • employing skilled and qualified Auslan interpreters • setting employment targets for people with disability in government schools and working with all school sectors in their jurisdiction to increase disability employment. 	<p>Additional NSW comment</p> <p>The NSW Government remains committed to enhancing professional development and expertise in inclusive education across NSW schools. The NSW Department of Education has professional development strategies in place as well as a range of resources aimed to ensure our workforce is equipped with the necessary knowledge and skills to foster inclusive learning environments.</p> <p>Additionally, the NSW Government recognises the need to bolster expertise in inclusive education within government schools, including teachers who specialise in inclusive teaching, behavioural support, and deaf education. The NSW Government recognises the complex challenge presented by the current teacher shortage, but is committed to addressing this through the National Teacher Workforce Action Plan, along with the Commonwealth, States and Territories.</p> <p>The NSW Government is committed to increasing accessibility and disability employment across the public sector, including in education.</p>
<p>Recommendation 7.9 Data, evidence and building best practice</p> <p>Data development and collection</p> <p>a) The Education Ministers Meeting should:</p> <ul style="list-style-type: none"> • commission a national project to develop data definitions and data collection methods to enable consistent and comparable reporting on educational experiences and outcomes of students with disability • ensure data and information (as detailed at the Appendix and disaggregated by Nationally Consistent Collection of Data on 	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support a vision for improved data and evidence on the experience and outcomes of students with disability, building best practice for inclusive education and improving funding for students with disability. Implementing these recommendations requires further consideration by governments, including further work to consider data collection categories and reporting. In addition, implementing components of these</p>

<p>School Students with Disability (NCCD) category, gender, age, stage of schooling, First Nations students, students from culturally and linguistically diverse backgrounds and LGBTIQ+ status) is collected by State and Territory departments on:</p> <ul style="list-style-type: none"> – student experiences – school outcomes for students with disability – progress in addressing barriers to inclusive education practices. <p>b) State and Territory governments should enhance data systems and processes to enable all schools to submit at least the minimum data required in the prescribed format.</p> <p>c) State and Territory school registration authorities should:</p> <ul style="list-style-type: none"> • embed data requirements set by the Education Ministers Meeting in registration requirements for all schools in their jurisdiction • require parents registering children with disability for home schooling with the state or territory school regulator to submit standardised information about their child’s educational, social and behavioural progress and support needs to improve understanding of students with disability who are being home schooled and their outcomes. <p>Monitoring and reporting</p> <p>d) State and Territory education departments should annually report jurisdictional data to the Education Ministers Meeting on minimum data requirements for students with disability. Based on the jurisdictional data, the Education Ministers Meeting should monitor and publicly report annually on:</p> <ul style="list-style-type: none"> • the educational experiences of students with disability • outcomes of students with disability • progress in addressing barriers to inclusive education practices. <p>e) To improve reporting of disability data, the Education Ministers Meeting should:</p>	<p>recommendations will require consideration of impacts on workload for schools and data management systems.</p> <p>State and Territory governments will consider how to deliver the intent of these recommendations within their jurisdictions.</p> <p>Additional NSW comment: The NSW Government is committed to enhancing the monitoring of outcomes for students with disability to support best practices in inclusive education.</p> <p>The NSW Government recognises the need to avoid duplication and minimise administrative burden on schools. The Government will work closely with stakeholders to address concerns and ensure any data collection respects privacy while enhancing educational support for students with disability across NSW.</p>
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<ul style="list-style-type: none"> • publish school-level NCCD student numbers (by adjustment level) on the My School website, having due regard for privacy issues • commission the Australian Curriculum Assessment and Reporting Authority to work with States and Territories on data collection requirements to enable reporting on National Assessments Program – Literacy and Numeracy results for students with disability • include broader school workforce characteristics and information about workforce shortages in State and Territory and Australian Government annual inclusive education reporting. <p>f) To improve the evidence base for best practice for inclusive education, the Education Ministers Meeting should commission the Australian Education Research Organisation to:</p> <ul style="list-style-type: none"> • develop a research program about inclusive education practices, working with teachers, schools, education systems and people with disability • conduct and coordinate inclusive education research • support schools to translate research into school practices. 	
<p>Recommendation 7.10 Complaint management</p> <p>a) State and territory governments should create or expand existing complaint management offices that operate within educational authorities at arm's length from schools to help resolve complaints about schools, specifically complaints concerning the treatment of students with disability. These offices should be empowered to:</p> <ul style="list-style-type: none"> • provide students and parents with information about their rights and options when managing complaints • request information and conduct conciliations, connecting families with advocacy support and specialist disability expertise where needed 	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments supports the Disability Royal Commission's vision to build workforce capability and expertise and strengthen complaints management practices.</p> <p>Considerable progress has already occurred in relation to these recommendations as part of the National Teacher Workforce Action Plan and the review of the Disability Standards for Education 2005 Review undertaken in 2020.</p> <p>Additional NSW comment:</p>

<ul style="list-style-type: none"> • initiate a formal investigation if a complaint is serious or otherwise indicates systemic issues • support and assist the complainant in referring matters to the appropriate regulator or independent oversight body if a complaint cannot be effectively resolved • work with schools to analyse complaints and regularly report on how education systems might improve to reduce future complaints • work with school principals to ensure school policies are student-centric, accessible, efficient, safe, trauma-informed and culturally appropriate. <p>b) The Australian Government should include new duties and measures relating to complaint management procedures in the <i>Disability Standards for Education 2005</i> (Cth) (Education Standards) to help achieve national quality and consistency, and ensure complaint handling processes are student-centric, accessible, efficient, safe, trauma-informed and culturally appropriate.</p> <p>c) State and territory school registration authorities should embed new complaint handling duties and measures for compliance, as defined in the Education Standards, in registration requirements for all schools in their jurisdiction as a basis to monitor and enforce compliance.</p> <p>d) School principals should ensure their school-level operating policies and procedures for handling complaints:</p> <ul style="list-style-type: none"> • satisfy the Education Standards requirements • are student-centric, accessible, efficient, safe, trauma-informed and culturally appropriate are observed in practice. 	<p>The Australian & NZ Standards in Complaint Handling, the NSW Government Commitments to Effective Complaint Handling and associated guidance underpin complaint management practice within our education system.</p> <p>The NSW Government recognises the importance of effective complaint processes so that employees and community members can raise concerns about our services and they are addressed fairly, impartially, promptly, locally and as informally as possible. The NSW Education department implemented revised Community Complaint procedures and Staff Complaint procedures in May 2024, following extensive stakeholder consultation. The revised procedures clarify and streamline the department's processes for addressing complaints, and provide direction and guidance on raising and addressing concerns about the department's products, services, employees and complaint handling. This procedure review also highlighted the need for a framework to support the department's engagement with communities. A Community Engagement Policy is in the early stages of development, which will provide greater guidance to schools and education support areas.</p>
<p>Recommendation 7.11 Stronger oversight and enforcement of school duties</p> <p>a) State and Territory governments should strengthen the enforcement of inclusive education practices by expanding school registration requirements to include:</p>	<p>NSW Response: <u>Accept in principle</u></p> <p>The NSW Government supports in principle, any amendments to the school registration requirements and regulatory oversight which aims to improve the safety, inclusivity and quality of education for students with disability.</p>

<ul style="list-style-type: none"> • school enrolment policies (see Recommendation 7.1) • procedures to ensure members of the school workforce understand their obligations and are supported to access professional development (see Recommendation 7.8) • procedures to collect, analyse and report on complaints and the use of restrictive practices and exclusionary discipline (see Recommendations 7.2 and 7.10) • reporting on the use of funding for students with disability (see Recommendation 7.12). <p>b) State and Territory school registration authorities should monitor compliance with these requirements through cyclical reviews of schools and out-of-cycle reviews in response to individual complaints (or complaint trends) or other information that indicates possible non-compliance with regulatory requirements.</p> <p>c) The Western Australian, Australian Capital Territory and Northern Territory governments should identify appropriate mechanisms to ensure government schools in their jurisdictions are subject to these mandatory obligations, with appropriate monitoring, compliance and enforcement.</p>	<p>The NSW <i>Education Act 1990</i> and NSW school registration requirements currently require all schools to provide a safe and supportive environment for students.</p>
<p>Recommendation 7.12 Improving funding</p> <p>a) The Australian Government should work with the Education Ministers Meeting to refine the Nationally Consistent Collection of Data on School Students with Disability (NCCD) levels of adjustments and associated funding for students with disability in response to the findings of the Student with disability loading settings review.</p> <p>b) The Australian Government and the Education Ministers Meeting should review disability loading settings and total funding for adjustments every five years to ensure the funding allocated bears a close relationship to the actual cost of supporting students with disability in classrooms and to determine appropriate indexation and distribution of funding.</p> <p>c) State and Territory governments should ensure they are using a</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support a vision for improved data and evidence on the experience and outcomes of students with disability, building best practice for inclusive education and improving funding for students with disability.</p> <p>Implementing these recommendations requires further consideration by governments, including further work to consider data collection categories and reporting. In addition, implementing components of these recommendations will require consideration of impacts on workload for schools and data management systems.</p>

<p>disability funding model based on strengths and needs that aligns with enhanced NCCD levels of adjustment and Australian Government needs-based funding arrangements to enable students with disability to access and participate in education on an equal basis to their peers.</p> <p>d) State and Territory education departments should improve transparency on the use of disability funding in the government school sector by:</p> <ul style="list-style-type: none"> • developing a methodology and reporting template to record the use of all sources of school funding against defined categories of adjustments and support for students with disability • applying this methodology and template to record expenditure on services and staff commissioned by the department on behalf of schools for students with disability • publicly reporting on how the needs of students with disability are being met from all available resources, with early priority given to capturing the use of disability-specific loadings and other disability-specific program funding. <p>e) State and territory school registration authorities should require schools to complete the funding template mentioned at d) and submit the template to the relevant state or territory education department.</p>	<p>State and Territory governments will consider how to deliver the intent of these recommendations within their jurisdictions.</p> <p>Additional NSW comment: The NSW Government welcomes the opportunity to enhance disability funding arrangements nationally, aligning them with a needs-based approach and the Nationally Consistent Collection of Data on school students with disability.</p> <p>The NSW Government acknowledges the importance of comprehensive funding models that consider both student needs and school contexts. The Government is committed to continuing to collaborate with the Commonwealth Government to ensure funding frameworks effectively support the diverse needs of students with disability in NSW schools.</p>
<p>Recommendation 7.13 National Roadmap to Inclusive Education</p> <p>a) The Education Ministers Meeting should publicly release a ‘National Roadmap to Inclusive Education’ for students with disability. The roadmap should:</p> <ul style="list-style-type: none"> • detail the outcome measures, targets, actions and milestones for delivering the Royal Commission’s recommendations for inclusive education • provide public transparency on how the recommendations will be implemented and progress tracked and publicly reported. <p>b) State and Territory education ministers should report annually to the Education Ministers Meeting on progress against agreed milestones and</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support the Disability Royal Commission’s vision for more accessible and inclusive education for school students with disability.</p> <p>Education Ministers commit to work in partnership with people with disability to set out how this vision will be achieved over time.</p> <p>Additional NSW comment: The Government supports the public release of a national roadmap to advance inclusive education nationwide. A shared national vision will</p>

<p>associated outcome performance measures in the roadmap. Annual progress reports should outline actions to overcome identified barriers to progress and be publicly released.</p> <p>c) The Education Ministers Meeting should identify the National Roadmap to Inclusive Education in its 2024 report to National Cabinet as one of its priorities and include it in its workplan.</p>	<p>enable States and Territories to collectively address barriers and enhance the inclusivity of our education systems.</p>
<p>Recommendation 7.14 Phasing out and ending special/segregated education</p> <p>Commissioners Bennett, Galbally and McEwin recommend:</p> <p>a) The Australian Government and State and Territory governments should recognise that inclusive education as required by article 24 of the <i>Convention on the Rights of Persons with Disabilities</i> is not compatible with sustaining special/segregated education as a long-term feature of education systems in Australia.</p> <p>b) As part of the National School Reform Agreement 2025–2029, the Education Ministers Meeting should agree to:</p> <ul style="list-style-type: none"> • the phasing out of special/segregated education • no new special/segregated schools being built or new special/segregated classes or units being included within schools from 2025 • a process for work on milestones and activities related to ceasing special/segregated education by all jurisdictions. <p>c) As part of the National School Reform Agreement 2030–2034, the Education Ministers Meeting should agree to milestones for phasing out and ending special/segregated education settings and financial penalties for failing to meet these milestones, including:</p> <ul style="list-style-type: none"> • no new enrolments of students with disability in special/segregated schools from 2032 • no new placements of students with disability in special/segregated units or classes from 2041 	<p>Joint Response for recommendations 7.14 to 7.15: <u>Note</u></p> <p>The Australian Government and State and Territory governments note the differing views held by Commissioners and the community on special /segregated settings.</p> <p>The Australian Government recognises the ongoing role of specialist settings in service provision for students with disability and providing choice for students with disability and their families.</p> <p>State and Territory governments will continue to be responsible for making decisions about registration of schools in their jurisdictions, with the intent to strengthen inclusive education over time.</p> <p>Additional NSW comment:</p> <p>The NSW Government acknowledges and respects the broader intent and goals outlined in the joint response to 7.14 and 7.15, enabling the government to assess these recommendations within our state's educational framework. This allows us to tailor our responses to best suit the needs and circumstances of NSW schools and students.</p> <p>The NSW Government chooses to support a balanced approach, aligning with Recommendation 7.15, to ensure inclusivity while respecting community preferences. This decision reflects our thorough consideration of the specific implications and feasibility of implementing these recommendations within our educational environment.</p>

<ul style="list-style-type: none"> • no students remaining in special/segregated schools by the end of 2051. <p>d) The Education Ministers Meeting should update the Roadmap to Inclusive Education and Australia's Disability Strategy to incorporate the milestones and actions to phase out and end special/segregated education settings included in the National School Reform Agreement 2030–2034.</p> <p>e) The Australian Government should consider the design of a 'Transition Fund' under the National School Reform Agreement from 2028 to provide discrete funding to schools that require additional support as part of their transition journey, with clear performance and reporting requirements.</p> <p>f) Consistent with phasing out and ending special/segregated education, states and territories should implement the following recommendations:</p> <ul style="list-style-type: none"> • when no students are in special/segregated schools, the sunsetting of: <ul style="list-style-type: none"> – measures to prevent gatekeeping (see Recommendation 7.1) – provisions to facilitate the engagement of students with disability enrolled in special/segregated schools with students and activities of mainstream schools (see Recommendation 7.4) • to prevent stigmatisation and segregation of students with disability, ensure the careers guidance and transition support program for students with disability (see Recommendation 7.5): <ul style="list-style-type: none"> – is delivered alongside careers guidance for students without disability – has clear rules that no student with disability can be referred to work experience or employment through Australian Disability Enterprises. 	<p>The NSW Government recognises the varied perspectives on specialist settings within the educational landscape, as evidenced by differing views among stakeholders and commissioners. The Government is committed to supporting educational environments that cater effectively to all students, fostering inclusive practices while recognising the importance of choice and diversity in educational provision. We acknowledge that specialist settings play a crucial role in meeting the diverse needs of students and offer choice to families in selecting the most suitable educational environment.</p>
<p>Recommendation 7.15 An alternative approach</p>	<p>See 7.14.</p>

The Chair and Commissioners Mason and Ryan recommend:

a) State and Territory educational authorities should implement the following measures:

- wherever practicable locate new non-mainstream schools (that is, schools that enrol exclusively or primarily children and young people with complex support needs) and relocate existing non-mainstream schools within or in close proximity to mainstream schools
- create partnerships between mainstream and non-mainstream schools as a means of encouraging and arranging regular interchange between groups of students enrolled in the schools
- facilitate to the maximum extent feasible participation by individual students and groups of students enrolled in non-mainstream schools in educational, cultural, sporting, recreational and celebratory activities with their peers in partnership with mainstream schools and other educational institutions
- arrange for students in non-mainstream schools, where practicable, to participate in classes and educational activities with their peers in mainstream schools
- establish programs for students enrolled in mainstream schools to participate in activities with their peers in non-mainstream schools
- provide, where appropriate, for concurrent enrolment for individual students in both mainstream and non-mainstream schools
- assist non-mainstream schools to facilitate where appropriate, the transition of students with disability, particularly those with complex support needs, to mainstream schools, whether on a full-time or part-time basis
- provide assistance to mainstream and non-mainstream schools in understanding the strengths and skills of students with disability

<p>for post-school transition, including assistance in planning and preparing for further study and training</p> <ul style="list-style-type: none"> • ensure non-mainstream schools encourage and support students with disability completing their education to seek and obtain employment in the open labour market, rather than in Australian Disability Enterprises or similar environments. <p>b) The National Disability Commission (see Recommendation 5.5) should conduct or arrange for a comprehensive review of progress towards providing inclusive education for children and young people with complex support needs. The review's assessment should include the matters we have identified.</p>	
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Part B - Inclusive Employment

Volume 7 Part B includes 17 recommendations.

Recommendation	Response
<p>Recommendation 7.16 Priorities for inclusion in the new Disability Employment Services model</p> <p>a) is developed using inclusive design principles, and co-designed by people with disability who are employed as paid members of the design team</p> <p>b) adopts customised employment models as a core component of service provision</p> <p>c) ensures funding arrangements facilitate flexible employment supports, such as customised employment, and support the progress of Disability Employment Services participants in achieving employment goals and long-term employment outcomes</p> <p>d) considers options to remove the requirement for a person to have a minimum future work capacity of eight hours a week in order to access the Disability Employment Services program, to facilitate access for all people with disability to the new model.</p>	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>
<p>Recommendation 7.17 Develop education and training resources for Disability Employment Services staff</p> <p>The Australian Government Department of Social Services should develop a suite of accessible education and training resources for providers of Disability Employment Services to upskill their staff. Resources should be co-designed by people with disability and involve consultation with advocates, employers and Disability Employment Services providers. Resources should address the gaps we have identified, including in:</p> <ul style="list-style-type: none"> • disability awareness • cultural competence 	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

<ul style="list-style-type: none"> • human rights • customised employment • employer engagement • Disability Employment Services guidelines and procedures. 	
<p>Recommendation 7.18 Establish specific and disaggregated targets for disability employment in the public sector</p> <p>The Australian Government and State and Territory governments should adopt specific and disaggregated targets to increase the proportion in the public sector of:</p> <ul style="list-style-type: none"> • employees with disability at entry and graduate levels • employees with disability at executive levels • employees with cognitive disability. <p>Public sector targets should be supported by:</p> <ul style="list-style-type: none"> • clear employment pathways into the relevant public services for each target cohort • measures and programs to support the recruitment and progression of each target cohort • provision of appropriate supports. <p>The Australian Public Service Commission and State and Territory public service commissions should ensure these targets contribute to their existing overall employment targets for people with disability.</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support continued action to increase opportunities for people with disability in public sector employment across Australia.</p> <p>All governments recognise that people with disability have a right to work, and that employment supports an individual's social and economic participation and independence in society.</p> <p>As large employers, public services have a crucial national role as leaders in modelling best practice inclusion that can positively influence other employers and workplaces.</p> <p>Governments agree that specific employment targets can have a positive impact on the number of people with disability employed in the public sector, noting that some jurisdictions may need to further consider data limitations and privacy considerations before committing to disaggregated targets.</p> <p>The Australian Government and state and territory governments also support continued and increased focus on ensuring public sector workplaces are accessible and inclusive for people with disability, including through workplace adjustments. Public service commissioners will work together to share best practice on improving public sector employment outcomes for people with disability.</p>

	<p>Governments also support in principle adopting procurement policies that encourage inclusive employment practices in the private sector, noting governments will individually consider opportunities and approaches that most appropriately work with respective government procurement frameworks.</p> <p>Additional NSW comment: Implementation will consider issues and challenges around data availability, the feasibility to achieve the targets, and application in specific contexts.</p> <p>Information is published annually on NSW public sector disability employment strategies and targets through the State of the Public Sector Report, Workforce Profile Report and the People Matter Employee Survey report, as well as through Disability Inclusion Plan Reporting.</p>
<p>Recommendation 7.19 Establish specific disability employment targets for new public service hires in agencies and departments The Australian Government and State and Territory government departments and agencies should be required to set a target to ensure that a proportion of new public service hires to their respective workforce are people with disability. The target should be at least 7 per cent by 2025. The target should increase to at least 9 per cent by 2030.</p>	<p>Joint Response: <u>Accept in principle</u> See Rec 7.18</p>
<p>Recommendation 7.20 Clarify the application of the merit principles in public sector recruitment The Australian Public Service Commission should incorporate clearer directions in Australian Public Service training and support on applying the merit principle in recruitment. Training and support materials should:</p>	<p>NSW Response: <u>Note</u> This recommendation is directed at the Australian Government.</p>

<p>specifically address the importance of having a diverse public sector workforce that reflects the community it serves and provide guidance in considering the need for diversity in the application of the merit principle in recruitment.</p>	
<p>Recommendation 7.21 Introduce consistent adjustment principles and adjustment passports</p> <p>The Australian Public Service Commission should:</p> <p>a) lead the development of common principles to underpin adjustment policies for providing and managing adjustments in the public sector. This should occur in partnership with State and Territory public service commissions. The principles should be used to inform Australian Government and State and Territory government department policies and procedures on adjustments. The principles should include:</p> <ul style="list-style-type: none"> • clear and accessible processes for staff to request adjustments • timeframes for implementing adjustments and a process for review and seeking feedback on adjustments • clear and accessible processes for making and responding to complaints relating to adjustments (including complaints about refusal to provide an adjustment) • clear policies on handling and sharing information about a person's disability or adjustments • referrals to internal and external supports in relation to requesting and managing adjustments • requirements to collect data on applications for, and the implementation of, adjustments. <p>b) develop an Australian Public Service-wide adjustment passport to improve the ease with which people with disability can maintain and transfer their adjustments when moving within the Australian Public Service.</p>	<p>Joint Response: <u>Accept in principle</u> See Rec 7.18</p>

<p>Recommendation 7.22 Public reporting on public sector disability employment strategies and targets</p> <p>The Australian Public Service Commission and State and Territory public service commissions should report annually on the progress of their public sector disability employment strategies, including progress against overall and disaggregated targets for increasing the percentage of employees with disability. These reports should be published and made available in accessible formats.</p>	<p>Joint Response: <u>Accept in principle</u> See Rec 7.18</p>
<p>Recommendation 7.23 Strengthen disability employment procurement policies</p> <p>The Australian Government and State and Territory governments should adopt procurement policies that:</p> <p>a) favour businesses and entities able to demonstrate, in accordance with published criteria, they are providing employment opportunities for people with disability in open, inclusive and accessible settings, including people with intellectual disability or cognitive impairments.</p> <p>b) require all information and communication technology purchases to comply with the current Australian information and communication technology (ICT) accessibility standard (AS EN 301 549:2020 – Accessibility requirements for ICT products and services).</p>	<p>Joint Response: <u>Accept in principle</u> See Rec 7.18</p>
<p>Recommendation 7.24 Convene a Disability Employment Rights Council</p> <p>The Australian Government should convene a Disability Employment Rights Council to improve coordination, consistency and clarity across regulatory bodies and frameworks to improve outcomes for people with disability in employment.</p>	<p>NSW Response: <u>Note</u> This recommendation is directed at the Australian Government.</p>
<p>Recommendation 7.25 Amend the <i>Fair Work Act 2009</i> (Cth)</p> <p>The <i>Fair Work Act 2009</i> (Cth) should be amended to:</p> <p>a) ensure the definition of ‘disability’ is consistent with the <i>Disability Discrimination Act 1992</i> (Cth)</p>	<p>NSW Response: <u>Note</u> This recommendation is directed at the Australian Government.</p>

b) remove the words ‘physical and mental’ preceding ‘disability’ in sections 351 and 772.	
<p>Recommendation 7.26 Amend the <i>Disability Discrimination Act 1992</i> (Cth)</p> <p>Section 21A of The <i>Disability Discrimination Act 1992</i> (Cth) should be amended to expand the factors to be considered in determining whether a prospective or existing employee would be able to carry out the inherent requirements of a particular role. These factors include the:</p> <ul style="list-style-type: none"> • nature and extent of any adjustments made • extent of consultation with any person with disability concerned. 	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>
<p>Recommendation 7.27 Enable a Fair Work Ombudsman referral mechanism</p> <p>The Australian Government should expand the functions of the Fair Work Ombudsman to allow a matter involving an employee with disability to be referred back to the Fair Work Ombudsman by relevant authorities if they:</p> <ul style="list-style-type: none"> • consider a complaint may be best addressed by the Fair Work Ombudsman • have the complainant’s consent to do so. <p>The referral mechanism should be available in instances where a matter was initially referred by the Fair Work Ombudsman to a relevant authority.</p>	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>
<p>Recommendation 7.28 Improve information about wages and the Disability Support Pension</p> <p>The Australian Government should fund Disability Representative Organisations to deliver an information campaign for employees with disability in Australian Disability Enterprises. This campaign should provide information about:</p> <ul style="list-style-type: none"> • open employment, including wage conditions 	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

<ul style="list-style-type: none"> • how receipt of the Disability Support Pension (DSP) interacts with a person's wages, including: <ul style="list-style-type: none"> – assistance with financial literacy materials – supports for individuals to calculate how changes to their DSP or wages impact their overall income and financial situation • options for a person to suspend their DSP if they are earning above the threshold • who to contact to ask questions or obtain further information. This information should be available in a range of accessible formats. 	
<p>Recommendation 7.29 Embed an 'open employment first' approach in the NDIS Participant Employment Strategy</p> <p>Following the conclusion of the NDIS Participant Employment Strategy in 2023, the National Disability Insurance Scheme (NDIS) should adopt an 'open employment first' approach in the next iteration of the strategy. The strategy should:</p> <ul style="list-style-type: none"> • ensure the development of employment goals in participants' NDIS plans considers employment in open and integrated employment settings as a first option • provide training for Local Area Coordinators, National Disability Insurance Agency planners and support coordinators to build knowledge, resources and capacity to encourage participants to: <ul style="list-style-type: none"> – develop employment goals in open and integrated employment settings as a first option – identify appropriate supports available to achieve open employment goals • establish a target to increase the proportion of participants in open and integrated employment settings • build the knowledge and capacity of NDIS employment support providers to assist participants to – 	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

<ul style="list-style-type: none"> – transition from Australian Disability Enterprises to open and integrated employment settings • provide ongoing support in open and integrated employment settings. 	
<p>Recommendation 7.30 Support the transition to inclusive employment</p> <p>The Australian Government Department of Social Services should develop a plan to support people with disability working in Australian Disability Enterprises (ADEs) to move to inclusive, open employment options in a range of settings.</p> <p>The plan should incorporate:</p> <ul style="list-style-type: none"> • the option for people with disability to continue working in ADEs, with strong and appropriate safeguards, if that is their free and informed choice. Commissioners Bennett, Galbally, Mason and McEwin provide a recommendation to phase out ADEs by 2034 (Recommendation 7.32). They support this element of Recommendation 7.30 until ADEs are phased out • action to increase employment opportunities in open and inclusive settings for people with disability (linking with Recommendation 7.29) • improved information for people with disability about employment supports, opportunities in other settings, wages and the Disability Support Pension (linking with Recommendation 7.28) • active consultation with people with disability, Disability Representative Organisations and Disabled People's Organisations Australia, and the adoption of inclusive design principles in developing and implementing the plan • the Australian Government working with industry to support people with disability to access more inclusive, open employment options and to transform their segregated employment services to a more comprehensive service offering improved collaboration between the National Disability Insurance Scheme and Disability 	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

<p>Employment Services to ensure different employment services work cohesively to deliver supports for people with intellectual disability and others.</p>	
<p>Recommendation 7.31 Raise subminimum wages</p> <p>a) The Australian Government should introduce a scheme to ensure that employees with disability are paid at least half the minimum wage. The scheme should include:</p> <ul style="list-style-type: none"> • revision of the productivity-based wages calculation to accommodate the move to a new minimum amount of 50 per cent of the current minimum wage • a provision for the Australian Government to subsidise employers for the difference between the wages payable under the relevant award or enterprise agreement and the new minimum wage until 2034. <p>b) A review of the scheme should be undertaken by the Disability Reform Ministerial Council after five years of operation.</p> <p>c) The Australian Government should use the results of the review to develop a model and pathway to lift minimum wages payable to employees with disability to 100 per cent of the minimum wage by 2034.</p>	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>
<p>Recommendation 7.32 End segregated employment by 2034</p> <p>a) Commissioners Bennett, Galbally, Mason and McEwin recommend the Australian Government Department of Social Services should develop and implement a National Inclusive Employment Roadmap to transform Australian Disability Enterprises (ADEs) and eliminate subminimum wages for people with disability by 2034.</p> <p>b) The National Inclusive Employment Roadmap should be centred on the following principles:</p> <ul style="list-style-type: none"> • equal access for people with disability to all opportunities for employment, starting with the Australian Public Service and State and Territory public services 	<p>Joint Response: <u>Subject to further consideration</u></p> <p>Supported employment refers to jobs where people with high employment support needs can receive extra support while they are at work.</p> <p>In Australia, around 160 Australian Disability Enterprises (ADEs), registered as NDIS providers, provide supported employment for approximately 16,000 people with disability. While ADEs currently play an important role in providing employment opportunities for people with disability, they are not, and should not, be the only employment option for people with high employment support needs.</p>

<ul style="list-style-type: none"> • increased availability of jobs for people with disability, especially in: <ul style="list-style-type: none"> – Australian and State and Territory public services supported by the payment of full minimum wages to all employees, consistent with the public sector acting as a model employer. This recommendation would operate in advance of Recommendation 7.31 to raise all subminimum wages to the full minimum wage by 2034 – non-government organisations that receive government grants – private companies that receive government procurement contracts • availability of evidence-based supports to facilitate job readiness, participation and ongoing development, particularly for people with intellectual disability • better pathways to work for people with disability • as set out in Recommendation 7.31, lifting wages to 50 per cent of the minimum wage, with all people with disability moving to the full minimum wage by 2034 (noting our expectation that the public sector, as a model employer, will pay full minimum wages to employees with disability before that time) • governance and accountability for system change. <p>c) The National Inclusive Employment Roadmap should address:</p> <ul style="list-style-type: none"> • the reform of ADEs to operate in accordance with the social firm model, providing open workplaces in which employees with disability can receive support in an integrated setting to undertake work tasks, develop skills and transition to further open employment • the establishment of a grant-based Structural Adjustment Fund to support increases in the minimum wage and achieve transformation targets in ADEs 	<p>In October 2022, Disability Ministers convened a supported employment roundtable with people with disability, family representatives, ADE representatives, peak bodies and other sector experts. Attendees developed a set of guiding principles for the future of supported employment. The principles aim to ensure people with high support needs have informed choice and control, real options for employment and a range of support to meet their employment goals.</p> <p>To ensure the guiding principles are brought to life, Disability Ministers agreed a national Supported Employment Plan in November 2023. The plan is focused on providing people with informed choice and control about their employment, as well as genuine opportunities to work in a wider range of settings, be it in an ADE, social enterprise, in open employment or in their own business.</p> <p>The Australian Government and State and Territory governments acknowledge the significant community interest, and diversity of views, around the Disability Royal Commission’s recommendations on supported employment.</p> <p>Commissioners Bennett, Galbally, Mason and McEwin recommend the Australian Government develop a National Inclusive Employment Roadmap to transform ADEs and end segregated employment by 2034. While the Chair and Commissioner Ryan have no issue with the implementation of a plan to guide changes that should occur in the operation of ADEs and similar workplaces, they do not describe this process as ending segregated employment. The Chair and Commissioner Ryan do not consider every workplace established exclusively for people with disability should be characterised as segregated in the pejorative sense in which the word is typically understood. They consider workplaces exclusively for people with disability may have a continuing,</p>
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<ul style="list-style-type: none"> • support for people with disability to transition to open employment through programs such as the School Leaver Employment Supports program. <p>d) To support the National Inclusive Employment Roadmap as ADEs transform into social firms, government procurement rules should also be amended to give preference to enterprises that can demonstrate they provide employment opportunities to people with disability in open, inclusive and accessible settings and pay employees with disability at least the full minimum wage at the time of the procurement process (this recommendation would operate in advance of the general recommendation to raise all subminimum wages to the full minimum wage by 2034).</p> <p>e) The implementation of the National Inclusive Employment Roadmap should be monitored by the Disability Reform Ministerial Council.</p>	<p>albeit diminishing, role in providing employment opportunities, especially for people with intellectual or cognitive disability.</p> <p>The Australian Government will undertake consultation to further consider views and implications associated with this recommendation and then determine next steps. Disability Ministers will also update the Supported Employment Plan in 2024.</p>
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Part C - Inclusive Housing

Volume 7 Part C includes 12 recommendations.

Recommendation	Response
<p>Recommendation 7.33 Prioritise people with disability in key national housing and homelessness approaches</p> <p>a) The Australian Government should, in collaboration with State and Territory governments, expressly identify people with disability in key housing-related agreements and planning including the: National Housing and Homelessness Agreement (NHHA), which should include people with disability as a priority group in housing and homelessness reforms including in the proposed National Housing and Homelessness Plan, which should include people with disability as a priority group, and include the measurement and evaluation of outcomes for people with disability and the National Housing Supply and Affordability Council, which should include people with disability as a priority group in the development of housing supply and affordability policy advice, data collection and reporting.</p> <p>b) All State and Territory governments should include people with disability in housing and homelessness strategies, policies and action plans developed under the NHHA. This should include people with disability as a priority group, and the monitoring and evaluation of implementation and outcomes for people with disability.</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments recognise the additional barriers some people with disability face in accessing appropriate housing, and the disproportionate risks and impacts of homelessness among people with disability.</p> <p>The National Housing Supply and Affordability Council's inaugural report State of the Housing System 2024 highlights the rising number of people with disability and that the lack of accessible, inclusive housing disproportionately impacts on people with fixed or low incomes, particularly those with high support needs.</p> <p>All governments have committed to an ambitious housing reform agenda to boost the supply of all housing, and increase housing and homelessness supports for vulnerable communities.</p> <p>To prioritise accessible housing for people with disability, governments will continue working together to develop integrated responses. With respect to the items listed in the recommendation:</p> <ul style="list-style-type: none"> • The National Agreement on Social Housing and Homelessness (replacement of the NHHA) is designed to help people who are experiencing, or at risk of, homelessness and support the effective operation of Australia's social housing and homelessness services sectors. It provides jurisdictions with flexibility to address issues for cohorts with disproportionate disadvantage, such as people with disability. The funding

	<p>available to states and territories through the National Agreement on Social Housing and Homelessness can be prioritised through inclusion of people with disability as a priority group in housing and homelessness strategies, policy and action plans development un the agreement, and the monitoring and evaluation of implementation and outcomes for people with disability.</p> <ul style="list-style-type: none"> • The proposed National Housing and Homelessness Plan is under development and is subject to negotiation between the Australian Government and State and Territory governments. It is expected the Plan will be released later in 2024. • The enabling legislation for the Supply Council, the <i>National Housing Supply and Affordability Council Act 2023</i>, acknowledges the importance of accessibility for people with disability as it is one of the areas of expertise considered when appointing members. <p>In addition, other housing policies and programs recognise the importance of supporting people with disability. For example:</p> <ul style="list-style-type: none"> • New homes delivered under the National Housing Accord and the Housing Australia Future Fund are required to meet standards in the 2022 National Construction Code relating to liveable housing design. • The Safe Places Inclusion Round focuses on increasing access to appropriate emergency accommodation for women and children experiencing family and domestic violence (FDV), including women and children with disability. New builds delivered under the Safe Places Inclusion Round are required to meet Liveable Housing Australia Silver level accreditation.
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<p>Recommendation 7.34 Include homelessness in Australia’s Disability Strategy</p> <p>The Australian Government should increase the focus on homelessness in Australia’s Disability Strategy by:</p> <p>a) ensuring consultations concerning, and reviews of, Australia’s Disability Strategy include people with disability at risk of experiencing homelessness and their representative organisations</p> <p>b) expressly including homelessness as a policy priority within the ‘Inclusive Homes and Communities’ key outcomes.</p>	<p>Joint Response: <u>Accept</u></p> <p>The Australian Government and State and Territory governments agree to increasing the focus on homelessness in Australia’s Disability Strategy 2021-2031 and are prioritising consideration of this through the review of Australia’s Disability Strategy 2021-31 being undertaken in 2024 in response to recommendation 5.2.</p>
<p>Recommendation 7.35 Increase the availability and supply of accessible and adaptive housing for people with disability through the National Construction Code</p> <p>State and Territory governments should commit to increasing the availability and supply of accessible and adaptive housing for people with disability by:</p> <p>a) immediately adopting the mandatory Australian Building Codes Board (ABCB) Livable Housing Design Standard for all new dwellings if they have not done so already, and developing a plan for the full implementation of the standard, including timeframes and outcomes measures</p> <p>b) adopting the voluntary ABCB Livable Housing Design Standard for all new social housing construction</p> <p>c) auditing the demand for, and accessibility of, current crisis housing (including domestic family violence shelters and refuges, and natural disaster crisis accommodation) to –</p> <ul style="list-style-type: none"> • determine the appropriate amount, location and cost of crisis housing required to meet the needs of people with disability • set appropriate targets for new crisis housing construction and refurbishment that meet the voluntary ABCB Livable Housing Design Standard. 	<p>NSW Response: <u>Subject to further consideration</u></p> <p>7.35(a)</p> <p>The NSW Government remains committed to ensuring NSW delivers quality, affordable and trustworthy homes to meet NSW’s housing needs.</p> <p>The Government is continuing to work with other jurisdictions to understand the impact of the new accessible housing provisions on the delivery of affordable and accessible homes in other States to determine how it could impact the NSW’s delivery of affordable homes.</p> <p>7.35(b) social housing construction</p> <ul style="list-style-type: none"> • Design requirements for social housing stipulate a minimum Silver Level (of the Livable Housing Design Guidelines) for new ground level and lift-accessible properties and Silver Standard interiors for new dwellings where lifts are not available. • Where possible, Homes NSW builds a proportion of social homes to Livable Housing Design Guidelines Gold performance level with some Platinum level features. • When designing and planning for new social homes, Homes NSW also considers how close they are to shops and essential services, and how easy it will be for people to get around their neighbourhood.

	<ul style="list-style-type: none"> • On average, over 2,280 properties are modified every year, supporting public housing tenants to live independently and safely in their homes. • As of 31 March 2023, the Social & Affordable Housing Fund has delivered 2,983 (of 3,089) homes that meet the requirements of the Liveable Housing Australia silver standard. <p>7.35 (c) Disaster Welfare</p> <p>The NSW Government provides shelter for people evacuated during emergencies through evacuation centres and commercially arranged emergency accommodation. Every effort is made to provide for the needs of all people who require shelter and emergency accommodation including triaging the needs of people with disability and offering priority placement in appropriately facilitated commercial accommodation. Evacuation centres are regularly audited to ensure they are fit for purpose and accessible to the public in emergencies. All people are encouraged to develop their own emergency plans including when to go early and where they may go if forced to evacuate.</p>
<p>Recommendation 7.36 Improve social housing operational policy and processes</p> <p>State and Territory governments should develop and implement accessible and inclusive processes for allocating and modifying social housing for people with disability, including by:</p> <p>a) reviewing and amending application processes to:</p> <ul style="list-style-type: none"> • identify whether applicants have a disability or accessibility needs, including those relating to communication, housing and access to community/support networks and services • put processes in place to update this information as needs change <p>b) reviewing, amending and publishing (in accessible formats) housing allocation and ‘reasonable offer’ policies and procedures to ensure these</p>	<p>NSW Response: <u>Accept</u></p> <p>Homes NSW is working to improve its social housing policy and processes to make them more accessible and inclusive for people with disability and anticipates they will be implemented in late 2024.</p>

<p>can be easily understood and do not disadvantage people with disability seeking particular adjustments or modifications, or people who decline housing for accessibility reasons</p> <p>c) reviewing, amending and publishing (in accessible formats) housing modification policies. The policies should clearly articulate who is responsible for organising and funding housing modifications, expected timeframes, and contacts for following up and raising concerns.</p>	
<p>Recommendation 7.37 Increase tenancy and occupancy protections for people with disability</p> <p>States and Territories should review legislation governing the tenancy and occupancy rights of people with disability and adopt the best regulatory and legislative models currently in force, including:</p> <p>a) in the case of tenancies –</p> <ul style="list-style-type: none"> • enacting legislation to replace landlords’ ‘no-grounds’ termination rights with ‘reasonable grounds’ as currently specified in Victoria, Queensland and Tasmania • for both social housing and private housing tenancies, where a tribunal has discretion whether or not to order termination of the tenancy or that the tenant give up possession, empowering the tribunal to take the tenant’s or a co-occupier’s disability and the nature of that disability into account. <p>b) in the case of non-tenancy accommodation –</p> <ul style="list-style-type: none"> • adopting the provisions included in the <i>Residential Tenancies Act 1997</i> (Vic) Part 12A to protect residents of Specialist Disability Accommodation (SDA) under the National Disability Insurance Scheme • introducing ‘occupancy principles’ similar to those under the <i>Boarding Houses Act 2012</i> (NSW), to cover all non-SDA housing, such as assisted boarding houses in New South Wales and supported residential services in Victoria 	<p>NSW Response: <u>Accept in principle</u></p> <p>The NSW Government is committed to ending no grounds terminations and improving protections for occupants in residential tenancies and shared accommodation.</p> <p>A statutory review of the Boarding Houses Act 2012 has been completed. The incorporation of the specific elements of the recommendation will be considered as part of the development/drafting of the of future legislation.</p>

<ul style="list-style-type: none"> • extending these occupancy principles to cover ‘general boarding houses’ in New South Wales and unsupported boarding and rooming houses in other jurisdictions where many people with disability live. This reform should include conferring jurisdiction on the appropriate tribunal to resolve disputes, particularly in relation to eviction • in hearing disputes about eviction, tribunals be required when determining whether to make an eviction order to consider the occupant’s disability, the nature of that disability, the possibility of retaliatory eviction, and the likelihood of finding suitable alternative accommodation. 	
<p>Recommendation 7.38 Minimum service standards and monitoring and oversight of supported residential services and their equivalents</p> <p>This recommendation applies to State and Territory government entities responsible for regulating privately operated and government-funded board and lodging-type supported accommodation services—including supported residential services (SRS) (in Victoria), assisted boarding houses (in New South Wales), Level 3 residential centres (Queensland), and supported residential facilities (SRF) (in South Australia). The entities should develop and implement minimum service and accommodation standards, strengthen oversight mechanisms, and increase service-level monitoring activities and compliance action, as follows:</p> <p>a) Minimum standards should require all SRS providers and their equivalents in other jurisdictions to –</p> <ul style="list-style-type: none"> • develop support plans for each resident, covering personal care, financial management, medication management, and the use of restrictive practices • keep up-to-date records of how services are delivered in line with support plans, to allow regulatory bodies to more effectively monitor the quality of supports and services by regulatory bodies 	<p>NSW Response: <u>Accept in principle</u></p> <p>NSW Assisted Boarding Houses are registered with NSW Fair Trading and licenced by the Department of Communities and Justice as prescribed under the <i>Boarding Houses Act 2012</i>.</p> <p>A statutory review of the <i>Boarding Houses Act 2012</i> has been completed. The incorporation of the specific elements of the recommendation will be considered as part of the development/drafting of new legislation.</p>

<ul style="list-style-type: none"> • establish clear complaint management processes, including how complaints are reported to the central registration body, and a feedback loop for residents, their family and advocates • guarantee access to independent advocacy services through advocacy organisations and community visitor schemes • support residents to access independent advocacy services focused on identifying alternative, longer term accommodation options in recognition of the transitional nature of these services. <p>b) Monitoring and oversight mechanisms for SRS and their equivalents in other jurisdictions should –</p> <ul style="list-style-type: none"> • require central registration for all SRS and equivalent services with the relevant State or Territory department responsible for SRS standards • require all SRS and their equivalents to undergo an initial audit when seeking registration, as well as ongoing audits (minimum yearly) for monitoring and compliance with all minimum standards • audits should include direct engagement with people with disability residing in SRS and their equivalents, and should be undertaken centrally by the responsible state or territory department • establish procedures to monitor services in response to complaints and incidents, including when and how the relevant State or Territory department will undertake investigations • establish compliance activities in response to audit results and investigations following complaints and incidents, including when registration will be impacted • include the specific rights of community visitor programs to attend and report on standards within SRS and their equivalents • be developed in consultation with other regulatory systems to identify and close regulatory gaps between schemes and settings 	
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<p>including SRS, the National Disability Insurance Scheme, and in aged care and mental health services.</p> <p>c) Regulatory entities should have adequate powers to enforce all standards. Up-to-date records of infringements, enforcement action and remedies should be maintained centrally. The regulatory entities should notify substantiated infringements by providers to other oversight bodies with responsibilities for those providers, including the NDIS Quality and Safeguards Commission.</p> <p>d) States and Territories should consider whether these recommendations should be implemented in relation to other forms of marginal accommodation for people with disability, including general boarding houses and caravan parks.</p>	
<p>Recommendation 7.39 Preventing homelessness when people with disability transition from service or institutional settings</p> <p>The Australian Government (including the National Disability Insurance Agency (NDIA)) and State and Territory governments should commit to a policy of ‘no leaving into homelessness’ for people with disability. The Australian Government (including the NDIA) and state and territory governments should establish or nominate a lead agency with responsibility for planning and coordinating the transition of people with disability from service or institutional settings (including health services, mental health services, correctional facilities, and out-of-home care) directly into safe and appropriate housing. The lead agency should be the NDIA when the person is a National Disability Insurance Scheme (NDIS) participant (consistent with the role of the NDIS under Applied Principles and Tables of Support). If the person is not an NDIS participant, the lead agency should be the agency responsible for the service or institutional setting at the time the person leaves. The role of the lead agency should include:</p> <ul style="list-style-type: none"> • developing and implementing individual plans for people with disability leaving service or institutional settings to identify 	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments are committed to working collaboratively to support people with disability leaving institutional settings into safe and appropriate housing. Part of this work will be determining if nominating a lead agency or agencies is the appropriate mechanism for implementing this recommendation. All governments recognise that continued, focussed and coordinated work is required across systems to ensure people with disability do not ‘leave into homelessness’ from health services, mental health services, correctional facilities, and out-of-home care.</p> <p>Disability Ministers will work together in 2024 to identify responsibilities for planning and coordinating the transition of people with disability from service or institutional settings directly into safe and appropriate housing. All governments will also continue working together to leverage and implement objectives and priorities under the new National Housing and Homelessness Plan 2024-2034 to support better housing outcomes and reduce rates of homelessness for people with disability.</p>

<p>housing, services and supports for a successful transition into secure housing</p> <ul style="list-style-type: none"> • ensuring supports can be put in place before a person with disability leaves the service or institutional setting • coordinating the implementation of the plan until the person with disability has successfully transitioned to safe and appropriate housing. 	
<p>Recommendation 7.40 Address homelessness for people with disability in the National Housing and Homelessness Plan</p> <p>In developing the National Housing and Homelessness Plan, the Australian Government, working with State and Territory governments, should:</p> <p>a) identify people with disability, particularly people with intellectual disability or cognitive impairment, as a discrete cohort or cohorts for intensive homelessness support, recognising their needs, circumstances and diversity</p> <p>b) review the adequacy of funding for homelessness, with particular regard to the cost of providing more intensive homelessness support for people with disability and complex needs, and current levels of unmet demand</p> <p>c) expand pathways and support for people with disability out of homelessness, including through Housing First programs</p> <p>d) consider establishing free, independent legal advice and advocacy services for people with disability experiencing homelessness to help them navigate the different homelessness supports to which they are entitled at State or Territory and Australian Government levels.</p>	<p>Joint Response: <u>Subject to further consideration</u></p> <p>The Australian Government and State and Territory governments are committed to national action to help more Australians access safe and affordable housing, including people with disability.</p> <p>Safe and affordable housing is central to the security and dignity of people with disability. All governments have committed to an ambitious housing reform agenda to boost the supply of all housing, and increase housing and homelessness supports for vulnerable communities, including people with disability.</p> <p>This includes the proposed National Housing and Homelessness Plan, which is expected to provide a shared national vision for tackling Australia’s housing challenges and support those experiencing housing stress and homelessness.</p> <p>The National Plan is currently under development and is subject to negotiation between the Australian Government and State and Territory governments. It is expected the Plan will be released later in 2024 and it is anticipated that the Plan:</p> <ul style="list-style-type: none"> • will focus on supporting all individuals regardless of their characteristics or background; • will not prioritise different cohorts in recognition of the large degree of intersectionality and diversity among individuals and

	<p>households, but will acknowledge that some groups, including people with disability, face additional barriers and need additional or targeted responses; and is built on all governments' commitment to prioritising the needs of those people who need housing and homelessness assistance the most, in recognition of the flexibility required to support people in a way which recognises the uniqueness of an individual's circumstances, needs and experiences.</p>
<p>Recommendation 7.41 Group home reform</p> <p>The NDIS Quality and Safeguards Commission should prioritise the implementation of the Own Motion Inquiry into Aspects of Supported Accommodation – Action Plan (the Action Plan) and expand actions to include:</p> <p>a) a specific review of mechanisms to transition away from allowing the same provider to provide Supported Independent Living and Specialist Disability Accommodation services, with interim arrangements to strengthen oversight to address and monitor conflicts of interest (under Action 8)</p> <p>b) strengthening how disability providers implement models of practice, such as Active Supports, to ensure that people with disability living in group homes are actively supported to have opportunities for greater social interaction and community participation and inclusion (under Action 2)</p> <p>c) developing an implementation plan for the Action Plan, with –</p> <ul style="list-style-type: none"> • explicit timeframes for delivery • annual reporting on progress and outcomes to the Disability Reform Ministerial Council. 	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>
<p>Recommendation 7.42 Improve access to alternative housing options</p> <p>The National Disability Insurance Agency (NDIA) should work with the Australian Government, and State and Territory governments, to expand</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support the development of a diverse range of inclusive housing options for</p>

<p>alternative housing options and support for people with disability to access and transition to these options through a proactive market enablement strategy. This should include:</p> <p>a) an increase in innovative housing options, such as by –</p> <ul style="list-style-type: none"> expanding the NDIA Home and Living Demonstration Projects with additional rounds from 2024. These rounds should – <ul style="list-style-type: none"> focus on exploring diverse market mechanisms for sustainable housing models include ongoing extensive and independent evaluation and dissemination of emerging best practice to help bring new models to scale establishing a policy unit to co-design, guide and influence the development and implementation of more contemporary accommodation models conducting comprehensive market research to assess market demand and understand National Disability Insurance Scheme participants’ housing preferences to inform state and local governments, housing authorities and developers, and drive innovation. <p>b) reform of NDIS participant funding models, including Supported Independent Living, Specialist Disability Accommodation and Individualised Living Options to provide greater flexibility. In particular, this flexibility should ensure that administrative and pricing mechanisms do not favour group home living over other models of inclusive housing.</p> <p>c) development of clear and supportive transition pathways that provide access to advice, advocacy and support for people with disability to understand and explore their housing options, make decisions about transitioning to the housing of their choice, and receive support for that transition. This should include –</p> <ul style="list-style-type: none"> an individualised assessment of a person’s housing needs and preferences, with the option for this to be regularly updated 	<p>people with disability.</p> <p>All governments are committed to continuing to work together to further consider options to expand the availability of more inclusive and alternative models of housing for people with disability.</p> <p>Approaches to specific reform and implementation to address the intent of this recommendation will be considered alongside relevant NDIS Review recommendations and actions.</p>
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<ul style="list-style-type: none"> • an update of a person's NDIS plan to include specific support, including capacity building to support the decision to transition to more independent living • where a person is interested in changing housing, the development of an individual transition plan that identifies current available and emerging alternative housing options, beyond the offerings of their current provider • access to independent advocacy and an independent support coordinator to provide support for and facilitate the transition <p>d) prioritisation of the implementation of the NDIA Home and Living Framework, including –</p> <ul style="list-style-type: none"> • establishing explicit timeframes for its implementation that recognise the urgency of these reforms, in relation to realising the rights of people with disability under the <i>Convention on the Rights of Persons with Disabilities</i> • continuing work with the disability community to identify key outcomes and measures, and developing a comprehensive monitoring and evaluation plan to measure and report on progress • ensuring the chosen approaches address the key elements set out above in this recommendation, including – <ul style="list-style-type: none"> – providing a dedicated pathway for participants with a current or anticipated high need for home and living supports – ensuring participants taking this pathway have appropriate and timely support to explore and design individualised home and living solutions that work for them. 	
<p>Recommendation 7.43 A roadmap to phase out group homes within 15 years</p> <p>Commissioners Bennett, Galbally, Mason and McEwin recommend the Australian Government and State and Territory governments develop and implement a comprehensive roadmap to phase out group homes within</p>	<p>Joint Response: <u>Subject to further consideration</u></p> <p>The Australian Government and State and Territory governments support the development of a diverse range of inclusive housing options for people with disability that support them to exercise choice and control over their living arrangements.</p>

the next 15 years. This roadmap should address delivering inclusive housing supply to meet demand, transition support for people with disability, and implementation planning for phasing out group homes. It should include:

a) delivery of inclusive housing supply to meet demand, by –

- undertaking a comprehensive assessment of existing service demand (including people with disability who are currently living in group homes and current unmet needs) and projected service demand (forecasted demand for supported accommodation over the next 30 years)
- assessing projected supply of alternative housing to inform planning for the transition of people out of group homes, including conducting a stocktake of existing disability housing assets that may be repurposed or used to increase the supply of inclusive housing
- piloting alternative housing models with increased investment to roll out successful models in line with supply and demand modelling to meet future housing needs for people with disability (see also Recommendation 7.42).

b) a review of the current Specialist Disability Accommodation (SDA)

Pricing and Payments Framework to ensure it remains fit for purpose, focusing on ensuring that –

- a data-driven approach is used to direct investment where it has the greatest benefit for participants and the National Disability Insurance Scheme (NDIS)
- NDIS funding for specialist accommodation is directed to those participants with significant functional impairment or high support needs for whom specialised housing would deliver a measurable benefit
- the needs of people with disability for affordable and accessible housing are prioritised by state and territory governments

In January 2023, the NDIS Quality and Safeguards Commission completed an own motion inquiry into aspects of supported accommodation in the NDIS. An Action Plan was developed in response to the inquiry, focusing on elevating the quality and safety of supported independent living (SIL) services; amplifying the voices of people with disability living in supported accommodation; and improving the NDIS to maximise the choice, control and experience of participants living in supported accommodation –including the interaction between SIL and specialist disability accommodation (SDA).

SDA is one of the supports that might be funded under the NDIS for some participants. SDA is a range of housing designed specifically for people with extreme functional impairment or very high needs.

The NDIA and States and Territories have implemented a number of initiatives to support the phasing out of group homes enrolled as SDA (noting that not all people with disability residing in group homes receive SDA supports).

For example, the NDIA no longer provides SDA payments for enrolled SDA properties with 11 or more residents and is progressively ceasing SDA payments for dwellings accommodating 6-10 residents. New Build SDA must only accommodate 5 or less residents to be enrolled with the NDIA.

All governments will consider this recommendation further alongside recommendations of the NDIS Review, including Recommendations 8 and 9 of the NDIS Review and their associated actions.

<ul style="list-style-type: none"> • prices are set to encourage development of best practice examples of SDA. <p>c) transition support for people currently living in group homes, including through –</p> <ul style="list-style-type: none"> • a transition pathway that provides access to advice, advocacy and support for people with disability to understand and explore their housing options, make decisions about transitioning to the housing of their choice, and receive support for that transition (see also Recommendation 7.42) • interim improvements in group home oversight and practices to ensure that people with disability living in group homes are safe and have greater choice and control during this transition period (see also Recommendation 7.41) • grandfathering arrangements for those people who wish to stay in their group home, including consideration of additional financial support to maintain financially viable group home arrangements where necessary <p>d) implementation planning undertaken through co-design with people with disability and the disability community, including –</p> <ul style="list-style-type: none"> • a specific timeframe for ceasing construction of any new group homes (within the next two years) • a specific timeframe for ceasing placement of new residents in group homes (within five years) • a specific timeframe for completing transition of those residents who wish to move from group homes to alternative housing options (within 15 years) • development of an outcomes-based evaluation framework, tool and processes to track short-, medium-and long-term outcomes across the roadmap, and build an understanding of emerging best practice. 	
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Recommendation 7.44 A roadmap to phase out group homes over a generational timeline

Commissioner Ryan recommends the Australian Government and State and Territory governments commit to phasing out group homes in stages.

This commitment should include:

a) immediate commitments to reduce the reliance on group homes, including –

- not approving new four-to six-bedroom group home models for Specialist Disability Accommodation
- only allowing new National Disability Insurance Scheme participants to enter group home accommodation as a last resort
- prioritising moving existing residents of group homes to move into smaller groups over time on request, subject to need

b) development of a staged approach to phasing out group homes, including consideration of housing availability, transition logistics and financial impacts.

Annual progress and outcomes should be reported to the Disability Reform Ministerial Council.

Joint Response: Subject to further consideration

See 7.43

Volume 8: Criminal Justice and People with Disability

Volume 8 includes 24 recommendations.

Recommendation	Response
<p>Recommendation 8.1 Conditions in custody for people with disability State and Territory governments should uphold the rights of people with disability who are in custody. Consistent with article 14 of the <i>Convention on the Rights of Persons with Disabilities</i>, all corrective service and youth justice agencies should provide people with disability with the disability supports they require to place them in the same position, so far as feasible, as other people in custody.</p>	<p>NSW Response: <u>Accept in principle</u> NSW Government recognises that people with disability are overrepresented in the youth and adult justice system. They must have equal access to their rights for dignity and care, safety, service and interventions, as part of being involved in the justice system.</p> <p>NSW Government is committed to continuing to build on work that is happening across the NSW justice system to improve conditions in custody through a range of specialist interventions.</p> <p>NSW Government recognises the current limitations within the NSW justice system and notes that adult and youth custodial facilities are not currently funded nor expected to operate as a primary disability service.</p> <p>NSW Government supports a whole of government response to people with a disability in custody to maximise the potential to provide the necessary supports and services and strengthen the service response for people with disability in custody and the wider justice system.</p>
<p>Recommendation 8.2 Disability awareness in OPCAT monitoring In implementing the Optional Protocol to the <i>Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i>, the Australian Government, in consultation with the state and territory governments, should support the development of a human rights education and training strategy that includes disability awareness training for National Preventive Mechanisms (NPMs), detention authorities and their staff. NPMs should:</p>	<p>Commonwealth, ACT, NT, TAS: <u>Accept in principle</u> NSW, QLD, SA, VIC, WA: <u>Subject to further consideration</u></p> <p><i>The following response is provided by the Commonwealth, ACT, NT, SA, TAS and WA:</i></p> <p>The Australian Government and State and Territory governments are committed to continuing to consider and progress reform to better protect the human rights of people with disability in places of detention.</p>

<ul style="list-style-type: none"> • engage with disability organisations about the needs of people with disability in places of detention • obtain training and education for their staff on the types of disability and needs of people with disability in places of detention, including the impact of intersectional disadvantage • obtain the views of people with disability in places of detention by directly engaging with them about their experiences in places of detention • have effective mechanisms for obtaining the views of people with disability in places of detention. 	<p>All governments continue to cooperatively and progressively work towards implementation of the <i>Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i> (OPCAT), including resolving ongoing funding arrangements.</p> <p><i>The following response is provided by NSW, QLD and VIC:</i></p> <p>All governments continue to cooperatively and progressively work towards implementation of OPCAT, subject to the resolution of sufficient and ongoing funding from the Commonwealth and the resolution of implementation issues, including the Commonwealth leading work in consultation with States and Territories to reach agreement on the definition and scope of places of detention.</p>
<p>Recommendation 8.3 Prohibiting solitary confinement in youth detention States and Territories should:</p> <p>a) introduce legislation to prohibit solitary confinement in youth justice settings (being the enforced isolation or segregation for any purpose of a child or young person for 22 or more hours in any day)</p> <p>b) introduce legislation to prohibit the use of isolation (however described) in youth detention centres as punishment in any circumstance</p> <p>c) review legislation, policy and procedures to ensure children with disability are not subjected to isolation practices amounting to solitary confinement</p> <p>d) ensure legislation authorising isolation (including lockdowns) in youth detention centres provides for its use:</p> <ul style="list-style-type: none"> • as a temporary response to behaviour that poses a serious and immediate risk of harm to an individual • as a last resort after all other measures to address risk have been exhausted • for a period that must not exceed a specified number of hours in any day 	<p>NSW Response: <u>Accept in part</u></p> <p>Many young people in the NSW youth justice system have a suspected or diagnosed disability. The NSW Government acknowledges the importance of keeping young people with a disability safe in youth justice custodial settings.</p> <p>The NSW Government accepts this recommendation in part, noting that youth detention in NSW has several existing legislative safeguards in place to guide the safe management of young people in custody, including those restrictive practices, such as confinement and segregation (isolation) is a measure of last resort. Legislation also provides for the independent oversight of all detention centres in NSW and a robust complaints mechanism for young people, which is supported by accessible language documents and other supports to make a complaint.</p> <p>The NSW Youth Justice system has been engaged in a process of</p>

<p>e) ensure legislation authorising isolation (including lockdowns) in youth detention centres provides at a minimum the following protections for children with disability:</p> <ul style="list-style-type: none"> • a requirement to take into account the child's disability needs before any isolation period is authorised • meaningful human contact during the period of isolation • access to the community equivalent standard of health care, including mental health services during the period of isolation • regular review of the order and circumstances authorising isolation • the creation and keeping of detailed records relevant to the period of isolation and the provision of a copy of such records to the relevant body with independent oversight of places of detention (such as the Inspector of Custodial Services). 	<p>custodial reform over the last 5 years including targeted work to reduce the use of restrictive practices in youth detention centres.</p> <p>Also, improving safety of young people in detention under the Youth Justice NSW Child Safe Framework, with improvements to detention centre infrastructure, staff training and development and strengthening internal oversight of the use of force. This work will continue.</p> <p>The NSW Government welcomes continued engagement across all youth justice jurisdictions to inform further improvements and harmonisation of practice for young people with a disability in custody.</p>
<p>Recommendation 8.4 Screening and assessment for disability in youth detention</p> <p>State and Territory governments should ensure timely screening and expert assessment are available for individual children with cognitive disability involved in the criminal justice system (including, but not limited to, detention settings) and that they receive appropriate responses, including therapeutic and other interventions.</p>	<p>NSW Response: <u>Accept in principle</u></p> <p>NSW Health and Youth Justice NSW work in partnership to provide general health and mental health services for young people in custody in NSW. Ensuring timely screening and assessment for cognitive disability remains a priority.</p> <p>The NSW Government acknowledges that improvements can be made and highlights the nature of short-term remand in NSW youth detention which can impact both screening and assessment interventions.</p> <p>In line with commitments under Closing the Gap priority reforms NSW Government is prioritising work to improve outcomes for Aboriginal young people. In particular, the absence of a culturally validated disability screening tool is acknowledged. The NSW Government welcomes partnership in this area with Aboriginal community and Aboriginal health organisations to improve screening and assessment of Aboriginal young people in contact with the youth justice system.</p>

<p>Recommendation 8.5 Disability training for staff in youth detention</p> <p>State and Territory governments should ensure staff and officials in youth detention centres at all levels receive appropriate initial and ongoing training and support in relation to the needs and experiences of children with disability. This includes training and support on trauma-informed care and culturally appropriate and gender responsive approaches to children with disability in detention.</p>	<p>NSW Response: <u>Accept in principle</u></p> <p>NSW Government recognises the importance of ensuring that the frontline workforce in the youth justice system receives the ongoing training and development required to work with people with suspected and diagnosed disability, which is trauma informed, culturally appropriate and gender responsive.</p> <p>NSW Health and Youth Justice NSW work in partnership to provide a service that is responsive to the needs of people with disability who are in youth detention settings in NSW. Within current resourcing, staffing and budgetary limitations, staff training is delivered to frontline youth justice and clinical health staff. This work will continue.</p> <p>NSW Government recognises mutual commitments under Closing the Gap to improve health outcomes for Aboriginal and Torres Strait Islander people, to work in partnership with community and Aboriginal organisations to improve service responsiveness for vulnerable young people in contact with the youth justice system.</p>
<p>Recommendation 8.6 Western Australia youth detention staff retention</p> <p>The Department of Justice of Western Australia should immediately review its youth justice staffing and recruitment model to ensure sufficient, suitably trained staff are available to supervise children and young people to minimise lockdowns and prevent the solitary confinement of detainees. This should include developing and implementing a recruitment and retention strategy that:</p> <ul style="list-style-type: none"> • addresses high staff attrition rates in youth detention • promotes representation at senior management level of staff with disability and First Nations backgrounds • includes measures to help staff access mental health support. 	<p>NSW Response for recommendations 8.6 to 8.8: <u>Note</u></p> <p>This recommendation is directed at Western Australia.</p>

Recommendation 8.7 Western Australia youth detention operating philosophy

The Department of Justice of Western Australia (through the Corrective Services Division) should:

- immediately cease confinement practices at youth detention centres amounting to solitary confinement of children with disability
- ensure decisions leading to the isolation of children with disability are made in conformity with legal requirements
- implement a new operating philosophy and service model to manage detainees with disability in a therapeutic, non-punitive, non-adversarial, trauma-informed and culturally competent way
- ensure the operating philosophy and implementation plan are developed in conjunction with people with disability and First Nations people
- release a clear timeline for publication of its new operating philosophy and service model for youth detention in Western Australia and the associated implementation plan
- raise awareness at every level of staff in the youth detention centres concerning the support needs of people with cognitive disability and foster respect for the rights of people with disability
- ensure lawyers representing detained clients are allowed adequate time and assured of confidentiality at youth detention centres to take instructions, especially where their clients have cognitive disability.

Recommendation 8.8 *Inspector of Custodial Services Act 2003 (WA)*

The Western Australian Government should introduce and support legislation amending the *Inspector of Custodial Services Act 2003 (WA)* to provide the Inspector with a discretion to demand a response from the department or other relevant agency, within a specified time, to recommendations of the Inspector included in a report to Parliament.

<p>This should include the steps (if any) taken by the agency in response to the recommendations and an explanation of why steps have not been taken (if that be the case).</p>	
<p>Recommendation 8.9 Use of seclusion in New South Wales Justice Health and Forensic Mental Health Network The New South Wales Government should review existing policy regarding the use of seclusion for adults with cognitive disability in the Justice Health and Forensic Mental Health Network, including the use of clearly designated authorisation and mandatory clinical and administrative review.</p>	<p>NSW Response: <u>Accept</u> NSW Health is undertaking a review of Policy Directive, Seclusion and Restraint in NSW Health Settings (PD2020_004), which will examine the circumstances in which seclusion is used, authorised and reviewed. NSW Health expects the revised policy to be released in 2026.</p> <p>Reducing and where possible eliminating the use of seclusion and restraint remains a priority of NSW Health. Seclusion and restraint are only used in accordance with legislation, to manage the risk to the safety of the patient, staff and public.</p>
<p>Recommendation 8.10 Transition from custodial supervision in the Northern Territory The Northern Territory Government should provide supported step-down accommodation in community-based settings for people with disability subject to custodial supervision orders.</p>	<p>NSW Response: <u>Note</u> This recommendation is directed at the Northern Territory.</p>
<p>Recommendation 8.11 Information for courts and legal practitioners The Commonwealth, State and Territory criminal justice systems should provide information about seeking or making adjustments and supports and services for people with disability, and the circumstances in which they may be required. This information should be made available to judicial officers, legal practitioners and court staff, including through practice notes or bench books.</p>	<p>Joint Response: Commonwealth, ACT, NSW, NT, QLD, SA, TAS, VIC: <u>Accept in principle</u> WA: <u>Accept</u> The Australian Government and state and territory governments are committed to ensuring that people with disability have equal access to justice, and will consider whether changes are required when updating guidance or other relevant information.</p>
<p>Recommendation 8.12 Implementation of the National Principles The Australian Government, together with State and Territory governments, should review the National Statement of Principles Relating to Persons Unfit to Plead or Not Guilty by Reason of Cognitive or</p>	<p>Joint Response: Cth, WA, ACT, TAS, NT, QLD, NSW: <u>Accept in principle</u> SA, VIC: <u>Subject to further consideration</u> The Australian Government and state and territory governments have committed to review the National Principles, including aspects regarding</p>

Mental Health Impairment (National Principles) through the Standing Council of Attorneys-General.

The National Principles should be revised to include the following:

- Indefinite detention is unacceptable and laws providing for it should be repealed.
- Where an order for detention is made, there should be a maximum term of detention nominated beyond which the person cannot be detained (a 'limiting term').
- The limiting term should not exceed the court's assessment of the sentence it would have imposed on the defendant had the person been found guilty of the offence in an ordinary trial of criminal proceedings.
- In hearings conducted to determine a person's fitness to stand trial or to plead, the court must consider whether it can modify the trial process or ensure assistance is provided to facilitate the defendant's understanding and effective participation in the proceedings. This includes any cultural or other trauma-informed supports a First Nations defendant may need to ensure the defendant can participate in a fair trial and understand the proceedings.

The Standing Council of Attorneys-General should agree to a timetable for implementation of reforms identified in the review of the National Principles.

The Commonwealth, States and Territories should amend their legislation on fitness to stand trial to align with the revised National Principles.

The Australian Government, and State and Territory governments, should build their capacity to provide step-down options, including medium and low secure and community-based accommodation options, for the placement of people in the forensic system to facilitate their progressive transition to less restrictive environments.

indefinite detention and the availability of step-down accommodation. All governments recognise the rights of persons with cognitive or mental health impairment, noting these rights must be balanced against the need to prevent harm to others and uphold the rights of victims.

<p>Recommendation 8.13 Data about people detained in forensic systems</p> <p>The Australian Government and State and Territory governments should support legislation requiring the annual collection and publication of data relating to people found unfit to plead or not guilty by reason of cognitive or mental health impairment. The data collected should include:</p> <ul style="list-style-type: none"> • the number of people under forensic orders in their jurisdiction • the number of people under orders for detention and the numbers subject to: <ul style="list-style-type: none"> – indefinite periods of detention – limiting terms (or equivalent) – orders extending their order for detention • the number of people under orders for detention by sex, disability, disability type and First Nations status • the number of such people detained in: <ul style="list-style-type: none"> – an adult correctional facility – a youth detention facility – a forensic mental health or forensic disability facility – a general psychiatric unit. 	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support improving data collection relating to people found unfit to plead or not guilty by reason of cognitive or mental health impairment.</p> <p>Implementation is subject to relevant scoping work to assess existing frameworks and system capability, and personal privacy protections. This work will bolster the ability of governments to evaluate policy settings relating to people with cognitive or mental health impairments in the criminal justice system.</p>
<p>Recommendation 8.14 National practice guidelines for screening in custody</p> <p>State and Territory corrective services, youth justice agencies and justice health agencies, through the Corrective Services Administration Council and equivalent youth justice bodies, should develop national practice guidelines and policies relating to screening for disability and identification of support needs in custody.</p> <p>People with disability, including with lived experience of the criminal justice system, and people with expertise in cognitive disability should be involved in the design of the guidelines and contribute to the approaches to implementation. The guidelines and policies should:</p>	<p>NSW Response: <u>Accept in principle</u></p> <p>The NSW Government is committed to working with other States and Territories to develop national practice guidelines and policies for disability screening in custody.</p> <p>Guidelines and policies developed will need to be culturally appropriate, trauma-informed, consider lived experience of people with a disability and developed in partnership with people with lived experience including Aboriginal communities and Aboriginal led organisations.</p>

<ul style="list-style-type: none"> • explain the essential elements of screening and assessment for people with disability, including a trauma-informed approach to identifying disability and the person's needs • reduce reliance upon self-disclosure as the primary means of disability identification following admission of a person with disability to custody • require screening upon reception into custody or shortly thereafter both for prisoners and detainees who have been sentenced and for those on remand • promote the consistent collection of data and its use to inform system-wide responses • encourage the development and use of culturally safe disability screening tools that address the particular needs of First Nations people with disability • encourage the development and use of disability screening tools that are culturally appropriate for people with disability from culturally and linguistically diverse communities • encourage investment in initial and ongoing training, education and support of staff about disability identification and awareness • encourage collaborative practices including the engagement of clinicians to conduct assessments to identify the support needs of a person with disability in custody • require the identification of a disability or impairment to be matched with appropriate support while in custody • promote the use of screening outcomes to develop plans for prisoners and detainees transitioning to the community • contribute to appropriate information sharing among agencies including court-based assessments and reports. 	
Recommendation 8.15 Policies and practices on screening, identifying and diagnosing disability in custody	NSW Response: <u>Accept in principle</u> NSW Government is committed to working with other states and

<p>State and Territory governments should ensure that policies and practices concerning screening, identification and diagnosis of disability in respect of people with disability in custody are consistent with the national practice guidelines.</p>	<p>territories to develop and harmonise national practice standards and guidelines.</p> <p>NSW Government will review policies and practices around screening and diagnosis of disability to align with national practice guidelines once they are finalised.</p>
<p>Recommendation 8.16 Support by First Nations organisations to people in custody</p> <p>State and Territory corrective service and youth justice agencies and justice health agencies should engage First Nations organisations, including Aboriginal Community Controlled Health Organisations, to provide culturally safe disability screening and assessment services for First Nations prisoners and detainees.</p>	<p>NSW Response: <u>Accept in principle</u></p> <p>NSW Government acknowledges that for Aboriginal and Torres Strait Islander people to thrive, we must create a service system that places Aboriginal culture and Aboriginal families at the centre of everything` we do. We must also ensure that all decisions about Aboriginal people in the justice system are made by Aboriginal people.</p> <p>The NSW Government welcomes further collaboration, consultation and partnership with Aboriginal communities and Aboriginal led organisations under this recommendation. Improving screening and assessment of suspected disability remains a shared government priority, aligning with improving more broadly outcomes for Aboriginal and Torres Strait Islander people under Closing the Gap targeted reform.</p>
<p>Recommendation 8.17 NDIS Applied Principles and Tables of Support concerning the justice system</p> <p>Through the Disability Reform Ministerial Council, the Australian Government and state and territory governments should:</p> <ul style="list-style-type: none"> review the <i>National Disability Insurance Scheme (Supports for Participants) Rules 2013</i> (Cth) and the Applied Principles and Tables of Support (APTOS) and operational guidelines to align and provide clear parameters in determining which supports will be funded by the National Disability Insurance Scheme (NDIS) for participants involved in the criminal justice system 	<p>Joint Response: <u>Subject to further consideration</u></p> <p>The Australian Government and State and Territory governments are committed to working together to clarify roles and responsibilities at the interface between the NDIS and justice services.</p> <p>This recommendation requires consideration alongside relevant recommendations of the NDIS Review related to roles and responsibilities within the disability ecosystem.</p> <p>Work over the past five years at the justice/NDIS interface has included the introduction of Justice Liaison Officers (JLOs); increasing awareness</p>

<ul style="list-style-type: none"> • resolve issues related to the interface between the NDIS and the criminal justice system, particularly the distinction between ‘criminogenic-related supports’ and ‘disability-related supports’ • where such issues cannot be resolved, agree on a mechanism for joint-funding of individual supports. <p>Proposed amendments to the <i>National Disability Insurance Scheme (Supports for Participants) Rules 2013</i> (Cth) and the APTOS should be agreed by National Cabinet.</p>	<p>of the roles and responsibilities of the NDIS and justice systems; implementing formal information sharing arrangements; and strengthening relationships between the NDIS and Aboriginal and Torres Strait Islander justice settings.</p>
<p>Recommendation 8.18 Timing of NDIA-funded transition supports</p> <p>The National Disability Insurance Agency (NDIA) should issue guidelines stating expressly that a release date is not a precondition for approving funding for transitional supports for participants in custody. The NDIA’s Justice Operational Guidelines and internal practice guides should be amended to make this clear.</p>	<p>NSW Response for recommendations 8.18 to 8.19: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>
<p>Recommendation 8.19 Amendment of The <i>Disability Discrimination Act 1992</i> (Cth) to cover police provision of ‘services’</p> <p>The <i>Disability Discrimination Act 1992</i> (Cth) should be amended to expressly include ‘services provided by police officers in the course of performing policing duties and powers’ in the definition of ‘services’ in section 4.</p>	
<p>Recommendation 8.20 Improving police responses to people with disability</p> <p>The Australian Government and State and Territory governments and police services should collaborate with people with disability in the co-design, implementation and evaluation of strategies to improve police responses to people with disability. All police services should introduce adequate numbers of dedicated disability liaison officers. The Australian</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments are committed to improving police responses to people with disability and recognise the essential role of law enforcement in promoting and maintaining fundamental human rights.</p> <p>All governments are committed to ensuring that police services are</p>

<p>Government and state and territory governments should introduce an alternative reporting pathway for people with disability to report crimes to police.</p>	<p>adequately equipped to engage with people with disability according to their needs. This can be achieved in multiple ways, including through the introduction of disability liaison officers or broader workforce capability uplift noting implementation must have regard to the unique geographical settings of states and territories.</p> <p>All governments acknowledge the benefits of working with people with disability to design, implement and evaluate strategies to improve police responses to people with disability in respective jurisdictions.</p>
<p>Recommendation 8.21 Diversion of people with cognitive disability from criminal proceedings</p> <p>The New South Wales, South Australian, Victorian and Western Australian governments should review and fund their existing court-based diversion programs for people with cognitive disability charged with offences that can be heard in local or magistrates' courts to ensure the programs:</p> <ul style="list-style-type: none"> • are accessible and culturally appropriate, particularly in regional and remote areas • provide support for defendants to access the National Disability Insurance Scheme (NDIS) • satisfy service needs, including connecting defendants to appropriate education, housing, employment and other services. <p>The Australian Capital Territory, Northern Territory, Queensland and Tasmanian governments should develop and fund court-based diversion programs for people with disability charged with summary offences in local or magistrates' courts which:</p> <ul style="list-style-type: none"> • are accessible and culturally appropriate, particularly in regional and remote areas • provide support for defendants to access the NDIS 	<p>NSW Response: <u>Accept</u></p> <p>NSW Government supports evidence-based programs to better support people with disability and reduce inappropriate contact with the criminal justice system.</p> <p>The Justice Advocacy Service (JAS) is funded by the NSW Government to support people with a cognitive impairment in contact with the NSW criminal justice system.</p> <p>The NSW Government is undertaking an evaluation of the JAS diversion program and, subject to the outcome of the evaluation, will explore options to expand the JAS diversion program to more NSW Local Courts.</p>

<ul style="list-style-type: none"> • satisfy service needs, including connecting defendants to appropriate education, housing, employment and other services. <p>All States and Territories should commission independent evaluations of their diversion programs. Any evaluation should assess and, where feasible, quantify economic and social benefits for both individual defendants and the community as a whole.</p>	
<p>Recommendation 8.22 Age of criminal responsibility</p> <p>States and Territories that have not already done so should introduce legislation to raise the minimum age of criminal responsibility to 14.</p>	<p>NSW Response: <u>Subject to further consideration</u></p> <p>Raising the minimum age of criminal responsibility is not currently on the NSW Government's agenda.</p> <p>The NSW Government is considering ways to identify alternative and additional responses needed to maintain community safety, while supporting the diversion from the criminal justice system of children aged 14 years and under who are demonstrating problematic and harmful behaviours.</p> <p>One key consideration for NSW in any future decision about raising the minimum age of criminal responsibility will be the adequacy of existing appropriate intervention and support services for young people who would no longer be considered offenders, but who would continue to cause harm and impact the community. Any change must ensure that young people and communities are safe and adequately supported.</p>
<p>Recommendation 8.23 Action plan to end violence against women and children with disability</p> <p>The Australian Government and State and Territory governments should develop a five-year Action Plan for Women and Children with Disability to accompany the National Plan to End Violence against Women and Children 2022–2032. The Action Plan should:</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>Through the National Plan to End Violence Against Women and Children 2022-2032 (National Plan), all governments agreed that the findings of the Disability Royal Commission would guide future work to end violence against women and girls with disability.</p>

<ul style="list-style-type: none"> • be developed by and for women with disability • prioritise cohorts at greatest risk of violence • coordinate with other relevant plans and strategies, in particular the forthcoming Aboriginal and Torres Strait Islander Action Plan and Australia's Disability Strategy 2021–2031. <p>The Action Plan should include comprehensive actions and investment to address violence experienced by women and children with disability across the focus areas of:</p> <ul style="list-style-type: none"> • prevention • early intervention • response • recovery and healing. 	<p>The Australian Government and State and Territory governments are committed to ending violence against women and girls with disability and acknowledge more needs to be done to address the disproportionate rates of violence experienced, through responding to the drivers of violence and recognising the specific experiences of women with disability across the National Plan's four domains of prevention, early intervention, response and recovery and healing. The National Plan promotes actions across the domains that respond to the diversity of women and children, to ensure access to systems and services are accessible to individual needs.</p> <p>On 16 August 2023, the Australian Government released the First Action Plan 2023-2027 (Action Plan) to drive delivery of the shared commitment under the National Plan to end gender-based violence in a generation.</p> <p>Development of the Action Plan drew on the extensive consultation undertaken with diverse stakeholder groups to inform the National Plan. These consultations listened to the diverse lived experiences of people from regional and remote areas, Aboriginal and Torres Strait Islander peoples, culturally and linguistically diverse communities, LGBTIQ+ people, people with disability, young people and older people.</p> <p>The First Action Plan is the first 5-year action plan to drive the work needed to meet the objectives of the National Plan.</p> <p>Rather than developing a new action plan targeted at women and children with disability, all governments are committed to applying a disability lens to the implementation of the 10 actions within the existing action plan, including ensuring that policy, program and service reform and change is responsive to the needs of women and girls with disability and that associated communication material and resources are accessible.</p>
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Recommendation 8.24 Disability-inclusive definition of family and domestic violence

In working towards nationally consistent, inclusive definitions of gender-based violence under the National Plan to End Violence against Women and Children 2022–2032, States and Territories should amend their legislative definitions of family and domestic violence to include:

- all relationships in which people with disability experience family and domestic violence, including but not limited to carer and support worker relationships
- disability-based violence and abuse
- all domestic settings, including but not limited to supported accommodation such as group homes, respite centres and boarding houses.

The *Family Law Act 1975* (Cth) and any relevant State and Territory laws should also be amended consistently with this recommendation.

Joint Response: Commonwealth, VIC: Accept in principle
ACT, NSW, NT, QLD, SA, TAS, WA: Subject to further consideration

The Australian Government and State and Territory governments recognise the importance of ensuring that definitions of family and domestic violence are appropriately broad to capture the unique circumstances, relationships, and living arrangements in which people with disability may experience family and domestic violence.

Through the Family, Domestic and Sexual Violence Working Group, under the Standing Council of Attorneys-General, all jurisdictions are committed to working together to improve the family law and family violence systems' response to family violence, which may include future consideration of disability-inclusive definitions.

While the governments of ACT, NSW, NT, QLD, SA, TAS and WA are supportive of disability-inclusive definitions of family and domestic violence, there are a range of challenges with progressing a nationally consistent definition. Jurisdictions are committed to working through these in the context of the work being progressed through the Family, Domestic and Sexual Violence Working Group.

Volume 9: First Nations People with Disability

Volume 9 includes 13 recommendations.

Recommendation	Response
<p>Recommendation 9.1 Culturally appropriate parenting capacity assessments</p> <p>State and Territory governments should work with First Nations child protection services, peak bodies and First Nations people with disability to co-design clear principles and guidelines for parenting capacity assessments for First Nations parents with disability in their jurisdiction, to ensure assessments are culturally appropriate. The principles and guidelines should include:</p> <ul style="list-style-type: none"> • best practice standards of cultural competence for practitioners conducting parenting capacity assessments of First Nations parents with disability • guidance to assist practitioners conducting parenting capacity assessments of First Nations parents with disability to identify and address assessment test errors that may result from an insufficient understanding of how cultural factors affect assessments of parenting capacity • a requirement that practitioners conducting parenting capacity assessments of First Nations parents with disability complete mandatory training to implement best practice standards of cultural competence, using testing tools that are culturally appropriate and disability appropriate • establishing a review process to ensure the design and implementation of these standards is consistent across States and Territories. 	<p>NSW Response: <u>Accept in principle</u></p> <p>NSW agrees it is critical that First Nations parents with disability are assessed in a fair, accessible and culturally appropriate way. NSW Health will work with First Peoples Disability Network, Aboriginal Disability Network advocacy groups and other stakeholders to determine the best way to develop and implement these principles. We will also consult with other States and Territories to promote a consistent approach.</p> <p>In 2020/21, DCJ funded the development of 'Disability Informed Practice in Child Protection: A Guide to Assessing Parenting Capacity with Parents with Intellectual Disability,' which can help inform this work. This guide was developed by the University of Sydney in collaboration with the Children's Court Clinic, Intellectual Disability Rights Service, WASH House, a magistrate and an Aboriginal Elder. The resource has been published as part of the Judicial Commission's guidance for the Children's Court and is aimed at "clinical assessors and experts, judicial officers, Statutory Authorities, caseworkers from government and non-government organisations (NGOs), Independent Legal Representatives, Legal Aid and private solicitors."</p>

<p>Recommendation 9.2 Ages and States Questionnaire-Talking about Raising Aboriginal Kids (ASQ-TRAK)</p> <p>State and Territory governments should ensure all First Nations children up to five years of age coming into out-of-home care are screened using the culturally adapted developmental screening Ages and Stages Questionnaire-Talking about Raising Aboriginal Kids (ASQ-TRAK) tool. Children who are vulnerable in two or more of the five domains of communication, gross motor, fine motor, problem solving, and personal-social should be supported by an application for an Early Childhood Early Intervention plan.</p>	<p>NSW Response: <u>Accept</u></p> <p>The NSW Government is committed to ensuring that all Aboriginal children 0-5 entering statutory out-of-home care are screened using this tool.</p> <p>The NSW Health Out-of-home Care Health Pathway Program is a joint initiative with the NSW Department of Communities and Justice. The program enables health screening and planning for all children and young people entering statutory out-of-home care (for at least 90 days). NSW Health local health districts are being supported to use the ASQ-TRAK, including through the provision of additional ASQ-TRAK kits and access to ASQ-TRAK training. NSW Health has commenced a scoping exercise to understand the extent of the use of the ASQ-TRAK tool and will address any gaps in its use once identified.</p>
<p>Recommendation 9.3 Cultural safety of First Nations people in criminal justice settings</p> <p>By the end of 2024, State and Territory governments should review the effectiveness of their strategies, if any, directed to providing and ensuring the cultural safety of First Nations people with disability in criminal justice settings and in doing so take into consideration what the Royal Commission has heard about that issue. The review findings and recommendations should be made public.</p>	<p>NSW Response: <u>Accept in principle</u></p> <p>NSW Government is committed to the targets under the Closing the Gap implementation plan and acknowledges that for Aboriginal and Torres Strait Islander people to thrive, we must create a service system that places Aboriginal culture and Aboriginal families at the centre of everything we do. We must also ensure that all decisions about Aboriginal people in the justice system are made by Aboriginal people. In recognition of the importance and shared commitment to increase cultural safety for Aboriginal and Torres Strait Islander people in custody, this work must involve Aboriginal communities and Aboriginal led organisations, to ensure a partnership approach to meet this recommendation.</p> <p>The NSW Government does not support a finite end date of 2024 as this work is viewed as a process of continuous improvement and to be effective and meaningful, must be designed and led with Aboriginal people.</p>

<p>Recommendation 9.4 Expand community connector programs</p> <p>The National Disability Insurance Agency should increase the number and coverage of the community connector programs for First Nations people with disability in remote areas. The implementation of the programs should be community-led and delivered. This expansion must be accompanied by adequate long-term funding for the programs and organisations delivering the programs, with sufficient training for staff delivering the programs. In regions where English is not the preferred language for First Nations people, the programs should focus on recruiting staff who speak local languages.</p>	<p>NSW Response for recommendations 9.4 to 9.9: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>
<p>Recommendation 9.5 Block funding the community-controlled sector</p> <p>The National Disability Insurance Agency (NDIA) should provide block funding for First Nations Community Controlled Organisations to flexibly deliver supports and services to First Nations people with disability. This could include funding for:</p> <ul style="list-style-type: none"> • respite or accommodation in connection with their plan or disability services • cultural supports to maintain or improve health and wellbeing • essential supports such as food, bedding and clothing • supports that enable access to therapy, such as transport and fuel • translation or other services to build understanding around disability and the National Disability Insurance Scheme • other matters as agreed by the NDIA and First Nations Community Controlled Organisations. 	
<p>Recommendation 9.6 National Disability Insurance Agency Board</p> <p>Section 127 of the <i>National Disability Insurance Scheme Act 2013</i> (Cth) should be amended to provide that the National Disability Insurance Agency Board must include at least one First Nations person at all times.</p>	

Recommendation 9.7 Participation in cultural life

Sections 3, 4 and 17A of the *National Disability Insurance Scheme Act 2013* (Cth) should be amended to refer to participation in cultural life, in addition to participation in social and economic life.

Recommendation 9.8 Return to Country

In consultation with the First Nations Advisory Council, the National Disability Insurance Agency (NDIA) should:

- create a new line item in the Pricing Arrangements recognising cultural supports and return to Country trips
- develop guidelines for NDIA staff on including cultural supports and return to Country trips as reasonable and necessary supports in plans
- educate First Nations participants about the availability of cultural supports and return to Country trips included in their plans.

Recommendation 9.9 Criteria for funding family supports

The National Disability Insurance Agency (NDIA), the First Nations Advisory Council and First Nations Community Controlled Organisations should co-design policy guidelines on funding for First Nations family members to provide supports to participants in remote communities. Any policy guidelines should consider:

- the risk of financial exploitation, the need for a regulatory framework and oversight, and whether a similar approach would apply to non-First Nations carers in remote communities in similar situations
- the availability of suitable services, including culturally safe services
- training for NDIA staff on how to apply the policy guidelines, including how staff can support family to apply to be paid for the care provided

<ul style="list-style-type: none"> • building awareness of the circumstances in which participants and their families can apply to be paid • how to build the capacity of family and community members to become part of the local workforce, such as trained support or community workers, which may include connecting family members with a First Nations Community Controlled Organisation. 	
<p>Recommendation 9.10 First Nations Disability Forum</p> <p>The Australian Government and State and Territory governments should support the establishment of a First Nations Disability Forum to lead further development and implementation of the Disability Sector Strengthening Plan (DSSP) by the end of March 2024. The Forum should consist of representatives of:</p> <ul style="list-style-type: none"> • First Peoples Disability Network • First Nations Community Controlled Organisations • both Aboriginal and Torres Strait Islander peak bodies • First Nations people with disability. <p>The Forum should be supported by a First Nations disability investment fund, with the purpose of:</p> <ul style="list-style-type: none"> • supporting the operation of, and participation in, the Forum • implementing the DSSP • developing the First Nations Disability Workforce. <p>The Forum should have the capacity to direct funding under the DSSP to:</p> <ul style="list-style-type: none"> • enable First Nations people with disability to provide advice and guidance from their lived experience to the Forum • enable community-controlled organisations to develop their capacity to design and deliver disability-specific services and supports • enable community-controlled organisations to work with other organisations to drive national leadership in disability policy and services reform 	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments recognise the value of shared decision-making mechanisms and formal partnerships in line with Priority Reform One under the National Agreement on Closing the Gap.</p> <p>All governments will work in partnership with First Nations people with disability, their families, carers and representatives, the Joint Council on Closing the Gap, peak bodies, and other key stakeholders through 2024 to develop options for the establishment of a First Nations Disability Forum or other an appropriate shared decision-making mechanism for the cross-cutting outcome of disability under Closing the Gap.</p> <p>Additional NSW comment:</p> <p>At the NSW DRC First Nations Stakeholder forum on 1 February 2024, the NSW Government heard there is strong support amongst NSW Aboriginal stakeholders for an ongoing forum that gives voice to First Nations people with disability and the organisations that support them.</p>

<ul style="list-style-type: none"> • enable community-controlled organisations to deliver on specific priority areas as identified in the DSSP • enable the participation of community-controlled organisations not engaged in the Coalition of Aboriginal Peaks process • support First Nations community-based organisations across the health, criminal justice and early childhood sectors to improve workforce disability competency to ensure First Nations people with disability receive appropriate disability support • take into consideration the recommendations of the Royal Commission. <p>The Forum should develop and implement a strategy, supported by the First Nations disability investment fund, to build disability-specific expertise into First Nations Community Controlled Organisations.</p>	
<p>Recommendation 9.11 Building on the Disability Sector Strengthening Plan</p> <p>Parties to the National Agreement on Closing the Gap should commit to releasing a revised Disability Sector Strengthening Plan (DSSP) in partnership with the First Nations Disability Forum by the end September of 2024. The revised DSSP should have:</p> <ul style="list-style-type: none"> • agreed priority areas, determined through consultation with the community-controlled sector under the guidance of First People's Disability Network • a commitment to future funding and longer timeframes • agreed timeframes for delivering actions and achieving outcomes • annual reporting requirements for government parties to the National Agreement on Closing the Gap. 	<p>Joint Response: <u>Accept in principle</u></p> <p>As a first step towards further consideration of this recommendation, governments have committed to work with First Peoples Disability Network through 2024 to strengthen implementation of the current Disability Sector Strengthening Plan (DSSP) to enable improved outcomes against the existing actions. The proposed shared decision-making mechanism in respect of disability (see Recommendation 9.10) would also support the response to this recommendation.</p>
<p>Recommendation 9.12 Disability-inclusive cultural safety standards</p> <p>The Australian Government in partnership with the First Nations Disability Forum should develop disability-inclusive cultural safety standards for the provision of services for First Nations people with</p>	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

<p>disability. Disability service providers that support and have a responsibility for First Nations people with disability, including in the health, criminal justice and early childhood sectors, should incorporate these disability-inclusive cultural safety standards in their practices and organisations.</p>	
<p>Recommendation 9.13 Remote workforce development</p> <p>The First Nations Disability Forum and parties to the Disability Sector Strengthening Plan (DSSP) should collaborate to develop a strategy to develop First Nations local workforces in remote communities. The strategy should consider:</p> <ul style="list-style-type: none"> • funding for community-level assessments to determine: <ul style="list-style-type: none"> – existing infrastructure and resources – the capacity and willingness of the First Nations community-controlled sector to support local workforce development – the level of demand within the community • that allocation of funding for local workforce development should include funding to build the capacity of family members to provide care • the strategy should be co-developed and co-implemented with First Nations Community Controlled Organisations, noting their capacity, expertise and willingness to be involved. The involvement of First Nations Community Controlled Organisations must be adequately supported and funded. 	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support in principle the development of a strategy to develop First Nations local workforces in remote communities that is co-developed and co-implemented with First Nations Community Controlled Organisations. First Nations communities will play a key role in the flexible design and delivery of supports and services to First Nations people with disability and people living in remote areas.</p>

Volume 10: Disability Services

Volume 10 includes 33 recommendations, split across two parts dealing with disability service providers and the NDIS Commission.

Part A – Disability Service Providers

Volume 10 Part A includes 10 recommendations.

Recommendation	Response
<p>Recommendation 10.1 Embedding human rights</p> <p>The NDIS Quality and Safeguards Commission (NDIS Commission) should commission a capacity-building program to support disability service providers to embed human rights in the design and delivery of their services. The program should be co-designed with people with disability, disabled people's organisations, disability representative organisations including member-led First Nations Community Controlled Organisations, and peak bodies. The program should:</p> <ul style="list-style-type: none">• develop opportunities for dialogue between providers and people with disability to address challenges and share promising practices• develop tools, resources and training packages that reflect the diversity of people with disability and disability service providers across Australia• focus on practical, implementable strategies that lead to better outcomes for people with disability• be grounded in the principles of the <i>Convention on the Rights of Persons with Disabilities</i>, and reflect our findings, the NDIS Review, and the NDIS Commission's own motion inquiries and recent Safeguarding Policy Implementation Plan• enable providers to prepare for, or demonstrate compliance with, current and future legislative and registration requirements associated with the rights of people with disability. This includes	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and state and territory governments support the development of a capacity-building program to support disability service providers to embed human rights in the design and delivery of their services.</p> <p>The NDIS Commission will work with people with disability, providers, workers and states and territories to develop the program, which will build on the NDIS Commission's existing suite of practical human rights capacity-building products and training for NDIS providers and workers that were developed with people with disability.</p>

<p>responsibilities under The <i>Disability Discrimination Act 1992</i> (Cth) and the Disability Rights Act (if enacted).</p> <p>The National Disability Insurance Agency, and State and Territory governments involved in providing, regulating or conducting oversight of disability services not funded under the National Disability Insurance Scheme, should actively participate in all stages of the program. The program should begin by 1 July 2025.</p>	
<p>Recommendation 10.2 Independent support coordination</p> <p>To address potential conflicts of interest, the Minister for the National Disability Insurance Scheme (NDIS) should, in consultation with states and territories, create or amend an NDIS Rule to make clear that it is not appropriate for a provider of support coordination to be the provider of any other funded supports in an NDIS participant's plan.</p> <p>Exceptions to the Rule should be developed in consultation with people with disability, disabled people's organisations, disability representative organisations including member-led First Nations Community Controlled Organisations, and peak bodies.</p> <p>Exceptions may include situations where there are limited alternative service options for NDIS participants due to thin disability service markets, or where there are limited culturally appropriate or specialised services available.</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments are committed to improving safeguards for people with disability in the provision of disability support services, including greater controls around conflicts of interest.</p> <p>Governments will work together with people with disability, their families, carers, representative organisations, First Nations Community Controlled Organisations and peak bodies to consider the most appropriate approach to preventing conflicts of interest in support coordination. This will include consideration of the potential need for exceptions in limited circumstances.</p>
<p>Recommendation 10.3 Adequate support coordination</p> <p>The National Disability Insurance Agency should ensure that participants in the National Disability Insurance Scheme (NDIS) identified as being at heightened risk of violence, abuse, neglect or exploitation, particularly those living in supported accommodation, have funding for support coordination included in their NDIS plans. Funding for support coordination should reflect the NDIS participant's support and communication needs.</p>	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

<p>Funding for hours of support coordination should also be sufficient to facilitate face-to-face contact at least monthly. NDIS participant plans should be updated by 30 September 2025.</p>	
<p>Recommendation 10.4 Quality of support coordination The NDIS Quality and Safeguards Commission should examine the quality and consistency of support coordination, with a particular focus on National Disability Insurance Scheme participants who:</p> <ul style="list-style-type: none"> • live in remote and very remote locations • are First Nations people with disability • are culturally and linguistically diverse • are navigating State or Territory housing, health or criminal justice systems • are experiencing housing insecurity or homelessness • are living in supported accommodation • are attending day programs or working in Australian Disability Enterprises. <p>The examination may be part of the proposed own motion inquiry on support coordination.</p>	<p>NSW Response: <u>Note</u> This recommendation is directed at the Australian Government.</p>
<p>Recommendation 10.5 Advocacy a) The National Disability Insurance Agency (NDIA) should develop a program to connect National Disability Insurance Scheme (NDIS) participants living in supported accommodation with an appropriate disability advocacy organisation. The program should be co-designed with people with disability, disabled people's organisations, disability representative organisations including member-led First Nations Community Controlled Organisations, and peak bodies. The program should:</p> <ul style="list-style-type: none"> • promote advocacy in the course of NDIS planning processes • increase awareness of the role of advocacy in disability services among NDIS participants and their families and supporters 	<p>NSW Response: <u>Note</u> This recommendation is directed at the Australian Government.</p>

<ul style="list-style-type: none"> • strengthen advocacy referral processes when participants and their families and supporters raise concerns, make complaints or report incidents • foster relationships between NDIS participants, their families and supporters, and disability advocacy organisations • strengthen collaboration between disability service providers and disability advocacy organisations to enable advocates to maintain periodic contact with people with disability so they can identify potential or emerging issues. <p>The program should commence by January 2025.</p> <p>Following an evaluation of the program's impact and outcomes, the NDIA should consider expanding the program to reach other groups of people with disability who are identified as being at heightened risk of violence, abuse, neglect or exploitation.</p> <p>b) The NDIS Quality and Safeguards Commission, when reviewing complaints and reportable incidents, should also actively promote the value of independent advocacy for NDIS participants identified as being at heightened risk of violence, abuse, neglect or exploitation, and/or those who live in supported accommodation.</p>	
<p>Recommendation 10.6 Supported decision-making in disability services</p> <p>The NDIS Quality and Safeguards Commissioner should amend the <i>National Disability Insurance Scheme (Quality Indicators for NDIS Practice Standards) Guidelines 2018</i> (Cth) to reflect that each participant:</p> <ul style="list-style-type: none"> • is entitled to support to make everyday life decisions including what services they receive, in what way and from whom • has opportunities to make decisions about their goals and aspirations • is supported to develop their decision-making skills • is supported to communicate their will and preferences • has the right to choose their own supporter. <p>Amendments should be completed by 30 June 2025.</p>	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

<p>Recommendation 10.7 Practical guidance on supported decision-making</p> <p>The NDIS Quality and Safeguards Commission should co-design –with people with disability, disabled people’s organisations, disability representative organisations including member-led First Nations Community Controlled Organisations, and peak bodies –a practice guide on supported decision-making for service providers. This should be consistent with the NDIS Supported Decision Making Policy and the supported decision-making principles outlined in Recommendation 6.6.</p>	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>
<p>Recommendation 10.8 A national disability support worker registration scheme</p> <p>The Australian Government should establish a national disability support worker registration scheme by 1 July 2028.</p> <p>Consultation about the scope and elements of the national disability support worker registration scheme should begin as soon as possible. The consultations should include people with disability, disabled people’s organisations, disability representative organisations including member-led First Nations Community Controlled Organisations, support workers and their representative bodies, disability service providers, State and Territory governments, and peak and regulatory bodies. The design of the scheme should consider:</p> <ul style="list-style-type: none"> • the definition of ‘disability support worker’ • a code of conduct and minimum standards for registered disability support workers, including support coordinators • mandating the NDIS Worker Screening Check for all disability support workers • recognition and accreditation of workers’ qualifications, experience, capabilities and skills • continuing professional development requirements for disability support workers • automatic registration for disability support workers who are registered with other relevant professional bodies 	<p>NSW Response 10 recommendations 10.8.10.9: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

<ul style="list-style-type: none"> • a First Nations workforce pathway to address barriers to First Nations workers entering the sector • an accessible portal to enable people with disability and their supporters to view the profiles and registration status of disability support workers • portable training and leave entitlements. 	
<p>Recommendation 10.9 The Social, Community, Home Care and Disability Services Industry Award</p> <p>Organisations entitled to represent the industrial interests of members of the disability support workforce covered by the Social, Community, Home Care and Disability Services (SCHADS) Industry Award 2010, along with the Australian Government and employers, should consider a joint application to vary the modern award in accordance with section 158 of the <i>Fair Work Act 2009</i> (Cth). This would seek to ensure equal remuneration of workers for work of equal or comparable value in accordance with section 302 of the <i>Fair Work Act 2009</i> (Cth), paying particular attention to employers' continued use of Schedule E and the 'work value' of contemporary disability support work.</p>	
<p>Recommendation 10.10 Provider of last resort</p> <p>The Australian Government should urgently engage with State and Territory governments about funding and arrangements for a provider of last resort scheme. It should also consult with people with disability, disabled people's organisations, disability representative organisations including member-led First Nations Community Controlled Organisations, and peak bodies about how such a scheme could operate. The scheme should be designed to address:</p> <ul style="list-style-type: none"> • failed or thin markets, particularly for First Nations people with disability in remote or very remote areas, and consider the use of block funding to guarantee service provision in those communities 	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments acknowledge that there are gaps when a NDIS provider or the NDIS market fails which can prevent a person with disability in certain areas or with certain needs from accessing the supports and services they need, when they need them.</p> <p>A provider of last resort scheme could be one mechanism to address failed and critically thin markets, particularly for First Nations people in remote communities, as well as regional and remote communities more broadly, and participants with complex needs.</p>

<ul style="list-style-type: none"> • access to services for: <ul style="list-style-type: none"> – people in crisis situations – people at risk of losing their accommodation and disability services – people whose needs cannot be adequately met by existing services. • access to case management for people with disability at heightened risk of violence, abuse, neglect or exploitation • clarity about which agency has the lead coordinating role. <p>The Australian Government should put forward a proposal for discussion to the Disability Reform Ministers Council in 2024.</p>	<p>It could also be a mechanism to support people in crisis situations, such as those at risk of losing their accommodation, or access to disability supports.</p> <p>All governments support the policy intent of this recommendation and are committed to working together through the Disability Reform Ministerial Council to consider reform options alongside Recommendation 13 and Action 13.4 of the NDIS Review, in consultation with people with disability, their families, carers, representative organisations, First Nations Community Controlled Organisations, peak bodies, and other key stakeholders.</p>
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Part B – NDIS Commission

Volume 10 Part B includes 23 recommendations.

Recommendation	Response
<p>Recommendation 10.11 Internal procedures for monitoring reportable incidents</p> <p>The NDIS Quality and Safeguards Commission should improve its internal procedures for monitoring reportable incidents, paying particular attention to:</p> <p>a) communicating feedback about the quality of providers' handling of incidents</p> <p>b) seeking clarification from providers, National Disability Insurance Scheme participants and their families when deficiencies or evidentiary gaps are identified, particularly where participants have been harmed or are at immediate risk of harm</p> <p>c) the efficiency of the online portal used by providers to report incidents.</p>	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

<p>Recommendation 10.12 Introduction of class or kind determinations The Minister for the National Disability Insurance Scheme should, in consultation with States and Territories, amend the <i>National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018</i> (Cth) to:</p> <p>a) introduce ‘class or kind’ determinations exempting certain registered providers from notifying less serious types or categories of reportable incidents where they have demonstrated a satisfactory level of competence in managing and investigating incidents</p> <p>b) enable the NDIS Quality and Safeguards Commission to conduct audits to assess compliance with class or kind determinations.</p>	<p>Joint Response: <u>Accept in principle</u> The Australian Government and State and Territory governments support in principle the NDIS Quality and Safeguards Commission (NDIS Commission) having access to ‘class or kind’ determinations to enable it to effectively manage the volume of reportable incidents it receives.</p> <p>The NDIS Commission will work with people with disability and the NDIS sector to determine an approach to, ‘class or kind,’ determinations where a satisfactory level of competence in managing and investigating incidents has been demonstrated by providers. Strategies for assessing compliance by the NDIS Commission will be included in considerations.</p> <p>The NDIS Commissioner is able to amend the <i>National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018</i> (Cth) in consultation with States and Territories.</p> <p>In addition, the Australian Government has established the NDIS Provider and Worker Registration Taskforce to provide advice on the design and implementation of the new graduated risk-proportionate regulatory model proposed in the NDIS Review Final Report. The Taskforce will report in 2024. Final decisions on the registration model may have implications for the response to this recommendation.</p>
<p>Recommendation 10.13 Creating an independent investigators panel The NDIS Quality and Safeguards Commission (NDIS Commission) should establish a panel of independent investigators with strong credentials in relation to safeguarding, human rights and investigative practice. The NDIS Commission should seek regular feedback from providers about the quality of independent investigators’ work.</p>	<p>NSW Response to recommendations 10.13 to 10.14: <u>Note</u> This recommendation is directed at the Australian Government</p>
<p>Recommendation 10.14 Developing model policies and procedures The NDIS Quality and Safeguards Commission should develop model</p>	

<p>procedures for National Disability Insurance Scheme (NDIS) providers, including:</p> <p>a) for frontline workers about recognising and reporting incidents, with clear definitions around what incidents must be reported and when</p> <p>b) for incident management incorporating guidance on undertaking causal reviews of incidents and preventive action, as well as implementing wider system improvements</p> <p>c) for complaints articulating person-centred approaches for managing and resolving complaints and providing feedback, and requiring supports for a participant who needs to participate in a complaints process</p> <p>d) that address the need to consider the impact or harm caused to a participant and provide guidance on forms of redress that should be offered to people with disability involved in incidents and complaints. These procedures should be developed in consultation with people with disability, family members, advocates and NDIS providers.</p>	
<p>Recommendation 10.15 Complaint handling and investigative practice guideline</p> <p>a) The NDIS Quality and Safeguards Commissioner should issue a guideline, by notifiable instrument, addressing accessible and responsive complaint handling and investigative practice. The guideline should:</p> <ul style="list-style-type: none"> • outline the core components of an accessible and responsive complaint handling and investigative practice involving people with disability, consistent with Recommendation 11.5 • be co-designed by people with disability and their representative organisations and involve consultation with National Disability Insurance Scheme (NDIS) provider representatives. <p>b) The Minister for the NDIS should, in consultation with States and Territories, amend the <i>National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018</i> (Cth) and <i>National Disability Insurance Scheme (Complaints Management and Resolution)</i></p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and state and territory governments recognise and support the importance of having an accessible and responsive complaints handling system to uphold the rights of people with disability in complaints and incident investigation processes associated with NDIS providers.</p> <p>The NDIS Quality and Safeguards Commission will work with states and territories to develop and issue a guideline, co-designed with people with disability, outlining the core components of an accessible and responsible complaints handling and investigative practice involving people with disability.</p>

<p><i>Rules 2018</i> (Cth) to include recognition of, and a requirement for compliance with, the guideline.</p>	
<p>Recommendation 10.16 Requirement to consider redress</p> <p>a) The Minister for the National Disability Insurance Scheme (NDIS) should, in consultation with States and Territories, amend the <i>National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018</i> (Cth) and <i>National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018</i> (Cth) to include a requirement for NDIS providers to consider redress and forms of support to an NDIS participant where the NDIS Quality and Safeguards Commission (NDIS Commission) forms the view that the service provider bears responsibility for the violence, abuse, neglect or exploitation experienced by the NDIS participant.</p> <p>b) The NDIS Commission should:</p> <ul style="list-style-type: none"> • provide practical advice on suitable forms of redress when making the guideline on accessible and responsive complaint handling and investigative practice (see Recommendation 10.15) • consider whether it has power to incorporate in enforceable undertakings a requirement that service providers afford redress to NDIS participants in appropriate cases. If not, it should seek the necessary powers and be prepared to use them where appropriate. 	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments acknowledge the Disability Royal Commission's findings that NDIS providers have failed to provide a written apology or discuss any form of redress when people with disability, for whom they were responsible, experienced violence, abuse, neglect or exploitation.</p> <p>The NDIS Commission will work with States and Territories, people with disability, NDIS providers and other key stakeholders to investigate the practical application of this recommendation, including consideration of legal and regulatory implications.</p>
<p>Recommendation 10.17 Access to safeguarding indicators and expertise</p> <p>In developing and publishing guidance about best practice governance models for National Disability Insurance Scheme (NDIS) providers, the NDIS Quality and Safeguards Commission should:</p> <p>a) include safeguarding indicators for use by NDIS providers based on the sample indicators outlined in Table 10.8.3</p> <p>b) provide guidance encouraging governing bodies of NDIS providers to</p>	<p>NSW Response to recommendations 10.17 to 10.18: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

<p>have regular access to specialist safeguarding advice in considering issues arising from complaints and incidents.</p>	
<p>Recommendation 10.18 Improved complaint handling procedures and responses The NDIS Quality and Safeguards Commission should:</p> <ul style="list-style-type: none"> a) ensure complainants are updated appropriately throughout key stages of the complaint process and their expectations managed b) ensure triage and streamlining models effectively prioritise complaints requiring a more immediate response c) clearly define risk categories, timeframes and procedures for handling these complaints d) establish realistic and achievable metrics for measuring its performance with respect to timeframes. 	
<p>Recommendation 10.19 Requirement to investigate certain complaints The Minister for the National Disability Insurance Scheme should, in consultation with States and Territories, amend the <i>National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018</i> (Cth) to empower the NDIS Quality and Safeguards Commission to require a provider to carry out an investigation into a complaint and report on its contact with the complainant and its findings.</p>	<p>Joint Response: <u>Accept in principle</u> The Australian Government and State and Territory governments agree NDIS Rules should enable the NDIS Commission to require a provider to carry out an investigation into a complaint and report on its contact with the complainant and findings.</p> <p>The NDIS Commission will work with States and Territories, people with disability, and the broader NDIS sector to identify and implement required NDIS Rules changes.</p>
<p>Recommendation 10.20 Making complaint processes accessible The NDIS Quality and Safeguards Commission should further enhance the accessibility of its complaint handling processes, having regard to the following steps:</p> <ul style="list-style-type: none"> a) making information simple and easy to navigate b) adopting a ‘no wrong door’ approach c) accommodating people’s preferred means of communication and 	<p>NSW Response: <u>Note</u> This recommendation is directed at the Australian Government.</p>

<p>making other adjustments as needed</p> <p>d) assisting people to secure advocacy and other supports</p> <p>e) identifying people at risk of abuse</p> <p>f) implementing a strategy for ‘hard to reach’ groups</p> <p>g) ensuring complainants are involved in complaint processes and when this is not possible, recording the reasons for their non-involvement</p> <p>h) examining whether providers are supporting people with disability to access advocates when they make a complaint and where providers conduct investigations.</p>	
<p>Recommendation 10.21 Registration and audit process</p> <p>a) To enhance the registration process, the NDIS Quality and Safeguards Commission (NDIS Commission) should:</p> <ul style="list-style-type: none"> • develop and implement a framework for sharing relevant information with quality auditors • conduct a comprehensive review of the provider registration process focused on: <ul style="list-style-type: none"> – simplifying the process for smaller providers seeking to renew their registration – improving the NDIS Commission’s operating system (COS) portal and online application forms used to submit registration applications – removing any duplication of requirements for cohorts of practitioners or organisations working within multiple schemes and for recognising other forms of accreditation – identifying areas where there are workforce shortages or ‘thin provider markets’, and encouraging the use of easier and more cost-effective certification audit processes in these areas – assessing whether the number of approved quality auditors accredited for remote auditing and assessment should be increased 	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and state and territory governments support reform to the registration and audit process to enable a strengthened but risk-proportionate approach to regulating and monitoring the quality and safety of services delivered by NDIS providers.</p> <p>On 12 February 2024, the Minister for the NDIS announced the establishment of the NDIS Provider and Worker Registration Taskforce to provide advice on the design and implementation of a new graduated risk-proportionate regulatory model for all providers and workers in consultation with the disability community. The Taskforce will report in 2024.</p> <p>All governments also support appropriate changes to clarify that the NDIS Commission is able to share relevant information with quality auditors and will consider appropriate rule or guideline changes following receipt of the Taskforce’s report.</p> <p>Approaches to implementing this recommendation are being considered alongside Recommendation 17 of the NDIS Review to develop and deliver a risk-proportionate model for the visibility and regulation of all providers</p>

<ul style="list-style-type: none"> • collect and publish de-identified data about quality audit outcomes to inform best practice • alert quality auditors to known systemic issues across the NDIS provider market. <p>b) The Minister for the National Disability Insurance Scheme should, in consultation with States and Territories, amend the <i>National Disability Insurance Scheme (Protection and Disclosure of Information – Commissioner) Rules 2018</i> (Cth) to clarify the NDIS Commission is able to share relevant information with quality auditors.</p>	<p>and workers, and to strengthen the regulatory response to long-standing and emerging quality and safeguards issues.</p>
<p>Recommendation 10.22 Strengthened regulatory requirements</p> <p>a) The Minister for the National Disability Insurance Scheme should, in consultation with States and Territories, amend the Core Module of the <i>National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018</i> (Cth) to issue further standards that address complaint handling and incident management.</p> <p>b) The NDIS Quality and Safeguards Commissioner should amend the Core Module of the <i>National Disability Insurance Scheme (Quality Indicators for NDIS Practice Standards) Guidelines 2018</i> (Cth) to strengthen the requirements relating to complaints and incidents (see Table 10.10.2), accountable governance (see Table 10.10.3), and worker capacity and training (see Table 10.10.4).</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support strengthening complaint handling and incident management requirements to better protect people with disability.</p> <p>The NDIS Quality and Safeguards Commission will commence a review of the NDIS Practice Standards, which form part of the <i>National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018</i>, in consultation with people with disability, NDIS providers and States and Territories in 2024. The outcomes of the review will inform the issuing of further standards that address complaint handling and incident management.</p>
<p>Recommendation 10.23 Publishing data about the unregistered provider market</p> <p>The NDIS Quality and Safeguards Commission (NDIS Commission) should collect and publish data relating to trends and risks identified within the unregistered provider market, including a breakdown of:</p> <ul style="list-style-type: none"> • the number of complaints received involving unregistered providers 	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

<ul style="list-style-type: none"> • quality and safety issues identified by the NDIS Commission through its oversight of complaints in relation to unregistered providers • the number of compliance matters and investigations commenced by the NDIS Commission in relation to unregistered providers • the number of unregistered providers involved in contraventions identified by the NDIS Commission and the type of breach identified • the number and type of compliance and enforcement actions taken in relation to unregistered providers • the number of workers engaged by unregistered providers involved in complaints, compliance matters or investigations without a worker screening clearance at the time of the alleged conduct or issue. 	
<p>Recommendation 10.24 Improved access to behaviour support practitioners</p> <p>The NDIS Quality and Safeguards Commission should, by December 2024, improve access to behaviour support practitioners by:</p> <p>a) providing incentives for practitioners and National Disability Insurance Scheme providers to provide behaviour support services, including in regional and remote areas in which ‘thin markets’ operate</p> <p>b) forming a partnership with First Nations leaders from the disability and employment services sectors to develop a recruitment strategy targeting First Nations people and others with experience in working with First Nations communities to address behaviour support shortages in regional and remote areas</p> <p>c) exploring with behaviour support practitioners, service providers and people with disability, the merits of an ‘on-the-job’ professional development and accreditation model for behaviour support practitioners</p>	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>

d) creating a publicly accessible list of all individual behaviour support practitioners.	
<p>Recommendation 10.25 Strengthened monitoring, compliance and enforcement</p> <p>The NDIS Quality and Safeguards Commission should review its compliance and enforcement policy and in doing so have regard to:</p> <p>a) where appropriate, transitioning its primary compliance approach from educational and capacity building strategies to stronger compliance and enforcement activities</p> <p>b) increasing its face-to-face engagement with National Disability Insurance Scheme (NDIS) participants who are at greater risk of experiencing violence, abuse, neglect and exploitation, and site visits to speak with providers and workers</p> <p>c) increasing the use of its enforcement powers and monitoring tools in relation to NDIS providers that:</p> <ul style="list-style-type: none"> • have a history of non-compliance or repeatedly fail to meet their obligations to provide safe and quality supports and services • have demonstrated a disregard for the safety of people with disability • have caused serious harm to a person or people with disability <p>d) the availability of enforceable undertakings and compliance notices to address non-compliance by NDIS providers.</p>	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>
<p>Recommendation 10.26 Expanded data reporting and publication</p> <p>a) In addition to data currently published, the NDIS Quality and Safeguards Commission should publish in quarterly activity reports and annual reports:</p> <ul style="list-style-type: none"> • disaggregated data' relating to complaints, reportable incidents and behaviour support, having regard to suggested data in Table 10.13.1 	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and state and territory governments recognise the value and importance of data in proactively identifying issues, monitoring trends, improving collaboration and responses between relevant regulatory bodies, and better safeguarding people with disability from violence, abuse, neglect and exploitation.</p> <p>The NDIS Commission will work with people with disability, their</p>

<ul style="list-style-type: none"> • a comprehensive analysis of data trends, identifying systemic issues relating to the quality and safety of National Disability Insurance Scheme (NDIS) supports and services • ‘operational performance data’ relating to complaints, reportable incidents, compliance and enforcement, having regard to the suggestions in Table 10.13.2. <p>b) The Minister for the NDIS should, in consultation with States and Territories, amend the reporting requirements in the <i>National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018</i> (Cth) to enable provider investigation outcome data to be collected on a routine basis from NDIS providers.</p>	<p>representatives, and NDIS service providers to identify potential approaches to the collection of provider investigation outcome data on a routine basis from NDIS providers and publication. Changes to NDIS systems and development of provider guidance will be required to support this recommendation.</p>
<p>Recommendation 10.27 Strengthened intelligence capacity</p> <p>The NDIS Quality and Safeguards Commission (NDIS Commission) should establish a dedicated intelligence unit within the NDIS Commission to enhance its capacity to collect intelligence, identify and respond to higher risk participants, take action relating to providers where necessary and identify systemic issues.</p>	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>
<p>Recommendation 10.28 Information sharing between prescribed bodies</p> <p>a) The Minister for the National Disability Insurance Scheme (NDIS) should, in consultation with States and Territories, amend the <i>National Disability Insurance Scheme (Protection and Disclosure of Information – Commissioner) Rules 7.37 2018</i> (Cth) to include safeguarding bodies with the type of functions described in Table 10.13.3 as ‘prescribed bodies’ for the purposes of section 67A(1)(db) of the <i>National Disability Insurance Scheme Act 2013</i> (Cth).</p> <p>b) States and Territories should introduce legislative and administrative arrangements that would allow prescribed bodies in each jurisdiction to exchange risk-related information with the NDIS Quality and Safeguards Commission, where the exchange of information will promote the safety</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support increased and robust risk-related information sharing between safeguarding bodies in each State and Territory and the NDIS Commission to facilitate the harmonious and effective oversight of services provided to people with disability.</p> <p>All governments are committed to considering relevant rule or legislative changes to ensure safeguarding bodies in each jurisdiction can exchange risk-related information with the NDIS Commission. A key aspect of implementation of any legislative changes for this recommendation will be protecting personal and private information.</p>

of NDIS participants who may be at risk of experiencing violence, abuse, neglect or exploitation.	
Recommendation 10.29 Establishing a First Nations Unit The NDIS Quality and Safeguards Commission should establish a dedicated First Nations Unit to develop its engagement with and understanding of the issues facing First Nations participants in the National Disability Insurance Scheme, particularly in regional and remote communities.	NSW Response to recommendations 10.29 to 10.30: <u>Note</u> This recommendation is directed at the Australian Government.
Recommendation 10.30 Engagement and capacity building activities The NDIS Quality and Safeguards Commission should enhance its engagement and capacity building activities with National Disability Insurance Scheme (NDIS) providers by: <ul style="list-style-type: none"> a) routinely sharing data analysis and insights from its oversight activities with NDIS providers to promote improvements in the quality and safety of services b) facilitating regular industry forums and communities of practice to raise and address critical safeguarding practice issues and share best practice c) expanding its training offerings to NDIS providers, particularly in relation to fulfilling their obligations to recognise, report and investigate incidents and deal appropriately with complaints d) developing a training and resources hub for use by people with disability and their supporters, as well as the NDIS provider workforce. 	
Recommendation 10.31 Continuous monitoring of criminal charges The Australian Government and State and Territory governments should amend the Intergovernmental Agreement on Nationally Consistent Worker Screening for the National Disability Insurance Scheme to clarify the role of the Australian Federal Police (or other national bodies) in monitoring new charges relating to disability support workers who hold a	Joint Response: <u>Accept in principle</u> The Australian Government and State and Territory governments are committed to protecting the safety of people with disability, including through strong workforce screening processes.

<p>clearance, and sharing information with State and Territory worker screening units.</p>	<p>All governments will work together to consider options to clarify the role of the Australian Federal Police and other national bodies in monitoring new charges related to NDIS workers and sharing information with state and territory worker screening units.</p> <p>The <i>National Disability Insurance Scheme Act 2013</i> allows the NDIS Commission to disclose protected NDIS Commission information to worker screening units for the purposes of carrying out an NDIS worker screening check.</p> <p>All governments are committed to working together to review the adequacy of information sharing arrangements. The NDIS Commission and State and Territory Worker Screening Units will also continue working closely together to improve content and practice elements of reciprocal information sharing processes.</p> <p>The Australian Government is also taking steps, in consultation with States and Territories, to pilot a process for national continuous monitoring of criminal charges and a move towards a nationally consistent worker screening model across the care and support economy.</p>
<p>Recommendation 10.32 Operational framework to guide worker screening</p> <p>The NDIS Quality and Safeguards Commission (NDIS Commission) should, in consultation with State and Territory worker screening units, develop an operational framework to guide the efficient and effective provision of information to worker screening units to inform their assessments.</p> <p>In doing so, it should establish criteria to inform the provision of initial monitoring advice to screening bodies to promote consistency and help better inform initial screening actions. Such advice could include:</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>See Rec 10.31</p>

<ul style="list-style-type: none"> • date of the incident • duration of alleged conduct (if applicable) • description, nature and circumstances of the matter • whether the police are involved (noting that the screening unit will only be alerted via the monitoring system at the point at which charges are laid) • critical information relating to the available evidence (for example, an investigation report from an employer) • relevant information relating to the NDIS Commission's oversight of the matter (for example, whether the matter is open, closed, substantiated or not and whether further outcomes are pending). 	
<p>Recommendation 10.33 Reviewing information sharing arrangements</p> <p>As part of the National Disability Insurance Scheme worker screening review, the Australian Government, and State and Territory governments, should consider the adequacy of information sharing arrangements with regard to:</p> <p>a) the ability of worker screening units to obtain relevant risk-related information from bodies outside of their operating jurisdiction to inform their assessments</p> <p>b) the ability of the NDIS Quality and Safeguards Commission and worker screening units to obtain and share relevant risk-related information (such as misconduct and disciplinary investigation outcomes) held by other safeguarding and complaint handling bodies to inform worker screening decisions.</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>See Rec 10.31</p>

Volume 11: Independent Oversight and Compliance Mechanisms

Volume 11 includes 18 recommendations.

Recommendation	Response
<p>Recommendation 11.1 Nationally consistent adult safeguarding functions States and Territories should each:</p> <p>a) introduce legislation to establish nationally consistent adult safeguarding functions, including:</p> <ul style="list-style-type: none"> • definitions of ‘adult with disability’, ‘violence’, ‘abuse’, ‘neglect’, and ‘exploitation’ • at a minimum, the principles, functions and powers outlined in Table 11.1.1 • data collection and public reporting, including demographic data (for example, relating to First Nations, culturally and linguistically diverse, and LGBTIQ+ people with disability) • a mechanism to review the legislation after a reasonable period to examine its efficacy. <p>b) ensure adult safeguarding functions are operated by adequately resourced independent statutory bodies</p> <p>c) develop a National Adult Safeguarding Framework led by the appointed adult safeguarding bodies</p> <p>d) consider whether to co-locate the adult safeguarding function with the ‘one-stop shop’ independent complaint reporting, referral and support mechanism (see Recommendation 11.3).</p>	<p>Joint Response: <u>Subject to further consideration</u></p> <p>The Australian Government and State and Territory governments support a strong, connected safeguarding system to reduce the risk of harm to people with disability and will work together through the Disability Reform Ministerial Council to consider reform options to develop a nationally consistent and a unified approach.</p> <p>As a first step, the Commonwealth will work with States and Territories to develop a framework that sets out the standards and culture of how the disability ecosystem will work to strengthen safeguarding for people with disability.</p> <p>Additional NSW comment: As highlighted by the Royal Commission, the NSW Ageing and Disability Commission established under the <i>Ageing and Disability Commissioner Act 2019</i> (NSW) provides a model for adult safeguarding by an independent statutory body that other States and Territories should adopt. The ADC receives, investigates and responds to allegations of abuse, neglect and exploitation of older people and adults with disability in NSW. The ADC has been providing national leadership around articulating a national adult safeguarding policy framework.</p>
<p>Recommendation 11.2 An integrated national adult safeguarding framework The Australian Government should incorporate the National Adult Safeguarding Framework proposed in Recommendation 11.1 into the Safety Targeted Action Plan within Australia’s Disability Strategy or another suitable authorising document.</p>	<p>Joint Response: <u>Subject to further consideration</u> See Rec 11.1</p>

<p>Recommendation 11.3 ‘One-stop shop’ complaint reporting, referral and support</p> <p>States and Territories should each establish or maintain an independent ‘one-stop shop’ complaint reporting, referral and support mechanism to receive reports of violence, abuse, neglect and exploitation of people with disability. This mechanism should perform the following functions:</p> <ul style="list-style-type: none"> a) receive complaints or reports from anyone concerned about violence, abuse, neglect and exploitation involving a person with disability in any setting b) provide advice and information to people with disability, representative organisations and other interested parties about appropriate reporting options c) with a person’s consent: <ul style="list-style-type: none"> • make warm referrals to appropriate complaints bodies • make warm referrals to advocacy and other services who can support them in the complaint process d) refer ‘third party’ reports to police, including anonymous reports e) collect, analyse and publicly report annual data on complaints and reports received and on referrals. <p>The mechanism should be co-designed with people with disability to ensure entry points are accessible to and effective for people with a range of abilities, language and communication needs. The mechanism should be placed, if possible, within an existing independent organisation which has appropriate expertise and relationships with services to perform its functions.</p>	<p>NSW Response: <u>Accept in principle</u></p> <p>The NSW Government supports the availability of appropriate and accessible pathways for reporting concerns about violence, abuse, neglect and exploitation of people with disability.</p> <p>The NSW Ageing and Disability Commission currently fulfills many of the proposed functions set out in recommendation 11.3. The NSW Government will collaborate with the Australian Government, other States and Territories, the disability community and other stakeholders in implementing both this recommendation and Recommendation 11.4.</p>
<p>Recommendation 11.4 Creating accessible complaint pathways</p> <p>The Australian Government should work with states and territories to establish a national 1800 number, website and other accessible reporting</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments are committed to working together to embed more accessible and integrated complaints reporting pathways.</p>

<p>tools to direct people to the independent complaint and referral mechanism in their State or Territory.</p>	<p>All governments will work together through the Disability Reform Ministerial Council to consider a coordinated approach to this reform.</p> <p>The Australian Government will continue to operate the existing National Disability Abuse and Neglect Hotline and will work with states and territories as they consider recommendation 11.3 and complementary approaches to ensuring people with disability can access help when they need it most.</p>
<p>Recommendation 11.5 Complaint handling and investigative practice guidelines</p> <p>The Commonwealth Ombudsman should lead a co-design process with the NDIS Quality and Safeguards Commission, State and Territory ombudsmen and other bodies with complaint handling and investigation expertise, to develop guidelines for organisations on implementing complaint handling systems that are accessible and responsive to people with disability. The guidelines should reflect the ten core components:</p> <ul style="list-style-type: none"> • creating a rights-focused complaints culture • encouraging people with disability and others to speak up • making adjustments to enable participation • supporting the person with disability, their family and others in complaint processes • respecting complexity, diversity and cultural difference • providing clear information about how to complain and multiple pathways to complain • working respectfully and effectively alongside police • conducting safe and inclusive investigations that are trauma-informed • providing tailored outcomes and redress 	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support the development of guidelines for organisations on implementing complaint handling systems that are accessible and responsive to people with disability.</p> <p>Governments are committed to supporting organisations to ensure complaints processes are accessible, culturally safe, user friendly and more streamlined to ensure instances of violence, abuse, neglect and exploitation are reported and responded to.</p> <p>Governments will work together to consider appropriate approaches and timeframes to implementing this recommendation and the related recommendation 10.15 and 10.16.</p>

<ul style="list-style-type: none"> • using complaints data to drive continuous improvement in service provision and complaint handling. 	
<p>Recommendation 11.6 Enshrining key provisions of OPCAT in legislation The Australian Government should revisit the Australian Human Rights Commission’s recommendation and introduce legislation enshrining the key provisions of the Optional Protocol to the <i>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i> (OPCAT) and facilitate the national coordination of Australia’s OPCAT response.</p>	<p>NSW Response: <u>Note</u> This recommendation is directed at the Australian Government.</p>
<p>Recommendation 11.7 Resourcing and wider definition of places of detention The Australian Government and State and Territory governments should: a) agree to provide resources to enable National Preventive Mechanism bodies in all jurisdictions to fulfil the Optional Protocol to the <i>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i>’s core functions, including the ‘preventive package’ b) enact legislation incorporating a broader definition of ‘places of detention’ to enable all places where people with disability may be deprived of their liberty to be monitored by National Preventive Mechanism bodies.</p>	<p>Commonwealth, ACT, NT, TAS: <u>Accept in principle</u> NSW, QLD, SA, VIC, WA: <u>Subject to further consideration</u></p> <p><i>The following response is provided by the Commonwealth, ACT, NT, SA, TAS and WA:</i></p> <p>The Australian Government and State and Territory governments recognise the importance of ensuring National Preventive Mechanisms in all jurisdictions are enabled to fulfil their core functions with respect to all places of detention, and will continue to work to resolve funding arrangements.</p> <p>National Preventive Mechanisms have been nominated in the Commonwealth, the Australian Capital Territory, Northern Territory, South Australia, Tasmania and Western Australia. Legislation in the Commonwealth, Tasmania and the Northern Territory already enable National Preventive Mechanisms access to places of detention covered by the <i>Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i> (OPCAT), noting Northern Territory legislation has not yet commenced, and with legislation introduced in the ACT on 16 May 2024.</p>

	<p><i>The following response is provided by NSW, QLD and VIC:</i></p> <p>All governments continue to cooperatively and progressively work towards implementation of OPCAT, subject to the resolution of sufficient and ongoing funding from the Commonwealth and the resolution of implementation issues, including the Commonwealth leading work in consultation with States and Territories to reach agreement on the definition and scope of places of detention.</p>
<p>Recommendation 11.8 Legislating National Preventative Mechanisms All State and Territory governments should introduce legislation to establish the functions of their National Preventive Mechanism bodies and facilitate inspections by the United Nations Subcommittee on the Prevention of Torture.</p>	<p>NSW Response: <u>Subject to further consideration</u> States and Territories are committed to continuing to work together towards full implementation of obligations under the Optional Protocol to the Convention Against Torture (OPCAT).</p> <p>NSW supports OPCAT in principle, subject to funding and implementation considerations being resolved.</p> <p>This recommendation should be considered after the resolution of these funding and implementation considerations.</p>
<p>Recommendation 11.9 Designating National Preventative Mechanism bodies The governments of New South Wales, Victoria and Queensland should designate National Preventive Mechanism bodies in their jurisdictions.</p>	<p>NSW Response: <u>Subject to further consideration</u> At this stage, most jurisdictions have not fully implemented OPCAT in accordance with the Commonwealth's proposal to establish Federal and State based National Preventive Mechanisms to visit and report on primary places of detention.</p> <p>The Commonwealth's proposal for National Preventive Mechanisms to visit and report on primary places of detention does not cover all places where people with disability may be deprived of their liberty for the purposes of OPCAT, such as disability group homes.</p> <p>NSW supports OPCAT in principle subject to the resolution of funding</p>

	<p>and implementation considerations being resolved. No action is being taken to implement NPMs in NSW pending resolution of these issues.</p> <p>States and Territories are committed to continuing to work together towards full implementation of OPCAT obligations. Implementation of OPCAT sits under the Standing Council of Attorneys-General. NSW is engaging constructively in this process.</p> <p>Accordingly this recommendation should be considered after the resolution of funding and implementation considerations and once the NSW Government has decided whether to implement a NSW National Preventive Mechanism.</p>
<p>Recommendation 11.10 Improved consistency and coordination The Commonwealth Ombudsman should: a) ensure the OPCAT Advisory Group includes people with disability b) lead work with the National Preventive Mechanism Network to:</p> <ul style="list-style-type: none"> • develop a consistent methodology for determining National Preventive Mechanism inspection priorities • implement a coordinated approach to prioritising inspections of places of detention that pose a high risk to people with disability, focusing on particular practices affecting people with disability across detention settings • develop and adopt common disability inspection standards for use in all jurisdictions • commit to nationally consistent collection and reporting of data about monitoring places of detention. 	<p>NSW Response: <u>Note</u> This recommendation is directed at the Australian Government.</p>
<p>Recommendation 11.11 Disability inclusive approach to implementing OPCAT National Preventive Mechanism (NPM) bodies in all Australian</p>	<p>Commonwealth, ACT, NT, TAS: <u>Accept in principle</u> NSW, QLD, SA, VIC, WA: <u>Subject to further consideration</u></p>

<p>jurisdictions should implement their functions in a disability-inclusive way by:</p> <ul style="list-style-type: none"> • enabling people with disability in places of detention to share information and experiences with the NPM using a variety of communication forms • ensuring staff participate in ongoing education and training about the Optional Protocol to the <i>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i>, human rights and issues affecting people with disability in places of detention • ensuring staff conducting NPM inspections have the skills and experience to provide reasonable adjustments, communication supports and supported decision-making to people with disability when required • involving people with disability in the inspection of places of detention • collecting and publishing data about people with disability in places of detention, aligned with disability inspection standards. 	<p><i>The following response is provided by the Commonwealth, ACT, NT, SA, TAS and WA:</i></p> <p>The Australian Government and State and Territory governments will continue to work together collaboratively to ensure National Preventive Mechanisms are appropriately supported and funded to implement their functions in a disability-inclusive way.</p> <p>National Preventive Mechanisms have been nominated in the Commonwealth, the Australian Capital Territory, Northern Territory, South Australia, Tasmania and Western Australia. The Tasmanian National Preventive Mechanisms 2024 the <i>Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i> (OPCAT) symposium, open to all people including nominated National Preventive Mechanisms, comprehensively considered a disability inclusive approach to implementing OPCAT.</p> <p><i>The following response is provided by NSW, QLD and VIC:</i></p> <p>All governments continue to cooperatively and progressively work towards implementation of OPCAT, subject to the resolution of sufficient and ongoing funding from the Commonwealth and the resolution of implementation issues, including the Commonwealth leading work in consultation with States and Territories to reach agreement on the definition and scope of places of detention.</p>
<p>Recommendation 11.12 Nationally consistent community visitor schemes States and Territories should:</p> <p>a) urgently implement community visitor schemes (CVS) for people with disability, if they have not done so already</p> <p>b) ensure CVS are resourced to conduct frequent visits to individuals who may be at elevated risk of abuse or harm</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments recognise the important role that community visitors scheme (CVS) can have in promoting and protecting the rights and wellbeing of people with disability.</p>

<p>c) agree to make CVS nationally consistent regarding people with disability, including in relation to:</p> <ul style="list-style-type: none"> • the scope of schemes (who community visitors should visit) • powers to visit people with disability, inspect records and provide information to other relevant bodies • common monitoring standards • the type of data that CVS should capture and report on <p>d) as a priority, define the scope of CVS with reference to:</p> <ul style="list-style-type: none"> • 'visitable services' • mechanisms for identifying factors that may place a person with disability at increased risk of violence, abuse, neglect or exploitation <p>e) ensure CVS legislation enables relevant information to be shared between CVS, the NDIS Quality and Safeguards Commission and the National Disability Insurance Agency.</p>	<p>Having a nationally consistent approach will provide the foundations for the expected level of care, oversight and monitoring the community can receive from disability community visitors.</p> <p>All governments support the intent of a nationally consistent approach to CVS and will work together to consider the best approach to ensuring people with disability have access to CVS as a safeguarding mechanism.</p>
<p>Recommendation 11.13 Integration of CVS with the NDIS</p> <p>a) The Commonwealth should amend the <i>National Disability Insurance Scheme Act 2013</i> (Cth) to formally recognise community visitor schemes (CVS) as a safeguard for people with disability and provide the authorising environment for information-sharing between the NDIS Quality and Safeguards Commission (NDIS Commission) and CVS.</p> <p>b) The Australian Government should:</p> <ul style="list-style-type: none"> • enter into a national agreement with States and Territories that commits CVS and the NDIS Commission to: <ul style="list-style-type: none"> - sharing relevant information to effectively exercise their respective functions - developing common standards for guiding the work of CVS relating to people with disability. • update the NDIS Quality and Safeguarding Framework to formally recognise the important safeguarding role played by CVS. 	<p>Joint Response: <u>Accept in principle</u></p> <p>See Rec 11.12</p>

Recommendation 11.14 Establishing disability death review schemes

States and Territories should establish and appropriately resource disability death review schemes. These schemes should include:

a) functions to:

- receive, assess and record ‘reviewable deaths’ of people with disability, as defined in recommendation 11.15
- monitor and review reviewable deaths
- formulate recommendations about policies and practices to prevent or reduce reviewable deaths
- maintain a register of reviewable deaths
- formulate strategies to reduce or remove potentially avoidable risk factors for reviewable deaths
- establish and support the work of an expert advisory committee

b) powers to:

- scrutinise systems for reporting reviewable deaths
- undertake detailed reviews of information relating to reviewable deaths
- conduct own motion investigations into individual or groups of deaths
- analyse data on the causes of reviewable deaths to identify patterns and trends
- consult with, and obtain information from, any person or body with relevant information or appropriate expertise
- invite and consider information from the deceased person’s family or guardian or advocate when reviewing and/or investigating a death
- notify the NDIS Quality and Safeguards Commission of matters relevant to the exercise of its functions
- refer identified concerns about conduct or service provision to relevant regulatory bodies for their consideration and appropriate action

NSW Response to 11.14 and 11.15: Subject to further consideration

The NSW Government shares the Royal Commission’s concerns about the disproportionate rate of preventable deaths for people with disability.

The NSW Government will carefully consider the recommendations for a Disability Death Review scheme to provide for systemic death reviews in collaboration with other governments, the disability community and other stakeholders.

<ul style="list-style-type: none"> • publish reports periodically on systemic findings and recommendations arising from all reviewable deaths • make a special report to the relevant State or Territory parliament about any matter that the scheme operator considers to be in the public interest. 	
<p>Recommendation 11.15 Disability death review scheme requirements States and Territories should ensure legislation establishing disability death review schemes:</p> <p>a) defines ‘reviewable deaths’ to include:</p> <ul style="list-style-type: none"> • deaths subject to mandatory notification • deaths that a person or body with legitimate interest requests a scheme to review <p>b) requires deaths that are subject to a mandatory notification requirement include the death of a person with disability:</p> <ul style="list-style-type: none"> • living in supported accommodation at the time of their death • residing in a licensed boarding house (or equivalent) at the time of their death • residing in custody or in an acute health facility at the time of their death (after the disability death review scheme has operated for a period). 	<p>NSW Response: <u>Subject to further consideration</u> See Rec 11.14</p>
<p>Recommendation 11.16 National agreement on disability death reviews The Australian Government and State and Territory governments should enter into a national agreement that:</p> <p>a) reflects the functions, powers and definitions outlined in recommendations 11.14 and 11.15</p> <p>b) defines the respective roles of State and Territory death review schemes and the NDIS Quality and Safeguards Commission (NDIS Commission) in relation to the deaths of people with disability</p> <p>c) articulates the relationship between the functions of the disability death review schemes and the NDIS Commission and ensures the</p>	<p>Joint Response: <u>Subject to further consideration</u> The Australian Government and State and Territory governments recognise the importance of systemic reviews of the deaths of people with disability in understanding and addressing factors that contribute to the disproportionate rates of deaths and potentially avoidable deaths of people with disability.</p> <p>All governments will work together to further consider the appropriateness of a national agreement on disability death reviews alongside State and Territory consideration and development of disability</p>

<p>appropriate operational processes are in place to facilitate this</p> <p>d) provides for information sharing between the death review schemes and the NDIS Commission</p> <p>e) commits to nationally consistent disability death data collection and reporting requirements, and the inclusion of disability death data within the proposed National Disability Data Asset.</p>	<p>death review schemes consistent with recommendations 11.14 and 11.15 of the Disability Royal Commission.</p>
<p>Recommendation 11.17 Nationally consistent reportable conduct schemes</p> <p>States and Territories should:</p> <p>a) establish reportable conduct schemes, where not already in place, in accordance with Recommendation 7.9 of the Royal Commission into Institutional Responses to Child Sexual Abuse and make public their intended timeframe for doing so</p> <p>b) take action to harmonise their reportable conduct schemes</p> <p>c) introduce or amend existing legislation to:</p> <ul style="list-style-type: none"> • ensure disability service providers that deliver supports or services to children with disability, including NDIS providers, are included in their reportable conduct scheme • include ‘ill-treatment’ in the definition of reportable conduct • enable reportable conduct scheme operators to adopt a common definition of disability • require reportable conduct scheme operators to collect and publicly report consistent data about reportable conduct notifications and outcomes relating to children with disability. 	<p>NSW Response: <u>Accept</u></p> <p>NSW has had a robust reportable conduct scheme in place since 1999. The NSW scheme was recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse as the model to adopt across jurisdictions.</p> <p>NSW supports the need to enhance reportable conduct schemes to better respond to children and young people with disability by pursuing national consistency in relation to key aspects of the scheme.</p> <p>NSW continues to lead discussions with the Commonwealth, States and Territories about harmonising reportable conduct schemes to improve child safety across Australia, most recently at the National Ministerial Forum on Child Safety on 23 October 2023. At this forum, NSW facilitated jurisdictions’ agreement to improve information sharing across agencies and jurisdictions, as recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse.</p> <p>The NSW scheme already applies to conduct that constitutes ‘ill-treatment’ of a child (ss 20 and 23, <i>Children’s Guardian Act 2019</i>). In addition, many disability services are already captured through other reportable conduct categories e.g. if the service provides out-of-home care (OOHC), specialised substitute residential care (previously known as voluntary OOHC), or are within the health, education, child care/early education sector, or are a religious body. The NSW Government will</p>

	<p>consult with the disability sector, Children's Guardian, Australian Government, NDIA and NDIS Commission about the recommendation to amend our reportable conduct legislation to explicitly include organisations that provide disability services to children, including NDIS providers.</p> <p>We will progress the elements of this recommendation that relate to improving data collection and reporting as part of our joint efforts with other jurisdictions to progress the broader data-related recommendations in Volume 12, Beyond the Royal Commission with other jurisdictions.</p>
<p>Recommendation 11.18 Dual oversight of reportable conduct and incidents State and Territory reportable conduct scheme operators and the NDIS Quality and Safeguards Commission should:</p> <ul style="list-style-type: none"> a) jointly develop guiding principles to support the efficient and effective handling of reportable incidents that are also allegations of reportable conduct b) develop broadly consistent guidance material to assist organisations to better understand key issues relevant to notifying, managing and investigating allegations of reportable conduct and incidents involving children with disability. 	<p>Joint Response: <u>Accept in principle</u> The Australian Government and State and Territory governments agree on the fundamental importance of robust oversight of reportable conduct schemes that provide clear reporting pathways to help prevent and respond to allegations of abuse against all children, including children with disability.</p> <p>All governments will work together with the NDIS Commission to develop consistent processes that support the efficient and effective handling of reportable incidents.</p>

Volume 12: Beyond the Royal Commission

Volume 12 includes 8 recommendations.

Recommendation	Response
<p>Recommendation 12.1 Government responses to the Final report</p> <p>The Australian Government and State and Territory governments should each publish a written response to the Royal Commission's Final report by 31 March 2024. Their responses should indicate whether the recommendations are accepted, rejected or subject to further consideration. They should include a plan for how the accepted recommendations will be implemented, the reasons for rejecting any recommendations, and a timeframe for any further consideration required. The Australian Government and State and Territory governments should table their responses in their respective parliaments and legislative assemblies.</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support the transparent publication of responses to Disability Royal Commission recommendations.</p> <p>On 5 March 2024, the Australian Government and State and Territory governments, except Tasmania due to being in caretaker, released a joint statement committing to responding to joint Disability Royal Commission recommendations by mid-2024. This joint response fulfils that commitment.</p>
<p>Recommendation 12.2 Implementation of the Final report recommendations</p> <p>The Disability Reform Ministerial Council should oversee the implementation of the Royal Commission's recommendations across the Australian Government and State and Territory governments. The Australian Government and each State and Territory government should report to the Disability Reform Ministerial Council every six months. Their reports should detail the implementation status of each recommendation and raise any issues and risks. In its 2024 report to National Cabinet, the Disability Reform Ministerial Council should identify the implementation of the Royal Commission's recommendations as one of its priorities and include it in its workplan.</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments support the Disability Reform Ministerial Council (DRMC) having responsibility for monitoring and overseeing the implementation of Disability Royal Commission recommendations.</p> <p>Disability Ministers have identified the development of responses to the Disability Royal Commission as a priority focus and have agreed to include consideration of reform in response to the Disability Royal Commission as a standing agenda item for all DRMC meetings in 2024.</p> <p>The issues raised in the Disability Royal Commission's final report, and change required, traverse the responsibilities of several portfolios and Ministerial Councils, and require a significant and sustained national effort from all governments and all parts of our community.</p>

	<p>DRMC will report annually to National Cabinet on the implementation of Disability Royal Commission recommendations, with input from other Ministerial Councils on progress made on recommendations within their responsibility.</p> <p>Disability Ministers have also agreed to a reporting and monitoring framework to support ongoing and transparent updates on progress of implementation of recommendations.</p>
<p>Recommendation 12.3 Progress reporting on implementation of recommendations</p> <p>Commencing in 2025, the National Disability Commission should table an annual report in the Australian Parliament reporting on the progress of the Australian Government and State and Territory governments in implementing the recommendations of the Royal Commission. The report should compare progress across jurisdictions. (For details of the National Disability Commission, see Volume 5, Governing for inclusion, Recommendation 5.5.)</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments will consider appropriate independent reporting arrangements on implementation of Disability Royal Commission recommendations. Disability Ministers will consider possible arrangements and mechanisms for agreement and publication in 2024.</p>
<p>Recommendation 12.4 Evaluation of effectiveness in improving outcomes</p> <p>The National Disability Commission should lead independent evaluations of the implementation of the Royal Commission's recommendations and their effectiveness in improving outcomes for people with disability. The evaluations should examine barriers to and drivers of effective implementation and suggest measures for improvement. The evaluations should be conducted five and 10 years after the delivery of the Final report, with reports tabled in the Australian Parliament.</p>	<p>NSW Response: <u>Note</u></p> <p>This recommendation is directed at the Australian Government.</p>
<p>Recommendation 12.5 A nationally consistent approach to data collection</p> <p>The Australian Government and State and Territory governments, through the Disability Reform Ministerial Council, should address the</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>Australian Government and State and Territory governments acknowledge the importance of data collection and publication and its</p>

<p>lack of consistent disability data by developing a nationally consistent approach to collecting disability information.</p> <p>By December 2024, the Australian Government and State and Territory governments should agree to a core set of questions to identify disability status to be used across all mainstream services and population surveys. This should be led by the Australian Bureau of Statistics and the Australian Institute for Health and Welfare. The questions should be co-designed with people with disability and their representative organisations, and with First Nations subject matter experts.</p>	<p>role in safeguarding against violence, abuse, neglect and exploitation and informing an evidence-based approach to ongoing reform to support better outcomes for people with disability.</p> <p>In January 2024, Disability Ministers agreed Commonwealth, State and Territory officials focus and accelerate work to resolve data gaps in relation to the reporting requirements under Australia's Disability Strategy 2021-2031 Outcomes Framework by the end of 2024. All governments are also working together to develop an action plan, with agreed timeframes, to drive data collection (including gender disaggregated data) and reporting on data-related Disability Royal Commission recommendations. The action plan is expected to be published in 2024.</p> <p>All governments have also committed to deliver the enduring National Disability Data Asset and contribute to ongoing costs through the National Disability Data Asset Memorandum of Understanding, signed by Disability Ministers in mid-2023. Ongoing work to deliver the National Disability Data Asset will also support implementation of these recommendations over time.</p>
<p>Recommendation 12.6 Disability flags in data collection for mainstream services</p> <p>The Australian Government and State and Territory governments, through the Disability Reform Ministerial Council, should address the lack of available disability data by implementing disability flags in data collections for key mainstream services.</p> <p>By June 2025, the Australian Government and State and Territory governments should publish an implementation plan outlining how the core set of questions will be integrated into data collections of priority mainstream services. This should be led by the Australian Bureau of Statistics and the Australian Institute for Health and Welfare.</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>See Rec 12.5.</p>

<p>Recommendation 12.7 Improving disability data collection</p> <p>The Australian Government and State and Territory governments should support a strategy, led by the Australian Bureau of Statistics and the Australian Institute of Health and Welfare, to extend disability data collection:</p> <ul style="list-style-type: none"> a) to include people with disability in closed and segregated settings and those with communication support needs b) to improve data on types of impairment c) to improve data for intersectional analysis by enhancing data on women with disability; children and young people with disability; and First Nations, culturally and linguistically diverse, and LGBTIQ+ people with disability. <p>This strategy should form part of the Australia’s Disability Strategy 2021–2031 Data Improvement Plan.</p>	<p>Joint Response: <u>Accept in principle</u></p> <p>See Rec 12.5.</p>
<p>Recommendation 12.8 Long-term support for the National Disability Data Asset</p> <p>The Australian Government and State and Territory governments, through the Disability Reform Ministerial Council, should commit to long-term support to the National Disability Data Asset (NDDA). All governments should:</p> <ul style="list-style-type: none"> a) by June 2024, commit to continuing funding to establish the NDDA as a national resource for longitudinal analysis of linked data across service systems b) commit to publishing an annual statistical summary of the analyses of the NDDA’s linked data. This should focus on data insights not available from other sources and provide transparency on projects underway. All reported data should be disaggregated as far as possible to enable intersectional analysis c) by December 2024, commence specific data projects using the NDDA that: 	<p>Joint Response: <u>Accept in principle</u></p> <p>The Australian Government and State and Territory governments have committed to deliver the enduring National Disability Data Asset and contribute to ongoing costs through the National Disability Data Asset Memorandum of Understanding, signed by Disability Ministers in mid-2023.</p> <p>The National Disability Data Asset will be in operation in 2024-25. All governments are working together to determine costs and funding arrangements beyond 2025.</p>

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| <ul style="list-style-type: none">• identify the factors that put people with disability at greatest risk of violence, abuse, neglect or exploitation• demonstrate the outcomes and experiences of people with disability transitioning between systems, including:<ul style="list-style-type: none">– education and employment, child protection and justice systems, and housing and health– the National Disability Insurance Scheme and mainstream services• evaluate the accuracy of disability status collection in various service settings. | |
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Appendix B: NSW Government 2024/25 Implementation Plan

31 July 2024

The NSW Government response to the Disability Royal Commission (DRC) includes a number of commitments and actions to address violence, abuse, neglect and exploitation of people with disability, increase the available of supports and improve the inclusivity of mainstream service systems.

The purpose of this document is to present the key actions the NSW Government will take over the next year to further consider and act on the recommendations.

Action	NSW Agency with Lead Responsibility	Timeframe
The need for change		
<p>1. Work with other governments on a review of Australia's Disability Strategy (ADS) and creating new Targeted Action Plans (TAP).</p> <p>The NSW Government will work with all jurisdictions to undertake a review of the ADS in 2024 and develop three new targeted actions plans (TAP) in the areas of; Inclusive Homes and Communities; Safety, Rights and Justice; and Community Attitudes.</p> <p>Each TAP will be commissioned and endorsed by disability ministers and include a series of targeted and coordinated actions from governments. Actions will be based on available evidence and people with disability will be involved in the design, implementation, and evaluation of the actions.</p> <p>NSW will incorporate these actions in the State Disability Inclusion Plan and the Disability Inclusion Action Plans of respective agencies when they are updated.</p>	Department of Communities and Justice	End of 2024
<p>2. Deliver the next Disability Inclusion Plan (DIP) for NSW.</p> <p>The Department of Communities and Justice is leading work to develop the next NSW Disability Inclusion Plan in collaboration with all government agencies, people with disability and local councils. The next Disability Inclusion Plan will be released before the end of 2024.</p>	Department of Communities and Justice	December 2024

Action	NSW Agency with Lead Responsibility	Timeframe
<p>3. Develop a new approach to Disability Inclusion Action Planning (DIAP) for NSW.</p> <p>Ensure Disability Inclusion Action Planning (DIAP) for NSW public authorities (government departments, local councils and entities specified in the Disability Regulation) under the <i>NSW Disability Inclusion Act 2014</i> are informed by the refreshed DIP and ADS.</p> <p>Working with people with disability, disability peaks, public authorities and the NSW Disability Council, the Department of Communities and Justice will develop a new DIAP reporting framework to increase oversight and accountability of plans.</p>	Department of Communities and Justice	2024 - 2025
<p>4. Hold a series of stakeholder forums with a particular focus on progressing the recommendations that require further consideration</p> <p>Targeted stakeholder forums will follow on from the consultation to date outlined in Appendix D. The next stakeholder forum will be held in September 2024 to coincide with the one-year anniversary of the release of the final report of the DRC.</p>	Department of Communities and Justice	2024 - 2025
<p>5. Report every six months on progress against DRC recommendations</p> <p>All Australian Governments have committed to publicly reporting on progress to implement the agreed positions on joint recommendations through the Disability Reform Ministerial Council.</p>	Department of Communities and Justice	May 2025 and every six months thereafter
Recognising the rights and autonomy of people with disability		
<p>6. Consider the recommendations arising from the NSW Law Reform Commission review of the <i>Anti-Discrimination Act 1977</i></p> <p>The NSW Law Reform Commission is currently looking at whether the <i>Anti-Discrimination Act 1977</i> (NSW) could be modernised and simplified to better promote the equal enjoyment of rights and reflect contemporary community standards. This review includes an examination of the adequacy of protections against vilification, whether the Act should include positive obligations such as making reasonable adjustments, and the adequacy and accessibility of complaints procedures and remedies.</p>	Department of Communities and Justice	Following the tabling of the final report of the review in Parliament

Action	NSW Agency with Lead Responsibility	Timeframe
7. Investigate a legislative framework for restrictive practices authorisation The NSW Government is carefully considering the best method and legislative framework for the authorisation of restrictive practices in disability settings. People with disability and other stakeholders will be consulted should the NSW Government decide to pursue a legislative framework.	Department of Communities and Justice	2024
8. Consider the advice of the NSW Guardianship Working Group about the recommendations on reforming guardianship and administration laws to embed supported decision-making A Guardianship Working Group, made up of both government and non-government stakeholders has been engaged to advise the NSW Government on guardianship reform. The Government is also undertaking a detailed assessment of the operational and resourcing impacts of reforms.	Department of Communities and Justice	2024
Better outcomes for First Nations people with disability		
9. With other governments and First Nations people with disability, establish a First Nations Disability Forum that builds on Closing the Gap partnerships and mechanisms All governments will work in partnership with First Nations people with disability, their families, carers and representatives, the Joint Council on Closing the Gap, peak bodies, and other key stakeholders through 2024 to develop options for the establishment of a First Nations Disability Forum or other appropriate shared decision-making mechanism for the cross-cutting outcome of disability under Closing the Gap.	Department of Communities and Justice NSW Aboriginal Affairs NSW	Develop options in 2024
10. Continue working in partnership with the NSW Coalition of Aboriginal Peak Organisations to implement the NSW Closing the Gap Implementation Plan 2022-2024 and future Implementation Plans The NSW implementation plan acknowledges intersectionality and the need to bring an Aboriginal lens to key disability reforms, such as Australia's Disability Strategy. There are several initiatives that consider the unique needs of Aboriginal people with disability. NSW is working with the NSW Coalition of Aboriginal Peak Organisations, including the First Peoples Disability Network, to further these implementation goals.	Aboriginal Affairs NSW	Ongoing

Action	NSW Agency with Lead Responsibility	Timeframe
11. Work with other governments and First Peoples Disability Network to strengthen implementation of the Disability Sector Strengthening Plan All governments have committed to work with First Peoples Disability Network through 2024 to strengthen implementation of the current Disability Sector Strengthening Plan to enable improved outcomes against the existing actions.	Aboriginal Affairs NSW	Ongoing
12. Continue to implement the accepted recommendations of Family is Culture Review The Family is Culture Review Report made 126 recommendations for structural reform to the NSW child protection system. To see information of how we are responding to the Family is Culture Review Report recommendations, see our progress reports at https://dcj.nsw.gov.au/children-and-families/family-is-culture/nsw-government-response/our-progress.html .	Department of Communities and Justice	The latest progress report was published in February 2024. The next progress report is in planning, date to be advised.
13. Work with the Ministerial Aboriginal Partnership Group (MAP Group) to help design significant structural reform of the child protection system and consider disability in this process The MAP Group was established in February 2024 with the Minister for Families and Communities, Aboriginal stakeholders and communities. The MAP Group is overseeing reforms to the child protection system aimed at reducing the unacceptably high number of Aboriginal children entering out-of-home care (OOHC) by supporting families and partnering with Aboriginal organisations to keep more kids safe. AbSec is providing secretariat for this group.	Department of Communities and Justice NSW Child, Family and Community Peak Aboriginal Corporation (AbSec)	2024
Addressing barriers to promote inclusion and access		
14. Support advocacy in NSW through the Disability Advocacy Futures Program (DAFP) and implement an outcomes and reporting framework In March 2024 the NSW Government announced \$28 million in funding for the DAFP, to extend the program for a further two years to ensure approximately 1.4 million people with disability can access NSW Government funded services.	Department of Communities and Justice NSW Department of Education	December 2024

Action	NSW Agency with Lead Responsibility	Timeframe
The government will continue to work with DAFP providers to develop an outcomes framework to better understand the level on unmet need for disability advocacy services in NSW and report on outcomes.		
15. Work with other governments to build on the National Disability Advocacy Framework 2023-2025, prioritising work to increase culturally appropriate and accessible advocacy services for people with disability from diverse communities On 21 April 2023, Disability Ministers endorsed the National Disability Advocacy Framework 2023-2025 (NDAF) and associated Disability Advocacy Work Plan. We will work together with other governments to prioritise work on increasing culturally appropriate and accessible advocacy services for First Nations people with disability, people with disability from culturally and linguistically diverse backgrounds, including the Auslan-using and Deaf communities, and LGBTIQ+ people with disability.	Department of Communities and Justice	End of 2025
16. Work with other governments, people with disability and their representative organisations to develop a new national plan to improve the accessibility of information NSW will work with other governments to develop an Associated Plan to Australia's Disability Strategy 2021-31 to improve the accessibility of information and communications for people with disability. The Associated Plan will be developed with people with disability, including diverse people with disability who may face additional and particular barriers to accessing information and communications. Scoping and development will commence in 2024.	Department of Communities and Justice	From September 2024
17. Continue work to have all NSW Government information relevant to people with intellectual disability in Easy Read by 2025 and developing an Easy Read Style Guide The Department of Customer Service has prepared the first draft of the Style Guide in collaboration with a range of disability advocacies, including the Council for Intellectual Disability.	Department of Customer Service Department of Communities and Justice	2025
18. Develop a principle-based workplace adjustment policy for the NSW Public Service The Office of the Public Service Commissioner is developing a principle-based workplace adjustment policy that will be issued as part of a Direction to all agencies. Agencies will be	Office of the Public Service Commissioner	Agency implementation of workplace adjustment

Action	NSW Agency with Lead Responsibility	Timeframe
required to implement a workplace adjustment policy that meets certain minimum standards within 12 months		policy required by end of 2025
19. Continue work at agency level to increase the number of employees with disability. The Office of the Public Service Commissioner will review the implications and supports required to achieve specific disability employment targets for the NSW public sector. The Public Sector Disability Employment and Inclusion Steering Committee will provide oversight and support into the program of work across the NSW Government sector to improve the recruitment and retention of employees with disability.	Office of the Public Service Commissioner	2025
20. Continue work to integrate accessible procurement practices. The NSW Government has developed government guidance and has started a procurement working group on strategies for integrating accessible procurement practices.	Department of Customer Service NSW Treasury	Ongoing
Building a strong ecosystem of disability support		
21. Work with other governments and the disability community to design and implement foundational supports. All jurisdictions are working towards the release of a Foundational Supports strategy in the third quarter of 2024 with the phased implementation of services expected from July 2025.	The Cabinet Office Department of Communities and Justice	July 2025
22. Implement the National Disability Data Asset (NDDA) NSW has committed to participating in the NDDA and has signed a Memorandum of Understanding committing NSW to a 10 year agreement for long term support of the NDDA. This includes participation in the NDDA Council to input into the development and evaluation of the NDDA.	Department of Customer Service Department of Communities and Justice	Report on progress due to DRMC in Q3 2024.
Services that are safe and inclusive		
23. Revise home modification and alteration policies in consultation with the disability sector and peak bodies, with new policies expected to begin in late 2024	Department of Communities and Justice (Homes NSW)	End of 2024

Action	NSW Agency with Lead Responsibility	Timeframe
Homes NSW is working to improve its social housing policy and processes to make them more accessible and inclusive for people with disability and anticipates they will be implemented in late 2024. All Housing Services and Housing Portfolio policies, processes and procedures related to social housing tenants' applications for homes modifications, assessment and completion of these works, pathways for alternative solutions (e.g. where a property may not be suitable for modification), and the appeals process form part of the review scope.		
24. Consider specific elements of the recommendations relating to Assisted Boarding Houses as part of the development of future legislation A statutory review of the <i>Boarding Houses Act 2012</i> has been completed. The NSW Government will work with key stakeholders to ensure the recommendations, as they relate to assisted boarding houses, are fully considered as part of the development of new legislation.	Department of Communities and Justice (Homes NSW)	June 2025
25. Work with other governments to make sure the healthcare needs of people with disability are considered in national health policies and develop a national health navigation framework The Australian Government, through the Australian Commission on Safety and Quality in Health Care will provide a plan and timeline to update key policy instruments to ensure they articulate the requirements for safe and equitable access to health services for people with disability. NSW will work with the Australian Government on this plan. Scoping of disability health navigation will be required to identify what is currently available, what is working well, what gaps or missing elements in the support system need to be addressed.	NSW Health	2025
26. Evaluate our Intellectual Disability Health Service An independent evaluation of the NSW Intellectual Disability Health Service has been commissioned, with a final report expected by June 2025.	NSW Health	End of 2025
27. Work with other governments to develop a 'National Roadmap to Inclusive Education' for students with disability	NSW Department of Education	End of 2024

Action	NSW Agency with Lead Responsibility	Timeframe
The roadmap will serve as a comprehensive guide outlining outcome measures, targets, actions, and milestones necessary for delivering on the Royal Commission's recommendations for inclusive education. This commitment to transparency and accountability is essential in fostering an inclusive education system that prioritises the needs of all students.		
<p>28. Continue to embed inclusive education principles in all NSW public schools guided by the Inclusive Education Statement for Students with Disability and with support from the Inclusive Education Unit</p> <p>The NSW Department of Education is committed to growing inclusive practice, sharing knowledge across the system, and building the capacity of our NSW public schools to meet the needs of their local students in an inclusive school culture and community.</p> <p>The department's established Inclusive Education unit functions to: provide advice on policy and funding priorities; provide implementation advice to schools and teachers; and develop evidence-based inclusive practice resources.</p> <p>Schools Infrastructure NSW's Design and Infrastructure Standards team aims to ensure that educational facilities are designed and maintained to support inclusive practices. This includes adhering to the principles of inclusive practice for students with disability, improving the accessibility of physical school environments, and providing necessary resources and support structures.</p>	NSW Department of Education	Ongoing
<p>29. Consider the capital investment needs for educational infrastructure arising from the Royal Commission's recommendations.</p> <p>This includes undertaking a process of funding prioritisation for infrastructure decisions, such as the co-location or relocation of non-mainstream schools within NSW. This process will carefully evaluate factors like land availability due to the complexity involved. Any plans for co-location must ensure meaningful integration and seamless operation.</p>	NSW Department of Education	2025
30. Review the NSW Department of Education's enrolment policy, including the obligations of schools relating to applications to attend a local school as well as enrolment review processes	NSW Department of Education	2025

Action	NSW Agency with Lead Responsibility	Timeframe
<p>The <i>Education Act 1990</i> (NSW) includes the legal entitlement for students with disability to enrol in their local mainstream schools.</p> <p>The NSW Department of Education is also committed to providing and disseminating, clear and accessible material for students with disability and their families on their rights.</p>		
<p>31. Consider amendments to school registration requirements and regulatory oversights to improve the safety, inclusivity and quality of education for students with disability</p> <p>The NSW Government supports in principle, any amendments to the school registration requirements and regulatory oversight which aims to improve the safety, inclusivity and quality of education for students with disability.</p> <p>The NSW <i>Education Act 1990</i> and NSW school registration requirements currently require all schools to provide a safe and supportive environment for students.</p>	NSW Education Standards Authority	2025
<p>32. Consult with partners and stakeholders, including students, parents and carers, teachers and community members about actions to continue delivering resources and advice to schools and teachers about implementing inclusive education</p> <p>This consultation will include close consideration of the procedures and practices of applying reasonable adjustments in the classroom. It will also gather insights current state of social inclusion and activities undertaken between mainstream and non-mainstream schools.</p> <p>The consultation will take into account the current NSW Auditor-General's Review of 'Supporting students with a disability in NSW Public schools', and the NSW Parliamentary Inquiry examining 'Children and young people with disability in NSW educational settings'. Both are due to report in the second half of 2024.</p>	NSW Department of Education	2024 - 2025
<p>33. Work with other governments to refine Nationally Consistent Collection of Data on School Students with Disability (NCCD) levels of adjustments and associated funding for students with disability</p> <p>The Department is committed to continuing to collaborate with the Commonwealth and other jurisdictions to ensure funding frameworks effectively support the diverse needs of students with disability and consider school contexts. Further consideration by governments</p>	NSW Department of Education	2025

Action	NSW Agency with Lead Responsibility	Timeframe
is required in areas such as reporting, workload impacts on schools, and data management systems.		
34. Build workforce capability to foster inclusive learning environments Professional learning for teachers is crucial in providing the skills and knowledge needed to effectively support students with disability and promote inclusive education. Building workforce capability and expertise ensures teachers can create accessible learning environments and implement strategies that accommodate diverse learning needs, fostering an equitable educational experience for all students.	NSW Department of Education	Ongoing
35. Evaluate the Justice Advocacy Service diversion service, with an independent outcomes evaluation and cost-benefit analysis planned for 2024. Initiate the procurement process for engaging an independent evaluation (by Q2 of FY2024/25) to undertake the quantitative and qualitative outcomes evaluation and economic analysis of the Justice Advocacy Service diversion service.	Department of Communities and Justice	Evaluation planned between FY 2024-25 and FY25-26
36. Work with other States and Territories to develop a consistent national approach for screening for disability in custody. NSW Government is supportive of considering national principles, which must be developed in partnership with people with lived experience including Aboriginal communities and Aboriginal led organisations. Screening processes need to also concurrently account for a person's right to privacy, remain dynamic and adaptable to the different legislative domains across health and justice systems and allow for the unique differences between young people and adults. The NSW Government welcomes further collaboration and partnership under this recommendation as part of considering the implementation strategy	Department of Communities and Justice	2025

Appendix C - Engagement Summary

31 July 2024

In considering the recommendations of the Disability Royal Commission, the NSW Government has sought to hear from people with disability, representative organisations, advocates and service providers about specific recommendations and volumes to inform our response and prioritise reforms.

We heard overwhelmingly that stakeholders welcome the recommendations and want to see strategic reform to reduce and eliminate violence, abuse, neglect and exploitation of people with disability.

This document summarises some of the engagement the NSW Government has undertaken.

Additional information and stakeholder forum communiques are available at:

<https://dcj.nsw.gov.au/community-inclusion/disability-and-inclusion/disability-royal-commission.html>.

Stakeholder forums

The NSW Government has facilitated three stakeholder forums to date to hear the views of stakeholders on the recommendations made by the Disability Royal Commission.

- The Department of Communities and Justice and the Disability Council NSW co-convened an initial forum with stakeholders on 23 October 2023. You can [read the communique here](#).
- The second forum on 1 February 2024, was an opportunity to give voice to First Nations stakeholders' views of the recommendations. You can [read the communique here](#).
- The third forum on 3 June 2024 was to consider in greater detail recommendations on the topics of justice, child protection, housing and homelessness. You can [read the communique here](#).

The three forums took place both in person and virtually and were co-hosted by Jane Spring AM, Chair Disability Council NSW and Anne Campbell, Deputy Secretary, Department of Communities and Justice.

In addition, Damian Griffis, CEO, First Peoples Disability Network and Shane Hamilton, Deputy Secretary, Aboriginal Affairs NSW joined in co-hosting the First Nations forum on 1 February 2024.

The Minister for Families and Communities and Minister for Disability Inclusion attended all three forums. The Minister for Aboriginal Affairs and Treaty also attended the First Nations forum. The Parliamentary Secretary for Families and Communities and Disability Inclusion attended the first and second forums.

Expert panels involved a mixture of the disability sector, academics, and people with lived experience of disability, who gave their perspectives on the recommendations and considerations for their implementation.

Key points raised in the forums were:

- The need for governments to work in partnership with people with disability and their representative organisations when implementing any changes to systems.
- The need for First Nations people to have culturally safe and appropriate services that addressed their needs in a holistic and trauma informed manner.
- The need for mainstream services to be more disability-informed and responsive to the needs of people with all types of disabilities.

The forums were attended by more than 100 participants each time. Participants included people with lived experience of disability, representatives from disability rights and advocacy groups, Aboriginal organisations from across the state, disability services and government agencies.

Targeted NSW consultations

NSW Government departments have engaged in group and targeted discussion with sector representatives on topics and specific recommendations.

Individuals and organisations, including the Summer Foundation, the Council for Intellectual Disability, Catholic Schools NSW, the Physical Disability Council of NSW, Autistic Self Advocacy Network ('ASAN') of Australia and New Zealand and the Australian Autism Alliance, and representatives from the deafblind community, provided presentations to NSW Government's cross-agency taskforce members.

Specialist working groups on inclusive education and guardianship have been convened to further consider the recommendations on those matters.

Public Submissions

The NSW Government held an open submissions process between January and February 2024 calling for individuals and organisations to tell us which recommendations were considered most important and why.

Submissions were invited in a variety of formats to support accessible engagement including, written, verbal, video and voice messaging. We received 28 submissions from people with disability, disability advocates and representative organisations, service providers and peak bodies.

Respondents raised a number of competing priorities from supported decision making, inclusive education, the use of restrictive practices and challenges in the disability support workforce.

Some of the key themes arising from these submissions are summarised below.

- **Guardianship and supported decision making:** Many submissions viewed the guardianship and supported decision making recommendations as an important area of the Royal Commission final report. All respondents on this issue were supportive of the recommendations for legislative, regulatory and administrative changes to implement a supported decision making model.
- **Education (specialist schools):** The majority of respondents, including parents' and teachers' associations, representative school groups and advocacy organisations told us that they are against phasing out specialist education facilities. The respondents said that students and parents need to have a choice about the type of school they attend. Many respondents advised that students with complex needs may have a better experience in specialist schools. Two respondents were in favour of phasing out specialist schools. Respondents called for any decisions about specialist schools to involve meaningful engagement with students and adult with disability, parents of children with disability to discuss their lived experience.
- **Education:** Recommendation 7.8 (workforce capabilities, expertise and development) was supported by several respondents, who noted their support to embed a human rights-based approach to inclusive education across teachers' careers. Some respondents supported improved complaints management procedures in the education sector and stronger oversight and enforcement of school duties. Respondents noted their support for preventing the inappropriate use of exclusionary discipline against students with disability and improving policies on the provision of reasonable adjustments to students with disability and inclusive education units including First Nations expertise.
- **Employment:** Employment was a key theme in the stakeholder submissions with emphasis on employment rates of people with disability remaining low over many years and noting that changes are needed to address this.

Stakeholders told us that targets are needed in the public and private sectors. The issue of segregated employment was brought up by several stakeholders with many submissions in favour of maintaining segregated employment as an option for people with disability, while also supporting open employment opportunities and wage rises.

- **Rights:** Many respondents strongly supported the development of a Commonwealth Disability Rights Act and rights-based inclusion for people with disability. It was consistently argued that legislated disability rights are fundamental to reform.

- **Housing:** Stakeholders strongly support phasing out of group homes and greater availability of alternative housing options. Respondents told us that more accessible housing is needed as well as greater protections for tenants and commitment to accessibility standards.
- **Restrictive practices:** Respondents broadly support the reduction and elimination of restrictive practices including targets and data to measure these efforts and appropriate funding for any changes to restrictive practice regulations.
- **Health:** Respondents told us that they support access to health care for people with disability and the use of 'disability health navigators' (Recommendation 6.34) and called for the right to equitable access to health services to be embedded in policy documents (Recommendation 6.31). There was also support for improving access to clinical placements in disability health services for all health professionals (Recommendation 6.28). The requirement for transport needs to be addressed when considering adaptations and supports to enable access to health care was also raised.
- **Independent oversight and complaint handling:** Respondents told us that independent oversight, complaints and incident management recommendations are important issues. This includes the creation of 'one-stop-shop' complaint reporting and a national 1800 number and website for complaints. Submissions told us that incident management recommendations can streamline incident reporting, strengthen oversight, and improve the effectiveness of investigations. There were calls for appropriate funding for a nationally consistent Official Community Visitors scheme.
- **Accessible communications:** Respondents expressed their support for a national plan to promote accessible information and communications including supporting the duty to provide accessible information and called for an increase in the number of Auslan interpreters.
- **Disability workforce:** There is support for a national disability support worker registration scheme and including revisions to the NDIS Quality and Safeguards Commission processes to ensure a higher standard of care and accountability. Respondents told us that they support information-sharing provisions in relation to workers and that worker qualification and training for frontline workers is important and recommended training options from diverse funding sources. Respondents said that worker remuneration is complex and does not align with NDIS services and NDIA price limits and support portable leave entitlements for workers.
- **Governance:** The development of a National Disability Agreement (Recommendation 5.1) was presented as a key recommendation by several respondents. New governance arrangements for disability in Volume 5, Governing for Inclusion were considered key recommendations.
- **Criminal justice:** Respondents expressed support for criminal justice recommendations in Volume 8. These recommendations relating to improving conditions in custody for people with disability, screening and assessment for disability in youth detention, use of seclusion, diversion, First Nations people in custody and age of criminal responsibility.
- **Provider of last resort:** Respondents said that determining the criteria for designating a provider as a last resort and establishing a clear framework for procurement and ongoing evaluation are critical steps in making this recommendation a reality.

NSW Government Submission to the NDIS Review

25 May 2023

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Introduction

The NSW Government welcomes the opportunity to provide input to the Review of the National Disability Insurance Scheme (NDIS). The NDIS Independent Review Panel and the Secretariat supporting them have provided opportunities for input through mechanisms outside this submission in which NSW has participated. As the Review continues beyond the finalisation of this submission NSW will continue to contribute through mechanisms provided by the Review Panel and Secretariat.

This submission is an opportunity for the NSW Government to confirm our commitment to working collaboratively with all stakeholders to deliver an NDIS that is sustainable and puts people with disability at the centre of the scheme.

NSW has a long-standing commitment to disability inclusion

New South Wales is proud to have been the first state to sign up to the NDIS. With more than 170,000 active NDIS participants and an annual contribution of \$3.75 billion to the NDIS in 2022-23, NSW has a large stake in its success.

Under the *Disability Inclusion Act 2014*, NSW has a statutory commitment to the inclusion of all people with disability into mainstream services and the broader life of the community. This is reflected in the overarching NSW Disability Inclusion Plan and made accountable in the Disability Inclusion Action Plans that each government public authority and the 128 local government Councils are responsible for developing and reporting against.

Refocus the NDIS on its original vision and different levels of NDIS supports

Recommitment to the NDIS as it was planned and envisaged, including returning the Information, Linkages and Capacity Building program and other Tier 2 supports to their original forms and purposes, will contribute to a system that is both sustainable and places people with disability at its centre.

The NDIS is part of an ecosystem of services that support people with disability

NSW funds mainstream government services that have important interfaces with the NDIS which also support people with disability. In line with its statutory disability inclusion commitment, NSW strives to ensure mainstream services are equipped to support people with disability as a part of their everyday business and their obligation to make reasonable adjustments.

A more clearly delineated set of roles and responsibilities, including those which are shared between the NDIS and mainstream services, could support all systems to deliver on their core business of supporting the people who use them.

People with complex needs may require support to engage with all of the services they require

People have complex lives, experiences, and disabilities. Some NDIS participants engage with multiple service systems, such as Justice, Child Protection, Health, Housing and Homelessness, and Education.

NSW is committed to working with all jurisdictions to ensure that people with complex needs receive all of the supports that they need individually, and will also receive the support they need to navigate the multiple service systems that deliver these services.

Recommendations

A note on NDIS Sustainability

The NDIS Review aims to support the NDIS becoming a mature and sustainable program that gives people with disability the supports they need to participate fully in community life.

NSW supports the need for the scheme to be sustainable and available into the future.

Issues such as provider fraud and overcharging and staffing and process issues inside the NDIA are currently being addressed through a Federal budget commitment. Equally, National Cabinet has taken the lead on addressing hospital discharge delays for NDIS participants, and committing to an *NDIS Financial Sustainability Framework*.

The NSW Government recognises Australian governments will work together towards NDIS sustainability. As such, sustainability will not be explicitly addressed in this submission but we believe that the outcome of accepting these recommendations would contribute to sustainability.

The NSW Government's recommendations in this submission are framed around a commitment to NSW citizens – a commitment that the NDIS be sustainable, equitable, and support all participants to meet their goals and aspirations through reasonable and necessary supports whilst NSW continues to deliver their mainstream supports.

NSW's recommendations to the Review Panel are organised under six themes¹

- | | |
|------------------|-----------------------------|
| • APTOS | • Workforce |
| • ILC and Tier 2 | • People with complex needs |
| • Safeguarding | • Participant experience |

The themes have been selected following consultation with NSW Government agencies to identify their most pressing issues, many of which intersect with elements of the NDIS Review terms of reference.

All themes and examples focus on what people with disability need, in and outside the NDIS, to live their lives.

Part 1:	APTOS
1.1	The APTOS, roles and responsibilities of each jurisdiction.
1.1.1	Refresh the APTOS to provide more direct guidance on roles and responsibilities of each jurisdiction.
1.1.2	Clarify governance arrangements to ensure priorities are met and work is not duplicated.
1.1.3	Work to resolve the treatment of “in-kind supports” in NSW.
Part 2:	ILC and Tier 2
2.1	Returning ILC and Tier 2 supports to their original purpose will create a more sustainable NDIS.

¹ The recommendations under each theme have been matched back to the Review's terms of reference

2.1.1	Restore the focus of the Information Linkages and Capacity Building (ILC) Program to its original vision.
2.1.2	Strengthen Tier 2 supports to improve outcomes for participants and reduce long run scheme costs.
2.2	Returning Local Area Coordinators to their original functions will strengthen Tier 2 supports.
2.2.1	Returning ILC and Tier 2 supports to their original purpose will create a more sustainable NDIS.
2.2.2	NDIA to differentiate and safeguard the Local Area Coordination function from other parts of the NDIS.

Part 3:	Safeguarding
3.1	A robust and proportionate formal safeguarding system is critical.
3.1.1	Update the operating model of the Quality and Safeguarding Framework.
3.1.2	Resource and empower the NDIS Commission to adequately mitigate risks to participants.
3.1.3	Address growing self-management of NDIS plans to deliver more proportionate regulation to all providers.
3.1.4	Create nationally consistent principles for community visitor and oversight schemes to strengthen safeguarding.
3.2	Service Agreements should be designed using Plain English and only used when warranted.
3.2.1	Develop clearer guidelines for the use and implementation of service agreements.

Part 4:	Workforce
4.1	A sufficient supply of well trained and well supported staff is essential for effective safeguarding.
4.1.1	Explore options to improve access to professional development and clear career pathways for disability care sector workers.
4.1.2	Explore options for a portable entitlements and training scheme for disability care sector workers, and consider NSW as a possible trial site for such a scheme.
4.2	The lack of wage parity with equivalent work in other care sectors is a risk for a sustainable NDIS workforce.

4.1.2	Acknowledge potential wage disparities between the disability care workforce and the aged care workforce and possible staffing implications and impacts on the care workforce as a whole.
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Part 5:	Complex needs
5.1	A more responsive system for people with complex support needs.
5.1.1	Include sufficient funding in support plans to ensure collaboration with multiple stakeholders.
5.1.2	Routinely fund support coordination for people with complex needs.
5.1.3	Introduce case management for participants with complex needs.
5.1.4	Manage NDIS eligible young people involved with Youth Justice through the Complex Support Needs pathway.
5.2	Complex participants need the support of more highly trained staff when dealing with mainstream interfaces.
5.2.1	Improve the capacity and quality of NDIS support coordinators, LACs, planners and other disability workers.
5.3	An insufficient supply of high-quality behaviour support practitioners contributes to escalating behaviours of concern.
5.3.1	Progress the National Action Plan for Developing the NDIS Specialist Behaviour Support Market.
5.3.2	Establish expected content and minimum standards for behaviour support plans.

Part 6:	Participant Experience
6.1	Thin markets impact access to the NDIS
6.1.1	Implement a sustainable strategy to effectively respond to thin markets.
6.2	Access to the support system should be made less complicated.
6.2.1	Trial other options that could support entry to the scheme for those that need it.
6.2.2	Develop a process for following up on dormant applications that require further information.
6.2.3	Reduce the age of access consent from 18 years old to align better with other Commonwealth-delivered systems, such as Medicare.
6.2.4	Develop a suite of documents for access requests and an online access request form to make applications easier.
6.3	Beyond access to the scheme: participants may need ongoing supports with plan utilisation and review.

6.3.1	Develop a process for checking that a support coordinator has been allocated and that the plan is being actioned/ utilised.
6.3.2	Provide written explanations, citing relevant information and evidence, as part of any plan reviews or funding changes.

Additional Recommendations: Health Related

NSW Health has identified additional issues that have a direct impact on the capacity of NSW Health to deliver its core business, and have an impact on the safely and timely discharge of NDIS participants from NSW Health facilities. These can be found in the Annexe. A table of NSW Health's proposed solutions can be found below.

Annexe	NSW Health proposed solutions
1	The NDIA and the NDIS Quality and Safeguards Commission should address the risks associated with the delivery of Disability Related Health Supports (DRHS) through delegated care, revision of the NDIS's DRHS operational guidelines, and establishment of a clinical governance mechanism for DRHS.
2	New Participant Service Guarantee (PSG) timeframes be developed for NDIS participants admitted to hospital requiring a change in circumstance plan reassessment or NDIS eligibility determination. NDIS funding short term accommodation rates for participants who are medically ready for discharge where there is a delay in identifying accommodation or supports.
3	NDIA to establish a mechanism for informal supports to access a "one stop shop" for crisis support, including immediate access to NDIA funded case management, short-term accommodation, community engagement and liaison with other mainstream services to ensure the breakdown of supports does not result in relinquishment and social admission to hospital.
4	The NDIA should prepare for relinquishment of NDIS participants by some service providers. This should include a combination of short- and medium-term accommodation options, as well as support in engaging across mainstream and informal supports.
5	There are steps along the discharge pathway that require the NDIA to implement further change and develop processes to ensure a successful transition for participants. These include health liaison officers in all facilities that treat NDIS participants, implementing a vacancy management system, and specialist hospital discharge planners.
6	NDIS support workers should be able to stay with the participant in the emergency department without seeking prior approval from the NDIA. The APTOS should be reviewed for clarity around the role of Health and the role of the NDIA in funding support workers in the ED environment.
7	The APTOS should distinguish palliative care from end-of-life care and explain how palliative and disability supports can be provided concurrently. NDIA decisions should be consistent with this position, and result in funding of disability supports.

	<p>Establish a shared-care approach for people with a life-limiting conditions.</p> <p>Ensure that there is a sufficient market of providers who can support NDIS participants with both life limiting conditions and disability care needs.</p>
8	<p>The NDIA should:</p> <p>Create consistent access and eligibility requirements for people with psychosocial disability.</p> <p>Adapt the planning process to meet the needs of people with psychosocial disability.</p> <p>Strengthen the registration requirements for behaviour support practitioners.</p> <p>Routinely build flexibility into plans to enable the dynamic support needs of a participants with psychosocial disability to be met.</p>

1 APTOS

1.1 The APTOS, roles and responsibilities of each jurisdiction.

	Recommendations	Review TOR #
1.1.1	Refresh the APTOS to provide more direct guidance on roles and responsibilities of each jurisdiction.	1e
1.1.2	Clarify governance arrangements with NDIS impact to ensure priorities are met and work is not duplicated.	1e

The current APTOS does not effectively clarify responsibilities between the NDIS and mainstream services

- The Applied Principles and Table of Supports to Determine the Responsibilities of the NDIS and other Service Systems (APTOS) identifies the roles and responsibilities of service systems for funding and delivery of supports for people with disability.

The APTOS is a high-level principles-based statement

- There is no shared statement by the Commonwealth and state and territory governments on the operational interpretation of the APTOS, and there has been ongoing disagreement between state and territory jurisdictions and the NDIA over the interpretation of the APTOS.
- There is no mechanism in place to resolve disagreements in the interpretation of APTOS funding responsibility for certain supports. This contributes to gaps and delays in service provision which may result in poorer outcomes.
- There is scope for the governance element of the review to consider how disagreements of this nature could be resolved.

NSW has identified a number of examples where unclear APTOS rules are leading to suboptimal outcomes

- There are a number of examples from mainstream interfaces where misinterpretation of the APTOS is leading to decisions that are inconsistent with policy intentions and causing poorer outcomes for NDIS participants. Examples of this include:
 - **Provision of concurrent supports.** NSW Health makes reasonable adjustments so that people with disability are appropriately supported while they are in hospital, but a small minority of patients will also need access to one or more disability specific supports (concurrent supports). Under the APTOS, the NDIS is responsible for providing concurrent supports to participants who require disability specific supports during hospital stays, however the criteria for approval of concurrent supports are not clear.
 - **Intersections of disability with mental health, justice or aged care** are also currently open to misinterpretation and participants can risk losing or missing out on services, which can lead to escalating behaviours of concern or deteriorating mental health.

Improving communication and information sharing between Ministerial Councils will better align priorities and avoid duplication in work

- The National Housing and Homelessness Ministerial Council and Disability Reform Ministerial Council have both committed to priority actions to improve data sharing and housing outcomes amongst people with disability.
- Improving communication between the Ministerial Councils and Senior Officials will limit the duplication of ongoing work and improve outcomes for people with disability.

	Recommendation	Review TOR #
1.1.3	Work to resolve the treatment of “in-kind supports” in NSW.	1a

In NSW, In-kind supports have been operating as an interim measure since the NDIS commenced

- The respective bilateral agreements for the NDIS launch acknowledged the need for continuing in-kind arrangements for both Commonwealth and state and territory services until such time as agreed.
- The APTOS subsequently agreed by governments in 2015 and appended to the respective bilateral agreements for NDIS transition, included supports such as specialist school transport, personal care in schools, and the taxi subsidy scheme as responsibilities of the NDIS.
- The respective bilateral full scheme agreements specified commitments to in-kind phase-out, with interim arrangements while discussions continued in the Ministerial Council about how these services would be delivered as part of the NDIS.

There is still no resolution around funding arrangements for providing these ‘in-kind’ supports into the future.

- This issue should be resolved promptly, noting the limitations in-kind arrangements place on reform. In 2017 the Productivity Commission noted that in-kind supports can hinder market development and reduce choice and control for participants. It suggested that careful, cooperative and consistent approaches between the NDIA and governments are needed to end in-kind services as quickly as practicable.²

² Productivity Commission 2017, NDIS costs study report, Page 263, <https://www.pc.gov.au/inquiries/completed/ndis-costs/report/ndis-costs.pdf>

2 ILC and Tier 2 supports

2.1 Returning ILC and Tier 2 supports to their original purpose will create a more sustainable NDIS

	Recommendations	Review TOR #
2.1.1	Restore the focus of the Information Linkages and Capacity Building (ILC) Program to its original vision.	1b
2.1.2	Strengthen Tier 2 supports to improve outcomes for participants and reduce long run scheme costs.	1b

The Information, Linkages and Capacity Building Program has not been implemented as intended

- Critical Tier 2 supports, envisaged by the Productivity Commission and agreed by governments, including the Information, Linkages and Capacity Building (ILC) Policy Framework, have largely been neglected to date, despite being vital to scheme sustainability.
- As the Productivity Commission noted in 2017, the interface between the NDIS and other disability and mainstream services is critical for participant outcomes and the financial sustainability of the scheme.³ Tier 2 supports should exist and help people at this interface with other mainstream services.

NSW has previously run programs that have delivered Tier 2 supports

- These include:
 - The NSW Ability Links program, where “linkers” with detailed local knowledge and community links, worked closely with people to provide support to access community and mainstream services. The economic and social benefits were noted in its evaluation with a cost-benefit ratio of 3:1. NSW ceased to deliver this program on the understanding that these outcomes would be captured as part of Tier 2 and LAC functions⁴. NSW has provided the NDIS Review Secretariat with information on the Ability Links program.
 - The Integrated Service Response (ISR) program for people with complex needs who are relinquished or at risk of relinquishment. Sometimes when informal supports breakdown, care is relinquished by taking the NDIS participant to the emergency department, resulting in a hospital social admission. This program facilitated a co-ordinated approach between the NDIS and the other NSW funded supports to address the complex needs of this group.

NSW welcomes the opportunity to work with the Commonwealth to identify local solutions that address the intentions of Tier 2

- With the full establishment of the NDIS, these types of Tier 2 supports are critical elements of the original scheme. Addressing the shortcomings of the current Tier 2 arrangements will provide important and impactful supports to vulnerable and marginalised people with a disability. A fully functional Tier 2 may assist in limiting growth in participant numbers.
- Tier 2 was intended for all people with disability – the NSW mainstream supports are available however Tier 2 investment (which is an element of the NSW NDIS contribution) has not yet

³ PC Review of scheme costs, 2017, page 2

⁴ The NDIS Review secretariat has been provided with a range of information on Ability Links – including Aboriginal Ability Links and Early Linkers. This model is an exemplar for the positive role that LACs could play.

been delivered in the intended manner. By investing in early identification of vulnerable families and /or preventive interventions, the scheme will be able to return to its original vision.

2.2 Returning Local Area Coordinators to their original functions will strengthen Tier 2 supports

	Recommendation	Review TOR #
2.2.1	Returning ILC and Tier 2 supports to their original purpose will create a more sustainable NDIS.	
2.2.2	The NDIA differentiates and safeguards the Local Area Coordination function from other parts of the NDIS. ⁵	1b

During the NDIS implementation phase, Local Area Coordinators became de facto NDIS planners

- In the implementation and subsequent phases of the NDIS, the original Local Area Coordinator (LAC) function was diverted into a planning function, leading to fewer resources to connect people with disability to mainstream services.

The role of LACs can be shifted to strengthen the connections between the NDIS and mainstream services

- Now the NDIS is a mature program, strategies should be adopted to strengthen the role of Local Area Coordination (LAC) and restore the ILC component of the scheme. This could include:
 - Support to gather and submit sufficient information for the access application should be more consistently provided to potential applicants by Local Area Coordinators, and others who are familiar with the NDIS application process and requirements.
 - The Review could consider the use of the NSW Connection Model, or a similar model, to improve plan utilisation when plans are not being used. This model has successfully operated across NSW public schools. NDIS Connection desks involve one-on-one meetings arranged in the school or community setting with the local NDIS partner to support families to understand and navigate the NDIS. Schools promote the Connection Desks within their community. Benefits from this model include parent/carer questions being answered in a timely manner, strengthened relationships between the school and NDIS partner, and allowing the NDIS partner to provide 'just in time' support.

The recommendations of the NDIS Independent Advisory Council report provide a scaffolding for these improvements

- In its February 2021 Report, *Supporting LACs to be LACs*, the Council wrote:
 - It is the view of Council that as the NDIS pivots in its post transition phase, the NDIA must look to the Local Area Coordination function for more than assisting participants to implement their plans. Framed correctly, the Local Area Coordination function can be pivotal to meeting legislative objectives related to supporting social and economic participation and facilitating greater community inclusion, neither of which cannot be achieved without building community capability⁶.

⁵ <https://static1.squarespace.com/static/5898f042a5790ab2e0e2056c/t/60540a713025687587aff5dc/1616120438947/Advice+-+Supporting+LACs+to+be+LACs+-+Final+-+2021-02-04.pdf>

⁶ <https://static1.squarespace.com/static/5898f042a5790ab2e0e2056c/t/60540a713025687587aff5dc/1616120438947/Advice+-+Supporting+LACs+to+be+LACs+-+Final+-+2021-02-04.pdf> page 3

The Council also recommended that “in reconfiguring the Local Area Coordination function, the NDIA differentiates and safeguards the Local Area Coordination function from other parts of the NDIS”. The NSW Government supports this recommendation.

3 Safeguarding

3.1 A robust and proportionate formal safeguarding system is critical

	Recommendations	Review TOR #
3.1.1	Update the operating model of the Quality and Safeguarding Framework.	1d
3.1.2	Resource and empower the NDIS Commission to adequately mitigate risks to participants.	1d

A revised Quality and Safeguarding Framework is urgently needed

- The NDIS Quality and Safeguarding Framework is a critical element of NDIS safeguarding and the current (2016) iteration does not deliver the safeguarding elements that it was intended to deliver.
- The 2016 Framework was written to address a projected future state where participants would be sufficiently supported to manage their services and providers to the full extent of their capabilities.
- It did not anticipate immature markets, the number of participants choosing not to have their services managed by the NDIA, or the ILC program not being implemented as envisaged by the Productivity Commission and as agreed by governments.

Everybody's business is nobody's business: A more precise safeguarding framework would clearly indicate where accountability lies

- While safeguarding should be embedded in the roles of everybody who work in the broader disability space and is key to the provider code of conduct, a revised Quality and Safeguarding Framework would be strengthened by a clear identification of roles and responsibilities with regard to NDIS participants. Without this, vulnerable participants risk "slipping through the cracks".
- Under the original Quality and Safeguarding Framework, the ILC program had an implied responsibility for safeguarding through its role in building participants' capacity to make decisions and self-advocate. However, as noted above, this part of the scheme has not been implemented as intended, with the result being that these critical safeguarding elements are missing.
- A revised Framework could address the actual circumstances of the scheme and give contemporary examples of best practice for all parties.

	Recommendation	Review TOR #
3.1.3	Address growing self-management of NDIS plans to deliver more proportionate regulation to all providers.	2g

Growing numbers of participants are self-managing their NDIS plans and using unregistered providers to deliver their services

- Also of concern is the ability of participants under plan management to engage unregistered providers. While plan managers are required to be registered, participants using plan managers are not required to engage registered providers, except for some key support types such as SIL.
- There is a case for further limiting the support types and situations where plan managed participants can engage unregistered providers.

- Unregistered providers are not regulated to the same extent as registered providers, which exposes NDIS participants to greater risks, as their providers have not undertaken an independent audit process to verify or certify the quality of their services.
- Because lack of registration is not seen as a barrier to growing their businesses, and registration itself is expensive and time consuming, there are diminishing incentives for providers to seek registration, thus increasing the prevalence and use of unregistered providers.
- The NDIS Quality and Safeguards Commission does not have the ability to oversee and regulate unregistered providers to the same extent, which leads to a two-tiered system where some providers have fewer checks and balances on their actions while others maintain expensive registration systems and are subject to more onerous oversight. This can be compounded in remote and underserved communities, where unregistered providers are more prevalent.

Empowering the NDIS Commission to address these issues of proportional regulation will allow markets to develop more naturally whilst safeguarding NDIS participants

- Registration of all providers (with limited exceptions) in a way that is proportionate to the risks of the services they provide will allow the NDIS Commission to deliver greater oversight of the provider market.
- NSW understands that the NDIS Commissioner is already examining ways to adopt a more unified and consistent regulation of all providers.
- To deliver these changes and improve participant safeguarding, the NDIS Commission needs to be adequately resourced and empowered. NSW notes the commitment in the Federal budget for additional funds to the Commission.

	Recommendation	Review TOR #
3.1.4	Create nationally consistent principles for community visitor and oversight schemes to strengthen safeguarding.	2g

Community Visitor Schemes do not provide a consistent level of oversight nationally

- Many States and Territories, including NSW, have Community Visitors Schemes (CVS), which play an important role in safeguarding vulnerable NDIS participants, but the way they are managed and remunerated, and what falls within their remit, varies widely between jurisdictions.
- There is an opportunity to adopt nationally consistent principles to CVSs, which would strengthen safeguarding.

Implementing WestWood Spice's recommendations for a nationally consistent approach to CVSs would strengthen safeguarding

- In 2018, the Department of Social Services commissioned WestWood Spice to conduct a review of Community Visitor Schemes.⁷ The final report recommended the Commonwealth, states and territories should work towards national consistency around key aspects including reporting, standards for review, scope and interfacing with the NDIS Commission to define minimum consistency necessary.
- Under nationally consistent principles for an oversight scheme, there could be an opportunity to increase the capacity of Official Community Visitors to provide greater oversight of SIL properties and to provide an impartial voice/advocate for participants.

⁷ https://www.dss.gov.au/sites/default/files/documents/02_2020/pdf-version-community-visitors-review_0.pdf

3.2 Service Agreements should be designed using Plain English and only used when warranted

	Recommendation	Review TOR #
3.2.1	Develop clearer guidelines for the use and implementation of service agreements.	2f

Service Agreements are being more widely used by participants, leading to increased use of Guardianship Orders in NSW

- Service agreements may be useful in safeguarding NDIS participants from fraud and funds mismanagement.
- They are not explicitly required for most NDIS services, but have been widely used in the NDIS for most of the scheme's life.
- Use of service agreements has not been regulated, leading to diverging quality of agreements and lack of clarity for participants as to what they are agreeing and whether it is beneficial to them.
- There is also no regulation of how the participant is supported to understand the agreement they are being asked to enter into.

The NSW Public Guardian reports an 83% increase in guardianship decisions on implementation of the NDIS

- In NSW, as at 19 May 2023, the NSW Public Guardian's data indicates a 367% increase in the number of guardianship applications between 2018 and 2022 indicating the NDIS as the primary reason for the application. Their data also shows that in the period 1 July 2021 – 30 June 2022, 8176 decisions were made in relation to a represented person's participation in the NDIS. This is an 83% increase since the period of 1 July 2018 – 30 June 2019.
- The wide use of service agreements and the requirement by many service providers to have these signed is a contributing factor to the need for guardianship orders being made and orders remaining in place for some participants. For participants with a cognitive disability or who are vulnerable with few supports, the complexity of agreements, number of forms and need for consent is driving the need for a substitute decision maker to be appointed where they would not otherwise need to be.

Clearer guidelines for the use and implementation of service agreements could lead to fewer guardianship orders and more empowered NDIS participants

- NSW acknowledges the release of the NDIS Supported Decision Making Policy. Greater emphasis on providing supported decision making will help to ensure that participants are capable of more independence in the long run.

4 Workforce

4.1 A sufficient supply of well trained and well supported staff is essential for effective safeguarding

	Recommendation	Review TOR #
4.1.1	Explore options to improve access to professional development and clear career pathways for disability care sector workers.	2d
4.1.2	Explore options for a portable entitlements and training scheme for disability care sector workers, and consider NSW as a possible trial site for such a scheme.	2d

Attrition and turnover rates for the disability care workforce have been increasing

- The yearly turnover rate across the NDIS workforce ranges from 17 to 25%, based on taxation data from 2015-16–2017-18, significantly higher than the economy average of 12%.⁸
- There are considerable risks of burnout and psychological injury amongst disability care workers, particularly when working in isolated workplaces or resource-constrained scenarios. The Behavioural Economics Team of the Australian Government (BETA) found that ‘high workload’ was the most common reason for leaving a position as a disability care worker, according to a survey of 768 workers.
- The National Skills Commission found high rates of employee turnover for aged and disability carers, particularly among workers under the age of 44, with 24% of young workers spending just one year in the role. This could be a particular risk for vulnerable workers and CALD groups, who often make up a large percentage of the gig economy and contractor workforce.

Attracting and retaining disability sector workers is critical to delivering quality services

- In June 2021, Disability Ministers endorsed the National NDIS Workforce Plan 2021 to 2025. The Plan contains 16 initiatives to retain and grow the skilled workforce that is required for the NDIS and related care sectors.
- The NSW Government implemented the More Jobs More Care (MJMC) program in 2020-22 to attract more workers to the disability workforce in thin market areas in NSW.
- The next step is creating genuine pathways towards career progression and opportunities to increase skill and experience.

NSW welcomes the Commonwealth Government’s acknowledgement that the need to grow the Care and Support workforce is a key structural shift facing the economy⁹

- NSW has provided fee-free training places for Disability and Social Care diplomas since 2020.
- A national approach to working with TAFEs, Registered Training Organisation and Disability providers may help to address worker shortages.

⁸ Care Workforce Labour Market Study (nationalskillscommission.gov.au)

⁹ Budget Paper number 4, https://budget.gov.au/content/bp1/download/bp1_bs-4.pdf

Consideration should be given to re-examining information sharing protocols, to ensure States and Territories can appropriately regulate disability sector workplaces

- Disability support workers face a variety of risks in the workplace, including manual handling injuries and psychosocial injuries. Safety in all NSW workplaces is regulated by SafeWork NSW.
- Currently, it is an offence under the *National Disability Insurances Scheme (NDIS) Act 2013* to solicit protected information from the National Disability Insurance Agency, the NDIS Quality and Safeguards Commission and other persons, whether or not the information is actually disclosed. This extends to the WHS regulators and impacts how they undertake compliance and enforcement activities.
- Regulators cannot ask for information to undertake an investigation that is information about a person such as an NDIS participant. This includes serving notices and asking questions.
- Currently this information can only be provided via a request to the Commissioner of the NDIS Quality and Safeguards Commission from the Secretary of the relevant NSW Department under section 66 of the *NDIS Act 2013*. Disclosing the information is at the discretion of the Commissioner or CEO based on whether it is reasonably in the public interest.

4.2 The lack of wage parity with equivalent work in other care sectors is a risk for a sustainable NDIS workforce

	Recommendation	Review TOR #
4.2.1	Acknowledge potential wage disparities between the disability care workforce and the aged care workforce and possible staffing implications and impacts on the care workforce as a whole.	2d

Aged care workers are now paid substantially more than disability care workers on the same Award

- The 2022 Fair Work Commission (FWC) decision to increase wages for aged care workers places upward pressure on disability sector wages.
- Support workers who were paid the same hourly rate under the Social, Community, Home Care and Disability Services (SCHADS) Industry Award are now being paid more if they work in the aged care sector than the disability sector, despite the skills required being the same in both cases.
- In making its decision to increase the wages of aged care workers on the grounds of both work value and equal remuneration for gendered work, the FWC considered the impact on disability support workers of the increase sought for aged care workers covered by the SCHADS Award, but decided that funding arrangements “are a matter for government”¹⁰.

To avoid the risk of even greater workforce attrition, governments should commit to considering how wage parity can be achieved across the care sector

- Given the projected increasing demands on the care and support sector as a whole, Award differences between different elements of the sector are likely to create further imbalances of supply and demand.
- Creating wage parity between comparable jobs and skillsets remove perverse incentives for workers to move between care settings, which will benefit the care sector as a whole.

¹⁰ <https://www.fwc.gov.au/documents/sites/work-value-aged-care/decisions-statements/2022fwcfb200.pdf> page 250

5 Complex support needs

5.1 A more responsive system for people with complex support needs

	Recommendations	Review TOR #
5.1.1	Include sufficient funding in support plans to ensure collaboration with multiple stakeholders.	1a
5.1.2	Routinely fund support coordination for people with complex needs in recognition of the difficulties navigating the NDIS and its interface with mainstream service systems.	1a
5.1.3	Introduce case management for participants with complex needs to facilitate coordinated supports, and better outcomes for vulnerable people.	1b

The current scheme arrangements can be difficult to navigate for people with complex needs

- NDIS processes rely on people to be able to self-initiate, self-manage, self-govern, self-advocate or have an informal support person (family or friend) do this on their behalf. This may be unrealistic though for some people with complex needs.
- The system, as it is currently arranged, does not pay sufficient attention to the complicating personal circumstances people in this cohort may face, such as trauma, interaction with other complex interfaces such as Health, Justice, or Out of Home Care, or participants' lack of informal supports like friends or family.

NSW mainstream services report that there is an underestimation in the scheme of the resources needed to support people with complex needs

- Across NSW Government mainstream services, the experience is that there is an inadequate consideration within the NDIS system of how to support people with disability that have the most complex support needs.
- In particular, there is an underestimation of the resources needed to adequately support people with complex mental illnesses, psychosocial disability, or behavioural support needs. See NSW Health issues paper 8 below for further explanation.

NSW Government analysis indicates significant NDIS funding underspends for children in OOHC

- High level data analysis indicates that the average utilisation of NDIS plans for children in Out of Home Care (OOHC) in NSW is lower (56%) than for non-OOHC participants (63%). Some children also have no spends against their plans, many do not have support coordination, and many have significant underspends (20% underspend or more) at least four months into their plan. The total estimated unused value of the funding available in these plans in FY2021-22 was \$17.4 million¹¹
- Additional funding in support plans for collaboration with key stakeholders such as family and mainstream supports could also help ensure people with complex needs get access to the right supports at the right time.

Case management may be the best way to ensure good outcomes for some participants with complex support needs

¹¹ DCJ analysis of matched NDIS-OOHC data.

- As acknowledged in the NDIS Review *Participant Safety Proposals Paper*, a number of reviews into the NDIS have called for a case management type of approach for some vulnerable participants with particularly complex needs.
- The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability has also raised questions in some hearings¹² about the provision of case management for vulnerable participants within the NDIS.
- Consideration should be given to introducing case management for select participants in acute or complex circumstances in acknowledgement of their additional safeguarding needs.
- Allowing for the adoption of a more bespoke approach in limited circumstances is likely to prevent crisis interventions and other escalations that create poorer outcomes for individuals, place pressure on systems at all levels of government in the long term, and ultimately also have an economic cost.

	Recommendation	Review TOR #
5.1.5	Manage young people involved with Youth Justice who are eligible for NDIS support through the Complex Support Needs pathway	1a

National Disability Data Asset pilot test case findings show that young people in NSW with disability were more likely to re-offend within two years than young people without disability¹³

- Access for this cohort is often significantly delayed due to the need to re-stream access through the Complex Support Needs Branch. As a result, young people leave custody without an NDIS package in place, and their application is only re-commenced if they re-enter custody.
- Additional targeted supports while NDIS participants are in contact with Youth Justice, including in the lead up to release, are likely to reduce reoffending and redirect young people with disability to more productive pathways.

Better identification and supports are needed to reduce the risk of people with disability coming into contact with the justice system¹⁴

- Findings from the National Disability Data Asset (NDDA) Justice test case showed that NSW people with disability are particularly over-represented in custody. Data showed 1 in 10 had a cognitive disability and nearly 4 in 10 had a psychosocial disability.

¹² For example, Public Hearing 13, Disability services (a Case Study), held in Sydney from 24-28 May 2021.

¹³ Source: Summary findings: Justice test case, page 11, <https://ndda.dss.gov.au/wp-content/uploads/2022/09/11-Summary-of-NDDA-Pilot-findings-Justice.pdf>

¹⁴ Source: Summary findings: Justice test case, page 10, <https://ndda.dss.gov.au/wp-content/uploads/2022/09/11-Summary-of-NDDA-Pilot-findings-Justice.pdf>

5.2 Complex participants need the support of more highly trained staff when dealing with mainstream interfaces

	Recommendation	Review TOR #
5.2.1	Improve the capacity and quality of NDIS support coordination, LACs, planners, behavioural support workers and disability workers.	1b

Capability and knowledge deficits among providers can lead to inadequate use of NDIS plans

- Providers may lack the knowledge about various types of disabilities, for example intellectual disability compared to behavioural issues, speech disorders, or the impact of childhood trauma on brain development and its impact on people's perception of the outside world and motivation to engage. Providers may also lack knowledge of the appropriate interventions to help with these conditions.
- This can lead to underutilisation of NDIS plans and participants not receiving the supports and services they are eligible for.

Thin markets for allied health professionals and a lack of specialist training for support staff are leading to poor outcomes

- There are a number of examples where a lack of support, due to either thin markets for skilled support staff or a lack of specialist training for existing staff, result in poorer outcomes for NDIS participants.
- For example, the NDIS market does not have consistent quality of Support Coordination staff. The experience of NSW Out of Home Care and Youth Justice systems is that often young people do not receive the quality of support coordination that they need. Delays are common, particularly in regional areas. This is a common experience for Health also. Frequently hospital staff take are required to take on a support coordination role, due to lack of availability or skill of the support coordinator, in order to progress hospital discharge.
- Further work needs to be done to support the growth of the Support Coordination market and to build specialist expertise of Support Coordination providers to work with cohorts of participants with complex needs.

5.3 An insufficient supply of high-quality behaviour support practitioners contributes to escalating behaviours of concern

	Recommendations	Review TOR #
5.3.1	Progress the National Action Plan for Developing the NDIS Specialist Behaviour Support Market.	2d
5.3.2	Establish expected content and minimum standards for behaviour support plans.	2d

Access to appropriate positive behaviour support remains a challenge for many NDIS participants with complex needs.

- NSW mainstream services such as Health, Education, Justice, Child Protection, and the NSW Trustee and Guardian often find that the quality and content of behaviour support plans varies markedly, as do the skills and knowledge of Behaviour Support Practitioners.
- Many plans have inadequate funding for behaviour supports. Available funding may only support a few hours of supports, which is focused on development of a behaviour support plan.

Large numbers of unauthorised restrictive practices have been reported to the NDIS Commission for NSW and 80% of behaviour support in NSW is delivered by just 74 providers

- The average utilisation of behaviour support funding in FY22 was 50%. This indicates a lack of qualified behaviour support practitioners. Behaviour Support Practitioner shortages, contributes to increased use of unauthorised restrictive practices.

Implementing standards for behaviour support practitioners and for the content of behaviour support plans could, over time, lead to reduced behaviours of concern

- Renewed commitment to The National Action Plan for Developing the NDIS Specialist Behaviour Support Market is called for.
- NSW acknowledges that this is not quickly or easily addressed, but the benefits over the longer term for both NDIS participants with complex behaviours and scheme sustainability will be considerable.

6 Participant experience

6.1 Thin markets impact access to the NDIS

	Recommendation	Review TOR #
6.1.1	<p>Implement a sustainable strategy to effectively respond to thin markets, including:</p> <ul style="list-style-type: none"> ○ More use of Coordinated Funding Proposals such as bundling and pooling. ○ Use of alternative commissioning models e.g. direct commissioning, government provided services. ○ Building upon existing initiatives, programs, and governance arrangements in engaging with networks of Aboriginal community-controlled organisations. 	2c

Thin markets are a key driver for some of the worst outcomes for participants

- When people cannot access the support that they have funded in their NDIS plan they rely on other service systems or informal supports to meet their needs, or their needs and associated costs escalate. In some cases, they don't receive the supports that have been deemed to be reasonable and necessary to them.
- Thin markets are a key driver for some of the worst outcomes for participants, including breakdowns in informal supports, avoidable hospital presentations, long stays in hospital or mental health units, or homelessness. The people most affected are those with complex support needs, further contributing to marginalisation of vulnerable people.

NSW has identified a number of thin markets with critical risks to service delivery

- Thin markets are generally experienced even more severely in regional areas. Identified thin markets include:
 - **Thin Markets in Western NSW which disproportionately affect Aboriginal communities.** NSW and the NDIA have identified that there is persistent low plan utilisation in Western NSW¹⁵. For example, the NDIS Thin Markets project has identified that in Walgett and Wentworth LGAs in NSW average plan utilisation hovered between 41 and 51 per cent in 2019-20.
 - **Behaviour Support Practitioner shortages, causing increased use of unauthorised restrictive practices.** The behaviour support practitioner market in NSW is extremely concentrated, with 80% of behaviour support funding in NSW going to just 74 providers. A National Plan for addressing the thin market in qualified behaviour support practitioners has been developed,¹⁶ but progress has not been reported since 2022.
 - **Lack of early intervention supports and allied health services in rural and regional areas.** There are insufficient supports in rural and regional NSW for children with developmental delay, disability, or additional needs.

NSW is committed to working with other jurisdictions to develop practical means of addressing thin markets and improving plan utilisation

¹⁵ NDIS thin markets project report to Disability Reform Ministerial Council October 2022

¹⁶ National Action Plan Developing the NDIS Specialist Behaviour Support Market
<https://disability.royalcommission.gov.au/system/files/exhibit/CTD.8000.0013.1435.pdf>

- NSW notes the recent Commonwealth budget NDIA package, which included funding for \$7.6 million over two years from 2023–24 to partner with communities to pilot alternative commissioning approaches to improve access to supports in remote and First Nations communities.
- NSW looks forward to working with the Australian Government to develop an approach to workforce training and development, including the provision of suitable accommodation for NDIS workers. Coordination between Commonwealth and State governments to address resource gaps and capacity constraints would deliver better participant outcomes and improved value for money at the community and scheme level.

6.2 Access to the support system should be made less complicated

	Recommendations	Review TOR #
6.2.1	Trial other options that could support entry to the scheme for those that need it, such as the establishment of walk-in services, or allowing NDIS reports/application supports to be billed by GP's and private practitioners.	1a
6.2.2	Develop a process for following up on dormant applications that require further information.	1a
6.2.3	Reduce the age of access consent from 18 years old to align better with other Commonwealth-delivered systems, such as Medicare.	1a
6.2.4	Develop a suite of documents for access requests and an online access request form to make applications easier.	1a

The NDIS should be easily accessible and interact productively and constructively with other mainstream interfaces.

- NSW mainstream agencies, as well as disability stakeholders, report that the NDIS is difficult to navigate, lacks transparency around its decision making, and does not operate in tandem with mainstream interfaces.
- This is frustrating for participants, their families, and mainstream services alike. It also leads to missed opportunities for early interventions that would benefit the scheme and participants, and it diverts the resources of mainstream services away from their core business. For example, when the caseworker for a child in out-of-home care changes, there is no mechanism for altering the child's NDIS record automatically to reflect this. Each new caseworker is required to provide substantial evidence of meeting the threshold of parental responsibility for NDIS purposes.
- Real time access to NDIS plans must be provided to caseworkers who have parental responsibility for children in out of home care. This has been a known issue since the implementation of the NDIS and a solution has not yet been achieved. Lack of access impacts on plan utilisation and outcomes for the children in care.
- More opportunities to support entry into the scheme for eligible people ("no wrong door" approach) would improve the application and assessment process.
- This would be complemented by support to access available pathways to mainstream supports for people who are not eligible for an individual funding package under the more robust Tier 2 and ILC supports described above.

Dormant applications may be a sign that scheme applicants need more support, not less

- For example, the NSW Health system sees people present to hospital, often with no medical need, who have a history of unsuccessful NDIS application requests. While these people ultimately benefit from multidisciplinary teams in hospital, it shifts responsibility to the NSW health system.

Applications from young people in out of home care or the juvenile justice system can be delayed due to the need for parental approval for the application to proceed

- This could be addressed by reducing the age for independently seeking NDIS support in line with Medicare or Youth Allowance.
- People over 15 can apply for their own Medicare card and there are circumstances where they can accept their own medical treatment, such as when it is in their best interests.

There are a number of ways that processes could be improved to enhance the scheme and how it interacts with participants and mainstream interfaces

- For example, an online access request form could be developed with pop-outs/links from within the form for key information such as describing functional capacity, treatments trialled evidence of disability, with translated and easy read versions available.

6.3 Beyond access to the scheme: participants may need ongoing supports with plan utilisation and review

	Recommendations	Review TOR #
6.3.1	Develop a process for checking that a support coordinator has been allocated and that the plan is being actioned/ utilised.	1a
6.2.2	Provide written explanations, citing relevant information and evidence, as part of any plan reviews or funding changes.	1a

Monitoring allocation and utilisation of supports and support coordination is good practice

- Support coordinator allocation and plan utilisation are critical metrics for success of NDIS supports. When a support coordinator is funded in a plan and the participant cannot self-select, the planner sends a request for service. However, a request may or may not be accepted, it may be put on hold, or further information requested. A follow up system should be put in place to ensure plans are actioned and progressed.

Greater consistency and transparency are required when a plan is reviewed and altered

- The NSW Trustee and Guardian reports that when enquiries are made with the NDIA about decisions that have led to dramatically changed supports in plans, the response is often that the decision is based on what is deemed 'reasonable and necessary'. In most of these cases, the participant has unchanged diagnosis and support requirements. This is a common experience for NSW Health also, where requested supports for hospital discharge are declined as not deemed 'reasonable and necessary' without any additional information provided.
- For people with disability multiple pieces of evidence are required to prove eligibility and the amount of support required. However, when a plan is reviewed and altered, there is no requirement for the NDIA to provide evidence or a written explanation of their rationale. Likewise, the interpretation and required standard of evidence for decisions, reviews and outcomes of s100 internal reviews need to be more consistent and transparent for all involved.

Addressing these issues as they arise will lead to a clearer understanding of the scheme by participants and service providers

- This should lead to greater participant satisfaction and fewer appeals against plan review decisions.

Looking Forward

The NDIS is an unprecedented reform that was implemented in unprecedented times

The NDIS represents collaboration and good will between all levels of government. It is a once in a lifetime reform that is making real improvements in the lives of participants and in the systems that support them.

In the decade since the scheme started rolling out in trial sites, including the site in NSW's Hunter region, unparalleled events have taken place in Australia and the world.

Floods, bushfires, and a global pandemic have tested our systems and our resolve. We have a renewed understanding of the value of the ability to live an ordinary life within our communities. This brings with it a commitment to ensuring that people with disability, who need the support of the NDIS, can fully participate in community life.

To this end, the NSW Government is continuing to make its mainstream service system more accessible and inclusive, exemplified most recently by its submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability¹⁷.

The Review is an opportunity to reflect on the progress that has been made since the NDIS was designed and implemented

The focus of this submission has been on identifying ways to strengthen the NDIS, based on the experience of NSW mainstream agencies and with a view to providing practical and constructive recommendations to improve the scheme.

Sustainability is not explicitly addressed in this submission, but we believe its recommendations will contribute to the sustainability of the scheme.

While the NDIS has made a positive and profound impact for people with a disability, parts of it have diverged from the original intentions of Australian governments. The ILC, LAC and Tier 2 functions need to be recalibrated, so they deliver according to their originally intended purpose.

But an over-adherence to original scheme principles has not always worked either. Over reliance on a market model to meet the needs of *all* participants across all service types and locations has meant poorer services and supports for *some*.

This Review, and the NSW Government's submission to it, is an opportunity to consider what has worked and what hasn't. It is an opportunity for Australian governments to reflect, to work together, and to recommit to people with disability, and their friends, families and communities across Australia.

Now the issues have been identified, the work on developing solutions can begin

It is critical that the Review does not stop at identifying areas for improvement in the NDIS. For real change to be made, we need concrete, achievable, and person-centred solutions.

As with the implementation of the NDIS, planning, collaboration and good will between all levels of government are needed.

NSW is committed to the work of developing and implementing meaningful solutions that will produce real and measurable improvements for all participants and deliver a sustainable and enduring NDIS into the future.

¹⁷ https://dcj.nsw.gov.au/documents/community-inclusion/disability-inclusion/royal-commission-into-violence-abuse-neglect-and-exploitation-of-people-with-disability/DCJ_Royal_Commission_into_Violence_Abuse_Neglect_and_Exploitation_of_People_with_Disability_report_FA2_web.pdf

Annexe: NSW Health issues papers

NSW Health 1

Disability Related Health Supports (DRHS)

On 28 June 2019, the Council of Australian Government's (COAG) Disability Reform Council (DRC) issued a Communique confirming that the National Disability Insurance Scheme (NDIS) will fund a range of disability related health supports (DRHS) for participants where the need for these supports is part of the participant's daily life and directly related to their disability. Accompanying the Communique was a list of supports to be funded, including those associated with continence, respiratory care, nutrition, wound and pressure care, dysphagia, diabetes, podiatry and epilepsy.

Description

NDIS funding for DRHS is a key factor for people with complex needs being able to remain safe and secure at home and avoid unnecessary hospital admissions. As per the NDIS Operational Guidelines¹⁸, *"disability-related health supports are health supports that relate directly to the functional impact of your disability. If you need help to manage a health condition because of your disability, we may fund disability-related health supports to help you manage that condition"*. DRHS supports are health supports that a person without a disability would be able to manage themselves or not require if they did not have a disability. These are therefore considered to be disability related supports and therefore the NDIS has funding responsibility.

The administration and management of DRHS needs to be provided by suitably qualified providers, and appropriately monitored. There has been a lack of clinical oversight for decision making about inclusion of DRHS in participant plans as well as clinical governance and oversight of delivery of NDIS funded DRHS. This presents a risk to participants, which can lead to increases in discharge delay or readmission due to breakdown in supports.

There doesn't appear to be a requirement for providers to report or provide clinical governance information to the NDIA or Quality and Safeguards Commission on the delivery of these supports. Many of the DRHS are delegated to Disability Support Workers and not provided by Registered Nurses or other qualified health professionals. The lack of clinical governance oversight in the delivery of these services has the potential to significantly impact on preventable hospital admissions. This often leads to the view that people require overnight supports or 24/7 supports to facilitate the delivery of DRHS, which is often not the case – it's more of a matter of delivering the services in the community in a way that was intended and with robust clinical oversight / practices and procedures.

Current issues are being experienced in relation to:

- Diabetes management
- Continence
- Wound care
- Podiatry
- Epilepsy
- Nutrition
- Dysphagia.

For these supports, there is a lack of consistent application of funding and ongoing questions around:

- what supports are covered
- what evidence is required to "prove" a DRHS should be a NDIS funded support?

¹⁸ [Disability-related health supports | NDIS](#)

It should be noted that respiratory supports were previously included in the agreed DRHS list. This has been removed from the NDIS webpage¹⁹. There is a lack of clarity around what respiratory supports the NDIS will fund. This includes provision of equipment such as BiPAP and CPAP machines.

Proposed solution

The NDIA and the NDIS Quality and Safeguards Commission should address the risks associated with the delivery of DRHS through the following actions:

- Provide funding for allied health professionals to prescribe the DRHS for the participant, for example speech pathologist to prescribe nutritional products for management of dysphagia
- Fund supports provided through a delegated care model. For some disability-related health supports, for example, “a registered nurse may be able to train and delegate key tasks to a support worker or enrolled nurse. This trained worker would directly provide ...the support where they are competent in the task. This is called ‘delegation and supervision of care’. It allows a registered nurse to delegate nursing tasks to the most appropriately qualified person.”²⁰
- If the NDIS decline DRHS that have been recommended by a person’s treating team, they should provide full decision-making justification and advise as to clinical guidance sought in making the decision to decline supports recommended by other clinicians.
- An independent advisory panel, made up of clinicians, should be created to revise the NDIA operational guidelines that should govern the funding and delivery of DRHS in NDIS plans.
- The staff profile of the Technical Advisory Branch (TAB) should be made available to show level of clinical expertise utilised in making clinical decisions.
- The NDIS Quality & Safeguards Commission, in conjunction with the NDIA, should establish an appropriate clinical governance mechanism to ensure critical safeguards are in place for the delivery of DRHS. These safeguards should include:
 - Monitoring/oversight of service providers to ensure appropriate management of DRHS supports is in place.
 - Training requirements to appropriately manage DRHS are mandated for non-health professionals and disability support workers.

Justification for solution

DRHS are supports that require clinical guidance and training for delivery. Prescribers of DRHS are best positioned to inform the health care needs of a NDIS participant. Declining DRHS supports in a participant’s plan creates avoidable health risks to the individual and avoidable hospital admissions.

Summary statement

NDIS funding for DRHS is one of the key factors for people with complex needs being able to transition safely from hospital to the community and remain safe and secure at home. Inclusion of DRHS in participant plans avoids risk to participants who require DRHS and avoids increases in discharge delay or readmission due to breakdown in supports.

¹⁹ [What do we mean by disability-related health supports? | NDIS](#)

²⁰ [NDIS- DRHS Operational Guideline](#)

Participant Service Guarantee (PSG) timeframes

The NDIS Participant Service Guarantee (PSG) sets timeframes for the NDIA to make decisions about things such as access, plan approvals and plan reviews/ reassessments. The NDIA has performance targets for meeting these timeframes. In many instances, these timeframes are cumulative, based on the stage of the NDIS journey. They include:

- 21 days for access decisions
- 28 days to change a plan to implement AAT decisions
- 60 days to review decisions
- 21 days to decide to do a plan reassessment (change of circumstances), followed by 28 days to do the plan reassessment.

Description

The PSG timeframes and the NDIA processes put in place to meet the PSG are appropriate for people living in the community but are not appropriate to facilitate timely decisions for NDIS participants or potential participants relying on a NDIS decision to leave hospital. The PSG should specify the maximum number of days a NDIS participant who is medically ready for hospital discharge should remain in hospital because one or more NDIS funded supports cannot be provided.

Proposed solution

The PSG should identify timeframes specific to participants admitted to hospital requiring a change in circumstance plan reassessment or NDIS eligibility determination.

In accordance with standard practice in Queensland, if the PSG timeframes are applied to inpatients, the NDIS could fund Short Term Accommodation rates for the participant to remain in hospital when the person is medically ready for discharge and requires disability supports and disability specific accommodation. .

Justification for solution

The PSG should be used to drive new process improvements that achieve timely and safe hospital discharge for all NDIS participants. Discharge delayed participants face risks of hospital acquired infections, institutionalisation, loss of functional capacity and risk of exacerbation of behaviours of concern. Hospital bed days are a very costly accommodation alternative for people who do not have a medical reason for being in hospital. Discharge delays also place a cost burden on the health system and contribute to system blockages when people with acute medical needs need to wait longer for a hospital admission.

Summary statement

The PSG timeframes are not appropriate for inpatients who are discharge delayed and require expedited planning or decision making to allow them to be safely and timely discharged to community living. Discharge delays place additional strain on the health system and carry risks to patients.

Social admissions- family/ informal support relinquishment

There are many factors that impact the ability of informal supports to continue to support a person with disability. Informal support breakdowns may occur at transitional life stages, such as a person with disability transitioning from primary to high school; child to teenage years; ageing parents; change in family composition; siblings moving away from home, etc. When a person's life situation changes and informal supports cannot be maintained, families often feel isolated and unable to continue to support their loved one. The emergency department is one of the places families/ informal supports leave a NDIS participant they can no longer care for.

Description

Sometimes when informal supports breakdown, care is relinquished by taking the NDIS participant to the emergency department, resulting in a hospital social admission. A social admission is the term used when the person is not admitted for a medical reason. In these instances, the health system is seen as an alternative care provider. Often the person relinquished, and the health system rely on a timely response by the NDIS to fund and secure an appropriate community accommodation, including supporting access to social housing.

Proposed solution

The NDIA should establish a mechanism for informal supports to access a "one stop shop" for crisis support, including immediate access to NDIA funded case management, short-term accommodation, community engagement and liaison with other mainstream services to ensure the breakdown of supports does not result in relinquishment and social admission. Where possible, the proximity of the crisis supports to the existing informal supports should be considered for people that live in regional and remote areas.

The Integrated Service Response (ISR) program could be used by the NDIA as an exemplar model of support for people with complex needs who are relinquished or at risk of relinquishment.

Justification for solution

NSW Health is not the most appropriate agency to provide crisis accommodation, or disability specific support services needed by people who are relinquished by their carers.. Disability related supports are the responsibility of the NDIS. The provision of these supports or case management to link people with these supports diverts resources away from health's core business.

Summary statement

In times of crisis or when caring arrangement breakdown families/ carers/ informal supports can choose to relinquish care of a NDIS participant. Often, they choose to relinquish care at an emergency department, so the participant's health and care needs are met while a new accommodation option is sourced. This leads to social admission of people with a disability when they have no acute medical care need. Sometimes these are lengthy admissions while service systems determine the participant's eligibility for their services and supports. More appropriate short term accommodation options need to be available for participants who are relinquished.

Social admissions- provider relinquishment

The NDIA has commissioned Marathon Health services to provide an After Hours Crisis Referral Service for crisis situations that require a disability sector response. This service is for approved referrers only such as emergency service organisations (police, ambulance, public and private hospitals), acute state mental health services, federal police and state justice officers. Crisis referrals may occur where the participant's disability related supports suddenly become ineffective or inadequate.²¹

Description

This service, however, does not provide any actual supports and is purely a referral service. People with complex physical, intellectual and behavioural support needs or who require medical support units because of comorbid disability and health related issues are not adequately supported. In times of crisis, since the transition to the NDIS, there is no crisis disability accommodation provider or co-ordinator. Often when there is an immediate need to change accommodation service provider, the NDIS participant is taken to the emergency department. If no alternative accommodation option can be secured, usually they are admitted as a social admission. Reliance on hospitals as alternative providers of accommodation is inappropriate and costly. A social admission for a person with complex behaviours can be traumatic and harmful to themselves and other patients. Disability service providers need to be able to raise their concerns with the NDIA earlier about continuing to support the participant and are considering ceasing service provision. The NDIS should fund support for service providers who are finding it difficult to continue to support a participant to live safely in the community.

Proposed solution

The NDIA should prepare for relinquishment of NDIS participants by some service providers. This should include a combination of short- and medium-term accommodation options, as well as support in engaging across mainstream and informal supports- a similar role to that of the former NSW Health Integrated Service Response (ISR) project.

The NDIA should aim for there to be no social admissions because of provider relinquishment.

The NDIA should address market gaps in specific service delivery areas such as housing and behaviour support.

Justification for solution

NSW Health is not the most appropriate agency to provide crisis accommodation disability specific support services needed by people who are relinquished by their carers. Disability related supports are the responsibility of the NDIS. The provision of these supports or case management to link people with these supports diverts resources away from health's core business.

Summary statement

The NDIS should be able to support accommodation placement stability as well as orderly changes in providers of accommodation support. Social admission of participants due to provider relinquishment should not occur.

²¹ [NDIS After Hours Crisis Referral Service | Marathon Health](#)

Discharge pathway process improvements

In June 2022, the NDIA developed the *NDIA Hospital Discharge Operational Plan* (the Plan). The Plan included a range of actions for the NDIA to implement, to achieve their discharge targets. Many of these actions are reliant on the health system for implementation and achievement of intended outcomes. When people cannot access the disability supports that they require, they may rely on the health system to meet their needs while the NDIA prepares a NDIS Plan to support their transition from hospital to community.

Description

The implementation of the Plan has led to cost shift and an increase in work for Health, including increased:

- Governance and oversight for implementation of processes
- Co-ordination of care of NDIS participants. Discharge planning in the context of NDIS involves many stakeholders requiring increased resources and time to communicate and co-ordinate with the disability sector and NDIA
- Medical, nursing and allied health time to undertake all NDIA Hospital Discharge Assessments (previously some assessments were undertaken by NDIS funded allied health staff) and associated plans.

Whilst NSW Health has been working collaboratively with the NDIA to implement the Plan, there are steps along the discharge pathway that require the NDIA to implement further change and develop processes to ensure a successful transition for participants.

Proposed solutions and justifications

Issue	Solution	Justification
1) Nomination and appointment of Support Coordinators	Consider alternative ways to work with the NDIA so Support Coordinators with the appropriate skill set, and availability, to support discharge delayed participants can be appointed.	The current system of participants sourcing own Support Coordinators can be cumbersome. It is challenging for participants to find Support Coordinators with availability as well as with the appropriate skillset and/or local knowledge to support safe and timely discharge.
2) Nomination and appointment of a Behaviour Support Clinician where a Behaviour Support Plan (BSP) is required to facilitate discharge	The NDIA should recommend appropriately qualified and available BSP clinicians to support discharge delayed participants, where the BSP clinician is known to have the appropriate skill set and availability to support the participant. Alternatively, the NDIA should implement an interim approach to behaviour support whilst a BSP and, where appropriate, restrictive practice authorisations, are developed.	The current system of participants sourcing own BSP clinicians can be slow and complicated. It is challenging for participants to find BSP clinicians with availability as well as with the appropriate skillset which can contribute to discharge delay.
3) Availability of Health Liaison Officers	The NDIA should ensure that every NSW Health facility providing service to a NDIS participant is engaged with an assigned Health Liaison Officer. Where their regular HLO is unavailable or one has not been assigned, a process of assigning the service to an alternate HLO needs to be developed.	There is current inequity in facilities being able to access the support of a dedicated HLO. There are also challenges when HLOs are on leave or uncontactable and no alternate source of support is identified.
4) Involvement of clinicians or suitably trained and briefed planners in planning meetings to address	The NDIA should ensure that, for patients who are discharge delayed and have complex presentations, the participant is supported/ encouraged to invite their NSW Health representative to their planning meeting. Where an NSW Health representative is not in attendance at planning meetings, the NDIA planner	Plans with insufficient disability supports can result in a breakdown of supports and avoidable readmissions. Having clinicians available to explain the complexities of disability support required, as well as discuss the discharge assessment as developed by hospital clinicians, during the planning meeting, will allow the planner to build

complexity of supports required	should be sufficiently trained in the person's disabilities, and the complexity of their support needs	appropriate supports into the plan in the first instance.
5) Identification and management of disability accommodation vacancies	The NDIA should implement a vacancy management system for known disability accommodation vacancies, similar to that formerly provided by states and territories.	The current system of Support Coordinators or hospital staff contacting multiple providers to seek appropriate short term, medium term, SDA or SIL accommodation is resource intensive and often contributes to discharge delays. Having a register of vacancies maintained by the NDIA or the NDIS Quality and Safeguards Commission would reduce use of plan funding in searching for appropriate placements and assist in expediting discharge from hospital.
6) Vetting of suitability of providers to deliver appropriate support services, particularly for complex participants	The NDIA, through the NDIS Quality and Safeguards Commission, should ensure that providers demonstrate that their staff have a suitable skill set to support people with complex health and disability support needs, such as psychosocial disability. This could include introduction of a Commonwealth system like the NSW Community Visitors Scheme ²² , allowing unannounced service visits to ensure the participant feels appropriately supported and is receiving the supports they have entered into an agreement to receive.	Provider registration is currently a paper-based exercise with no requirement to provide evidence that staff are suitably trained to support participants, particularly those with complex support needs. Introducing a system of provider accreditation and supervision could provide more targeted services to be provided that meet individual needs.
7) Provision of concurrent supports whilst participants are inpatients	The NDIA should allow a participant to use their funded supports flexibly whilst they are in hospital, to support their disability related needs. This includes for behaviour management, social and community participation, and communication assistance. This should not require case by case approval and is an agreed support as per the APTOS. ¹²³	When NDIS participants cannot access needed concurrent supports, their health and treatment can be compromised, and/ or this can put the NDIS participants, other patients and hospital staff at risk. This can also contribute to delayed hospital discharge and limit community transition options because of a more complex presentation.
8) Consistency in planning and decision making	The NDIA should identify appropriately trained/ qualified hospital discharge planners, with experience in complex health and disability related supports, to deliver consistent planning and decision making to all NDIS participants who are discharge delayed. The clinical advice provided as part of the Hospital Discharge Assessment template should be acknowledged and incorporated into planning decisions.	Good decision making should be underpinned by a relevant level of expertise and accompanied by explanations of how and why decisions are made. Without clinical background, decisions can be made that do not address the disability related supports of the individual and result in insufficient supports being provided. The provision of appropriate disability support funding should be seen as a risk mitigation factor in preventing breakdown of supports and inappropriate readmissions.

Summary statement

Existing and stringent discharge pathway processes result in NDIS participants potentially being discharge delayed whilst waiting to access disability supports. The NDIA needs to improve discharge pathway processes and timelines to allow participants to receive appropriately funded NDIS plans to allow for safe and timely discharge.

²² [Official Community Visitors \(nsw.gov.au\)](https://www.nsw.gov.au/official-community-visitors)

²³ [The Applied Principles and Tables of Support to Determine Responsibilities NDIS](#)

NDIS Support in the Emergency Department

Emergency Departments (ED) can be a challenging environment due to the high volume of activity and the physical environment, including noise levels, foot traffic, lighting, announcements and equipment. Participants with disability may experience heightened stress and anxiety in the ED and require support, guidance, and assistance from a familiar support person. This is a crucial time that both NDIS and health services intersect and requires collaboration and integrated care co-ordination to support the participant's journey either through to admission or discharge home. An ED is considered an outpatient area of the hospital until a person has been admitted.

Description

For many health consumers with a complex presentation, an ED management plan is developed (collaborative approach between the patient/ consumer, community mental health, ED staff, police, ambulance, clinical directors, family and/or carers, and any relevant support providers or other representatives). The goal of most ED management plans is to support the person in ED and ideally transition them to the most suitable environment in a timely way. Often the plans include a requirement for NDIS funded support staff to remain in attendance for the following reasons:

- ED presentation can be a quick encounter.
- Consumers are often required to remain in the ED waiting room for extended periods, which can also be an area of high activity.
- The NDIS funded support worker supports the person's engagement with ED services.
- The NDIS funded support worker is there to provide disability related support which can assist the participant to remain calm and feel safe and secure. This may include assistance with communication and emotion regulation.

When a NDIS funded support worker is requested to remain with the person in the ED, negotiation is often required with providers and/or the NDIA as to whether the support is a health reasonable adjustment or disability related support (NDIS funded) responsibility. Providers may also leave people at ED unaccompanied as they are not aware that a person's funding can be used to provide support in this environment.

Proposed solution

All agencies should view the ED as a collaborative space where health is responsible for providing the treatment, and the NDIA is responsible to fund the disability support required for the person to attend and engage in this environment. This ideally means the NDIS funded support worker staying with the participant, as they do when attending other medical appointments.

If having a NDIS funded support worker present is the most effective way to offer a NDIS participant comfort and support within the ED, the worker should be able to stay without seeking prior approval from the NDIA, particularly for participants with an ED management plan. The APTOS should be reviewed for clarity around the role of Health and the role of the NDIA in funding support workers in the ED environment.

This may also assist in preventing "relinquishment" scenarios from service providers. When service providers feel that the funded supports are breaking down, they often turn to the ED as their first and only option. If the NDIS funded support workers were able to stay with the participant, this could prevent inappropriate admissions, as well as offer an opportunity for the hospital, the NDIA and the service provider to work together in a crisis situation to ensure the participant's supports don't break down.

Justification for solution

Clarity regarding the roles of all involved would allow for decisions to be made quickly in a high-pressure environment and reduce the stress on all involved, particularly the NDIS participant. It would also allow for the participant to be supported in this environment by someone who is familiar with their disability support needs.

Summary statement

Emergency Departments should be viewed as a collaborative space where health is responsible for treatment and NDIS funded support workers, where appropriate, are responsible for the participants disability related supports.

Palliative and end of life care and system interface

People under 65 with life-limiting conditions that cause significant functional impairments may have trouble accessing appropriate disability support in a timely manner. The APTOS determines that palliative care is the responsibility of the health system. There is no agreed or shared definition of palliative care or of end-of-life care used by the NDIS and the health system.

Palliative care can help “people live as fully and comfortably as possible with a life-limiting or terminal illness. [...] It is not the same as end-of-life care [...] Having palliative care doesn’t necessarily mean that you’re likely to die soon. [...] You can receive palliative care for years if needed”²⁴. End-of-life care supports the person’s physical, emotional, social and spiritual/existential needs as they approach death²⁵.

Description

Palliative and end-of-life care provided by the health system and disability-related supports provided under the NDIS are not mutually exclusive and can be provided concurrently. Person-centred palliative care may be delivered by a combination of health, cultural, religious, residential aged care and disability providers in a range of settings, including the home, hospital, palliative care units/hospices, residential aged care, or SDA/SIL²⁶.

In many cases, palliative patients will require a mix of clinical and non-clinical supports to maximise their quality of life and allow them to remain at home for as long as possible, if that is their wish.

While Health provides clinical supports, palliative patients often require significant functional and social supports. Palliative care provided by the health system does not include provision of disability support for people who are medically stable or experiencing functional decline.

Admission to a palliative care unit or hospice is typically a short-term option to help with complex symptom management, or at the very end of a person’s life²⁷ when a person is likely to die in the near future. Palliative care units are not a suitable accommodation model for people who are likely to need care for an extended period. NSW Health emphasises its role for making the clinical determination as to when a patient becomes palliative.

People who are approaching end of life may require a high level of nursing care and additional disability related supports for several weeks or months in a home like environment. Lengthy hospital admissions can put these patients at risk and lead to de-conditioning, which can impact their quality of life.

People with a palliative diagnosis may have an additional barrier to securing approved accommodation supports due to provider hesitancy in delivering disability supports to people with palliative care needs.

People who are medically ready for discharge frequently remain in hospital for lengthy periods while moving through the NDIS pathway. Some die in hospital waiting to access the NDIS funded, disability related, functional and social supports needed to spend the remainder of their life at home or in a non-hospital setting.

Proposed solutions

The APTOS should distinguish palliative care from end-of-life care and explain how palliative and disability supports can be provided concurrently. NDIA decisions should be consistent with this position, and result in funding of disability supports.

²⁴ <https://www.health.gov.au/topics/palliative-care/about-palliative-care/what-is-palliative-care>

²⁵ <https://www.racgp.org.au/clinical-resources/clinical-guidelines/key-racgp-guidelines/view-all-racgp-guidelines/silver-book/part-a/palliative-care#:~:text=A%20palliative%20approach%20shifts%20the,issues%20as%20they%20approach%20death.>

²⁶ <https://www.betterhealth.vic.gov.au/health/servicesandsupport/end-of-life-and-palliative-care-explained>

²⁷ <https://www.health.gov.au/topics/palliative-care/about-palliative-care/where-is-palliative-care-provided#hospice-care>

The NDIA should work with disability providers to develop their capacity to deliver disability care to people with a palliative condition. This should be developed in partnership with health-based palliative services. The NDIA needs to support the establishment of a shared-care approach for people with a life-limiting condition.

The NDIS should ensure that there is a sufficient market of providers who can support NDIS participants with life limiting conditions and disability care needs.

Justification for solution

The proposed solutions support the delivery of holistic palliative care across multiple service systems and support timely access to care which improves quality of life for people with life limiting conditions.

Summary statement

People under 65 years, with life-limiting conditions that cause significant functional impairments, have trouble accessing appropriate disability supports in a timely manner. The APTOS does not provide sufficient guidance on the responsibility to fund disability support for people accessing palliative care. The pathway to access supports required because of functional decline in a person identified as palliative, is too complex and lengthy.

Systemic misunderstanding of psychosocial disability and support needs

Summary description

There appears to be a systemic lack of understanding within the NDIA of complex mental illness and the nuances of supporting people with psychosocial disability. Additionally, NDIS processes tend to rely on people to be able to self-initiate, self-manage, self-govern, self-advocate or have a support person (family or friend) to do this on their behalf.

A psychosocial disability may restrict a person's ability to concentrate, complete tasks, comprehend instructions, cope with time pressures and multiple tasks, interact with others, be in certain environments, manage stress, problem solve, make decisions, or understand their illness and resulting disability. These factors may all affect a person with psychosocial disability from being able to engage in NDIS processes.

People with psychosocial disability may need additional assistance to be able to access and utilise the NDIS. They require everyone who they interact with to have some level of knowledge and understanding of their disability type and what adaptations can be made to mitigate the barriers to successful engagement.

People with a disability are often vulnerable and marginalised, and this is often amplified for people with psychosocial disability. Relevant adaptations should be made at each stage within the NDIS pathway to ensure that people with a psychosocial disability have equity of access, feel valued and respected and receive support that is tailored to their individual needs.

Pre-Access

People with a psychosocial disability who are eligible for the NDIS may require assistance and/or advocacy to access the scheme. The more vulnerable a person is, such as someone with a psychosocial disability and who is CALD/NESB/homeless/ Aboriginal/ lives remotely / illiterate, the harder it is to access the scheme independently.

Description

Services that can assist people with psychosocial disability through the application process are not easily accessible.

Obtaining evidence required can be difficult, especially for someone who has poor health literacy and/or has limited or no connection with a GP or other medical practitioners. Some GP's and medical practitioners are not willing or do not have the knowledge of NDIS processes to assist a person with psychosocial disability to make an access application. Private practitioners require payment for reports to assist with the NDIS application. Additionally, some people with psychosocial disability have no identification documents and no means of acquiring any.

Eligibility for people with a psychosocial disability is not consistent. There are no clear eligibility guidelines to prevent inappropriate NDIS applications where it is evident the application will be unsuccessful.

Proposed solution

The NDIA should:

- more clearly define eligibility criteria regarding psychosocial disability
- be involved in planning discussions early or prior to application, to promote a better understanding of eligibility and potentially reduce applications for ineligible people
- increase access to and promote walk-in services where people can receive assistance to gather information and apply
- advocate for Medicare claimable items to be established to allow GPs and private practitioners to bill for preparation of NDIS reports/application support. This may encourage more GP's and private practitioners to assist with the preparation of reports.

Justification for solution

Systems and processes that can assist people with psychosocial disability to apply for access to the NDIS should be put in place to ensure that there is equity of access for all people with disability.

Summary statement

People with psychosocial disability can be vulnerable and sometimes not have the capacity to apply for the NDIS independently. The NDIS should be able to assist people with psychosocial disability to assess their eligibility and apply for support.

Access

Many people with psychosocial disability experience barriers completing NDIS access requests and meeting the eligibility threshold within the current NDIS system and processes.

Description

There appears to be no consistency in people meeting the access criteria for psychosocial disability.

Requirements for specific professional reports are too high, especially in the rural regions. In some locations, applicants don't have access to specific allied health disciplines to complete reports e.g. OT or psychology. In some instances, the NDIA has questioned the validity of reports prepared by Mental Health Clinician and nurse practitioners, when a psychiatrist is not available to complete.

Verbal access requests are difficult for some people with psychosocial disability who often misunderstand the significance of their impairment and are unable to convey the impact of their disability and their support needs. At times, Health clinicians assist with verbal applications for people who are unable to answer the questions due to their disability. The fluctuating/ episodic nature of a person's psychosocial disability may result in them being deemed ineligible for the scheme.

Following submission of access requests, where all information is not provided within the NDIA set timeframe (90 days from when they ask for more information), the participant is notified that the application won't proceed. No further contact occurs after this step.

Proposed solution

The NDIA should:

- develop access eligibility requirements for people with a psychosocial disability and a process to ensure that these are applied to support consistency of response
- accept reports from an agreed range of clinicians, including mental health clinicians and nurse practitioners
- routinely follow up with participants to advise that the period for provision of additional information to support their application is closing and discuss whether they wish to continue.

Justification for solution

Clinicians are registered health professionals who are held accountable for their reports and clinical judgement by their registration body. The NDIA should accept the validity of clinical reports submitted for access applications and from a broader range of clinicians. Consistency of response would lead to less rejected applications and less need for the appeals process.

Summary statement

A consistent eligibility criteria and process for people with psychosocial disability is essential to enable people to gather evidence required to apply for access to the scheme.

Planning

A person with a psychosocial disability without adequate disability related support can experience negative impacts on their mental health. The planning process should be a positive experience to assist the participant to achieve appropriate outcomes.

Description

The current planning process is reliant on the participant's ability to articulate their goals, aspirations and support needs. A person with a psychosocial disability can have difficulty articulating these, especially with someone they have never met and have no trust in. When a person is unable or unwilling to participate in the

planning process, they may be deemed ineligible, receive an inadequate plan or have the planning process delayed, thereby leaving them without support for a longer period.

In some settings, the only planning meeting option offered by the NDIA is to have the planning meeting over the telephone, for example justice and rural settings. This often exacerbates the barriers noted above which leads to poor experiences and outcomes.

NDIS planning usually occurs at a single meeting. Often this is not enough time for the planner to build rapport with and understand the needs of someone with a psychosocial disability.

Many planners have limited experience in psychosocial disability and at times can use leading questions and jargon that a participant doesn't understand or comprehend the consequence of their answer. A person with a psychosocial disability may require the assistance of a support person during planning meetings.

It is at the discretion of the participant whether Health is notified of the planning meeting and whether Health representatives attend. The current practice is that Health representatives attend where the participant requests this (they are not asked if they would like to invite a Health representative).

When planning decisions are challenged, the NDIA do not provide clear rationale which makes it difficult to know what evidence is required to appeal the decision.

Proposed solutions

The NDIA should:

- when booking planning meetings for people with psychosocial disability, routinely ask participants if they would like to have a Health representative at their planning meeting
- support the right of a NDIS applicant to have a family member/ advocate/ support worker/ clinician present throughout the planning process
- ensure adaptations to the planning process are applied where appropriate. For example, if it is apparent during the meeting that the person is unable to articulate their thoughts or answer the questions and no support person is present, they should discontinue the meeting and reschedule when the applicant is comfortable to continue and has support available. This may require more time for planning and multiple meetings enabling the participant to develop some rapport with the planner
- ensure interim plans are provided where appropriate to allow for temporary supports to commence while further planning is undertaken
- train specialist planners for people with psychosocial disability to support a better understanding of the considerations or adaptations that may be required.

Justification for solution

People with a psychosocial disability will not always be able to participate in the standard NDIS planning process and may require alternate processes to be developed.

Summary statement

People with psychosocial disability may experience additional barriers during the planning process and require access to additional supports. This may include adaptations to the planning process and further time.

Plan implementation- choosing a provider

Without adequate and appropriate disability support, a person's psychosocial disability can exacerbate mental health conditions and cause a range of negative flow-on effects.

Description

There is no current regulation or minimum standard for providers to claim they have the capability to provide psychosocial disability supports. Engaging providers who are not skilled in the nuances of delivering psychosocial support can lead to poor outcomes for participants and can put participants and staff at risk. There are often multiple stakeholders involved in supporting a participant, with no clear lead agency.

People with psychosocial disability often experience amotivation, ambivalence, and/or poor decision making as part of their disability. They may require support providers who understand this and will support them, when required, to make decisions and encourage them to participate.

There is no process for monitoring of service delivery. For example, if a participant is ambivalent about engaging and asks the provider to leave during a planned service support period, the total booked hours of support are correctly still billed to the participants plan, as per NDIS guidelines. This makes it appear that the plan is being used but the participant isn't actually receiving support,, making it appear that the person is receiving adequate levels of support.

People with psychosocial disability may require a Behaviour Support Plan (BSP). The quality and content of BSPs varies greatly. The skills and knowledge of Behaviour Support Practitioners also varies.

For people with a psychosocial disability, an escalation or demonstration of a behaviour of concern does not mean that there is an acute mental health issue or that the person is in crisis. Skilled and educated providers should be able to manage escalations that are directly related to the person's disability. This should not be transferred to Health as a default mental health position. Trust and respect will continue to develop if the providers can support someone through times of increased need, which in turn assists with preventing future occurrences.

Proposed solutions

The NDIA should:

- work with the NDIS Quality and Safeguards Commission (QSGC) to strengthen the registration process for providers who are supporting people with a psychosocial disability and developing BSPs
- work with the QSGC to educate the sector around the purpose and use of BSPs and provide training to BSP practitioners on minimum standards
- encourage support coordinators, LACs or recovery coaches to monitor plan utilisation and rates of participant declined supports
- ensure providers are aware that participant core funds can be used to attend participant and stakeholder meetings.

Justification for solution

Appropriately skilled and registered providers, who have knowledge and understanding of psychosocial disability could enhance the quality of support provided, facilitate stakeholder collaboration and contribute to appropriate plan utilisation.

Summary statement

The quality of the support provider and the support being provided is integral to the ongoing wellbeing of participants. There should be a mechanism to ensure that providers are skilled and capable of providing quality psychosocial support and that the support provided is adequately captured in the participants plan.

Plans and Plan Review

Description

For people with a psychosocial disability, flexibility in support provision is often required. The episodic nature of psychosocial disability and mental health issues means that the intensity of support needed is not static. If a participant has a fluctuation in their support needs, the plan should be flexible to allow a change in supports to occur in a timely and responsive way.

People with psychosocial disability may require capacity building funding included in their plan to support their fluctuating disability support needs. Examples of capacity building interventions to assist people in the community might be:

- graded activities for skill development
- evaluating and providing adaptive strategies for task completion
- graded exposure to activities.

When a plan review/ reassessment (change of circumstances) is required, there is no process or system for review requests from participants in the community to be flagged as urgent or be fast tracked. This may lead to breakdown of supports and inappropriate hospital admission.

Proposed solutions

The NDIA should:

- Routinely build flexibility into plans to enable the dynamic support needs of a participant to be met
- establish Community Liaison Officer roles for community participants for when an urgent review/ reassessment (change of circumstances) or access request is required. Alternatively, increase the scope of practice of Health Liaison Officers to community participants at risk of inappropriate hospital admission or breakdown in supports.

Justification for solutions

Support needs for people with a psychosocial disability fluctuate. To effectively manage this and provide best practice support, the support plan should be flexible to meet this need.

Summary statement

The intent of NDIS plans is to fund the disability support needs of a participant. These plans need to be able to match a participant's changing needs in a timely way.



NSW Government submission

Productivity Commission Inquiry into Early Childhood Education and Care

Introduction

NSW welcomes the opportunity to contribute to the Productivity Commission Inquiry into Early Childhood Education and Care (ECEC). It is timely, as the importance of early childhood education and care is being increasingly recognised by both the Australian and State governments through increased investment and there is a chance to ensure this funding delivers better outcomes for children, families and the economy.


There is robust evidence that access to high quality, inclusive and culturally appropriate ECEC has positive outcomes for children, families and the economy. Research has found that each dollar invested to support children to attend an early childhood program in the year before school often generates \$2 over a child's life¹

High-quality ECEC helps children, especially those experiencing disadvantage, to build the cognitive and socioemotional skills necessary to navigate through life's challenges. These skills lead to stronger academic performance, with Organisation for Economic Co-operation and Development (OECD) data demonstrating a strong correlation between participation in high quality ECEC programmes and later Programme for International Student Assessment (PISA) reading scores assessed in Year 9.² Attending quality ECEC also leads to a greater likelihood of school completion and further education, with benefits reflected in higher earnings and workforce participation, increased tax revenue and considerable savings in health, education and justice budgets.³

¹ The Front Project. (2019). [A smart investment for a smarter Australia.](#)

² OECD. (2018). [Early learning matters.](#)

³ The Front Project. (2019). [A smart investment for a smarter Australia.](#)



There are also benefits for parents, carers and the economy, as affordable early childhood education and care facilitates workforce participation, particularly for women.⁴ Currently, early childhood education and care is too expensive for 39 per cent of all families and 48 per cent of low-income families.⁵ Further, 52 per cent of families say that once the cost of care was considered, it was “hardly worth working”.⁶ Almost 140,000 Australians who wanted paid employment did not pursue it, citing childcare as the reason for their choice.⁷ Nine out of 10 of these Australians were women.⁸

Growing recognition of the value of ECEC has led to significant improvements to the ECEC system in the last decade. These include enhanced quality standards and safeguards through the introduction of the National Quality Framework; increasing professionalisation of the ECEC workforce; significant funding by governments to enable children and families to access more affordable ECEC services; a new national agreement to increase participation in preschool; and commitment from a wide range of stakeholders, including academics and philanthropy, to work together to support children to get the best start in life.

Despite this, not all Australian children are able to access the quality early childhood education that can support them to thrive, and that parents need to work, study or volunteer. The early childhood system has several gaps and is overly complex for families and service providers to navigate. The early childhood workforce is also not growing sustainably. The Productivity Commission Inquiry is therefore a pivotal opportunity to lay the groundwork for further reform.

There are few easy answers. This submission therefore largely suggests broad challenges and opportunities that the Productivity Commission could examine in its inquiry, while making some suggestions for more immediate steps to consider. The submission has five key focus areas: (a) funding; (b) system stewardship; (c) ECEC workforce; (d) quality uplift; and (e) improving equity, access and inclusion.

The issues highlighted under each focus area do not constitute commitments by the NSW Government to fund new programs. Further analysis and collaboration with the Australian Governments, including negotiated funding agreements would be required for NSW to implement any recommendations arising from the Inquiry.

⁴ The Front Project. (2021). [*Work and play: Understanding how Australian families experience early childhood education and care.*](#)

⁵ Noble, K., & Hurley, P. (2021). [*Counting the cost to families: assessing childcare affordability in Australia.*](#) Mitchell Institute. Victoria University.

⁶ The Front Project. (2021). [*Work and play: Understanding how Australian families experience early childhood education and care.*](#)

⁷ Hutchens. (2021). [*Meet the millions of people who aren't employed, who aren't considered 'unemployed'.*](#) ABC News.

⁸ Centre for Policy Development. (2021). [*Starting better: a guarantee for young children and families.*](#)

Funding reform

Early childhood education and care in Australia is complex, with responsibility for funding, regulating and delivering different service types, split across different levels of Government. There may be benefit in exploring options for making the roles and responsibilities of the Australian and State and Territory Governments clearer, simpler and more streamlined.

The ECEC system consists of a range of policy, regulatory, funding and delivery arrangements across various tiers of Government. This leads to complexity and at times confusion for families and service providers, and constraining Governments' ability to drive outcomes.

Currently, the Australian Government's primary role is funder of Long Day Care (LDC), Outside School Hours Care (OSHC) and Family Day Care. Funding is primarily directed to these services through the means-tested Child Care Subsidy (CCS), which provides fee relief for parents and carers to facilitate workforce participation. Through the Preschool Reform Agreement (PRA), the Australian Government also provides funding to State and Territory Governments to support the delivery of 600 hours of preschool education for children in the year before school. In 2022/23, the Australian Government will spend \$10.6 billion on the Child Care Subsidy in NSW and a further \$458 million on the Preschool Reform Agreement nationally. The Australian Government has also delivered operational and capital funding to some providers.

In contrast, State and Territory Governments, including NSW, have historically funded community and State-run preschools from PRA funding and own-source revenue, and this is their primary revenue source. In NSW, it is anticipated \$3.5 billion will be spent on preschool delivery over the period 2022/23 to 2025/26. This includes up to \$560 million in Commonwealth funding provided under the PRA, and nearly \$3 billion in State funding. Community and State-run preschools are not eligible for Child Care Subsidy, as section 194D of *A New Tax System (Family Assistance) (Administration) Act 1999* precludes Child Care Subsidy eligibility for services which primarily provide an early educational program to children in the year that is 2 years before grade 1 of school (such as a preschool or kindergarten).

States and Territories are required to direct PRA funds proportionately to the service type in which children access preschool, meaning that long day care centres concurrently receive Commonwealth PRA funding and CCS for many children. State Governments may also fully fund state-run preschools and provide direct funding to ECEC services in their jurisdictions, for example, to support preschool delivery, access and inclusion of children experiencing vulnerability, and affordability. See [Appendix A](#) for an illustration of this.

Shifting patterns of work and caring and the introduction of the National Quality Framework (NQF) have changed the expectations and demands on ECEC services. The historical division of funding responsibility, whereby the Australian Government funds long day care to support parents' workforce participation, and States fund state and/or community preschool to support children to transition to school has increasingly become blurred. This division does not reflect the diversity of parental needs and preferences, with many parents combining different types of care arrangements for their children and facing complex trade-offs when deciding when, where and how much to use ECEC services. Long day care centres deliver preschool programs for children in the years before school, and community preschools can and do support parental workforce participation. All ECEC services can and should support the dual objectives of supporting workforce participation of parents as well as delivering quality educational and play-based programs for children.

Overlapping roles and responsibilities can create uncertainty about who is responsible for system outcomes, and whether they have the levers to influence access, affordability and quality. Funding flows vary between ECEC settings, resulting in confusion for families, skewing market signals and leading to inefficient service delivery. For example:

- The quantum of fee relief available for children attending ECEC in the year before school varies significantly depending on whether the child attends long day care or a preschool, with different eligibility criteria and maximum funded hours available.
- There is no shared responsibility for children's learning and outcomes, despite 45,363 children (14 per cent of all children enrolled) attending both state-funded preschool and Australian Government funded ECEC across Australia in 2022.⁹

⁹ Australian Bureau of Statistics. (2022). [Preschool Education](#). ABS.

- ECEC services are managing multiple streams of funding, particularly long day care services that deliver an integrated preschool program.¹⁰

NSW has recently moved beyond its traditional use of State funds for community and state-run preschools, in direct response to limitations in Australian Government funding and subsidies, sector workforce shortages, and strong calls for action, including through the recent NSW Women's Economic Opportunity Review, to boost women's paid workforce participation to benefit both families and the broader NSW economy. On top of providing funding to community and state-run preschools, NSW has committed to providing extra fee relief to families accessing preschool in the long day care sector as well as support for priority cohorts. The NSW Government has also delivered support for the ECEC sector workforce and capital works. Through the Women's Opportunity Statement in the 2022/23 Budget, the NSW Government also introduced measures to address barriers to workforce participation for women, moving beyond the traditional State role to benefit families and the broader NSW economy. Whilst these measures are having a positive impact for families and services, they may create administrative complexity within the sector and amongst families who must navigate a range of available services and fee assistance.

Preschool offerings and funding also vary significantly between jurisdictions, with a child's access to preschool contingent on the State they happen to reside.

Whilst the PRA funds all States and Territories to deliver 600 hours of preschool in the year before school, some jurisdictions have allocated extra funding to increase this entitlement or extend it beyond the year before school. For example, NSW has committed funding for 3-year-olds in community preschools, and for mobile preschools servicing rural areas. NSW is also undertaking a trial to support the provision of preschool programs to 3-year-olds in long day care settings, especially those from priority cohorts.

The Productivity Commission should consider the benefits of a harmonised preschool entitlement to ensure all Australian children have equitable access to preschool.

^{10, 11} Hurley, P., Noble, K., & Jackson, J. [Australian investment in education: early childhood education and care](#). (n.d.). The Mitchell Institute, Victoria University.

^{12, 13} Australian Children's Education and Care Quality Authority. (2022). [NQF annual performance report](#).

There is also significant variance in National Quality Standard ratings across the sector,¹¹ with uneven distribution of services with higher quality ratings. Across Australia in 2022:

- 15 per cent of services in SEIFA Quintile 1 (most disadvantaged areas) were rated as working towards the NQS, compared to just 10% of services in SEIFA Quintile 5 (most advantaged areas).¹²
- 47 per cent of preschools/kindergartens in the most disadvantaged areas were rated exceeding NQS, compared with 67% in the most advantaged areas.¹³

NSW has also invested in workforce initiatives. However, whilst the NSW Government is the majority employer for State-run preschools, it has no direct funding levers to influence the pay and conditions of educators in the long day care sector. Attraction and retention of educators in all service types in the ECEC sector remains an acute issue for national consideration.

The impacts of the patchwork approach to ECEC funding are particularly apparent for Aboriginal Community Controlled Organisations (ACCOs). Current arrangements mean that services often need to seek funding from multiple sources across varying timeframes. This approach means that ACCOs experience barriers to delivering stable, high-quality, efficient and effective services, and as well as retaining staff and building service capacity and capability.

The Early Childhood Care and Development Policy Partnership under Closing the Gap is currently considering this issue and has agreed to commission a research project in 2023 on funding model options for ACCOs that deliver early childhood education and care and other integrated early years services for children and families. The project aligns with Priority Reform Two and clause 45 of the National Agreement on Closing the Gap, which sets out objectives to build the community-controlled sector with dedicated, reliable and consistent funding models that are responsive to community needs. Considerations under this work include modelling for future ACCO sector growth, the intersections with workforce availability and capability, and funding needs for rural and remote contexts.

The Productivity Commission is asked to consider clearer, more streamlined roles and responsibilities for the Australian and State and Territory Governments to reduce misalignment between objectives, and minimise confusion for families and inefficiencies in service delivery. This could include consideration of the benefits of a harmonised ECEC entitlement across different jurisdictions and care settings.

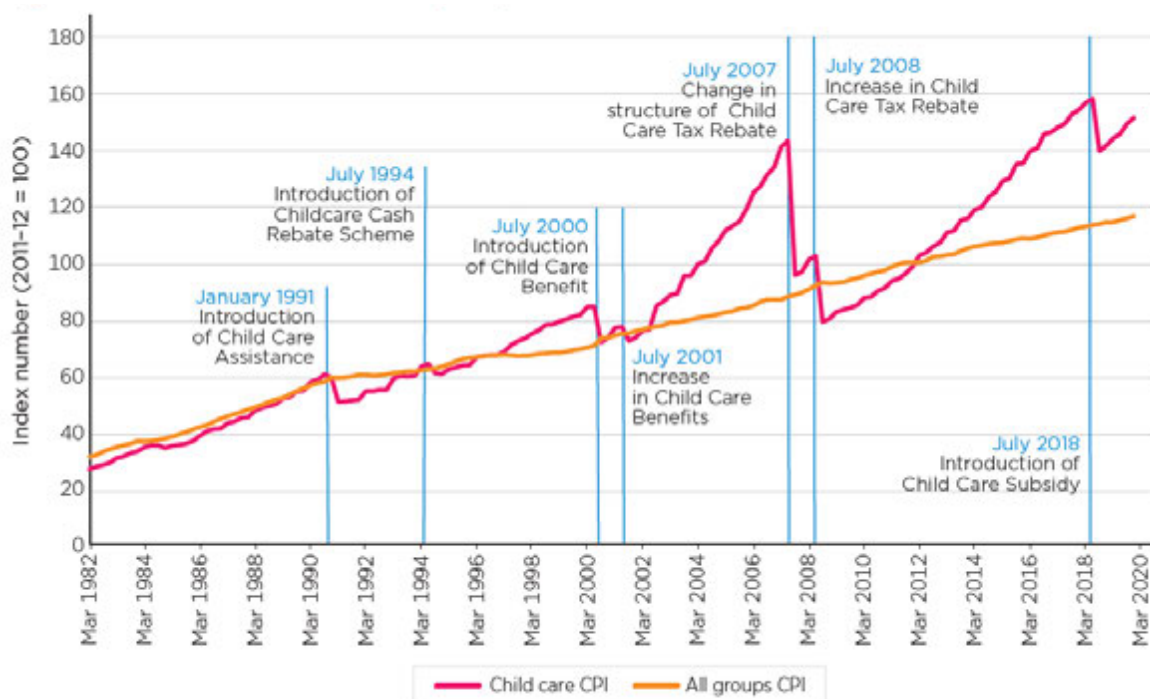
Current funding and policy arrangements have not significantly reduced ECEC cost or access barriers for households

Australian families consistently report difficulties in accessing the care that they need, when and where they need it. In 2022/23 the Australian Government will spend \$10.6 billion on the Child Care Subsidy in NSW and a further \$458 million on the Preschool Reform Agreement nationally. Modelling from Victoria University suggests 39 per cent of Australian families cannot afford early childhood education and care.¹⁴ Further, 52 per cent of families say that once the cost of care was considered, it was “hardly worth working”.¹⁵ In 2020-21, the ABS reported that 96,000 Australian women wanted and were available to start more work, but cited caring for children as their main barrier. Of these, approximately 15,000 (15.7 per cent) reported the cost of childcare as the main reason they did not utilise ECEC.¹⁶ In addition, current models of ECEC delivery do not necessarily support parent and carer workforce participation outside of the typical daytime, Monday to Friday work week.

Modelling from NSW Treasury’s Women’s Economic Opportunities Technical Paper found that the cost of ECEC services payable by households in New South Wales and Australia is amongst the highest in the OECD, and that the high cost of ECEC services in New South Wales is a key driver of lower levels of labour force engagement amongst women with young children, and all women more generally.¹⁷ This suggests there is scope to improve women’s labour market outcomes through policy reforms that lower the out-of-pocket cost of ECEC.

As demonstrated in the graph below, historically Child Care Subsidy has struggled to constrain the growth in fees being charged by (mostly private) child care services, with gross and net costs rising faster than both inflation and average wages in recent years.¹⁸

Figure 1: ABS Child Care and All Groups CPI, March 1982 to March 2020



Source: ABS (various years). 'Consumer Price Index, Australia', ABS Catalogue No. 6401.0, ABS, Canberra.

¹⁴ Noble, K., & Hurley, P. (2021). *Counting the cost to families: assessing childcare affordability in Australia*. Mitchell Institute. Victoria University.

¹⁵ The Front Project. (2021). *It's hard work for families to make sure kids can learn and play*.

¹⁶ Australian Bureau of Statistics. (2020-21). *Barriers and Incentives to Labour Force Participation*. Australia. ABS.

¹⁷ Tan, A., Brown, E., Wood, N., Sathanapally, S. (2022). *Women's economic opportunities in the NSW labour market and the impact of early childhood education and care*. NSW Treasury.

¹⁸ Impact Economics and Policy. (2022). *Child Care Subsidy Activity Test: Undermining child development and parental participation*.

In July 2023, the Australian Government will raise the maximum Child Care Subsidy rate to 90 per cent for families earning under \$80,000, and increase rates for families with a child in care earning under \$530,000, amounting to around 96 per cent of all families. Whilst the impact of these changes is yet to be seen, there remains a risk that increases to CCS will exacerbate access challenges by fuelling increased demand for services, without an increase in workforce supply or reduction in system complexity. Changes would require further analysis on the impact to market demand and capacity of the sector to deliver at the pace of such reforms.

It is important that all fee relief and funding streams promote equity of access to ECEC for all families, and support workforce participation.

NSW supports examining that all funding streams and fee assistance avenues support all children and families to experience the benefits of ECEC through equitable access to affordable, accessible, and quality ECEC services and support families' needs and preferences.

This may include examining the effectiveness of the CCS eligibility and activity tests, which require parents to complete a minimum amount of work, study or job seeking activity per fortnight to qualify for CCS. The activity test's focus on working parents can negatively impact children from vulnerable families, including families with high support needs due to disabilities, intergenerational trauma and women fleeing domestic violence who may benefit the most from subsidised ECEC.

A 2022 Impact Economics and Policy report found that prior to the new activity test being implemented in 2018, 54,300 families were estimated to be entitled to the minimum hours of subsidised care a week.¹⁹ By June 2021, this number had dropped to just 12,110 families.²⁰ As a result, 126,000 children from the poorest households are missing out on critical ECEC.²¹ The report also found:

- First Nations families are over 5 times more likely to be limited to one day of subsidised child care per week;
- Non-English-speaking families are over 6 times more likely to be limited to one day of subsidised child care per week; and

- Low-income families earning between \$50,000-\$100,000 are over 6 times more likely to be limited to one day of subsidised child care per week.

Recent changes to the activity test in the Cheaper Child Care Bill go some way to improving this by enabling all Aboriginal and Torres Strait Islander children to access 36 hours of subsidised childcare a fortnight from July 2023. However, there is merit in considering the extension of this arrangement to all families to reduce barriers to access and provide all children the opportunity to access a minimum number of ECEC hours regardless of parental workforce participation.

The CCS activity test has also contributed to significant uncertainty for parents in casual employment or a range of changing employment arrangements due to the ongoing risk that they will fail to meet the activity test and generate over-payment debts. In its current form the activity test is not inclusive of shift workers and casual workers who experience uncertain work hours. The Impact Economics and Policy Report states that removing the activity test would increase Australia's GDP by up to \$4.5 billion, whilst also reducing red tape for the Government and providers, improving the efficiency of the system.²²

The CCS is not effectively supporting women to work. The NSW Women's Economic Outcomes Review found that work disincentive rates remain high despite the CCS, noting that "for a family with a combined income of \$120,000 a year with two children, where the father earns \$70,000 and the mother earns \$50,000, the mother only takes home around 25 cents of each additional dollar earned when she works more than one day a week". Promoting female workforce participation could lead to significant improvements in labour market outcomes. NSW Treasury's Women's Economic Opportunities Technical Paper estimates that if women's economic outcomes in the labour market were equal with those of men in 2022-23:

- The NSW economy could be 15 per cent or \$111 billion larger;
- Average income per household could be \$33,000 higher; and
- An additional 307,000 women—who are among the most highly educated in the world—could be in the labour force.²⁵

^{19, 20, 21, 22} Impact Economics and Policy. (2022). [Child Care Subsidy Activity Test: Undermining child development and parental participation](#).

^{23, 24} Women's Opportunity Statement (2022). [NSW Budget 2022-23 Women's Opportunity Statement](#). NSW Budget 2022-23.

²⁵ Tan, A., Brown, E., Wood, N., Sathanapally, S. (2022). [Women's economic opportunities in the NSW labour market and the impact of early childhood education and care](#). NSW Treasury.

It is also important that ECEC funding settings acknowledge parental choice and preferences and the specific barriers and perceptions that exist for different cohorts. A NSW Productivity Commission 2023 survey of NSW households ([Appendix B](#)) found that perceived barriers and preferred policy options differ according to the level of ECEC usage (non, low, and high users) of parents/guardians and where they live. In particular:

- Non users (who do not use formal ECEC services) value additional subsidies the least, particularly in Sydney. This reflects the large array of access challenges this group faces. Parental role perceptions are more of a barrier to accessing ECEC services for this group.
- Low users (who typically use formal ECEC less than 15 hours per week) value price reductions the most; however, this group also experiences access issues.
- High users (use formal ECEC more than 15 hours per week) place more value on choice of ECEC rather than direct subsidies compared with low users.

At the State level, the Childcare and Economic Opportunity Fund (the Fund) is established under the *Childcare and Economic Opportunity Fund Act 2022*, with the principal objective to increase participation in the State's workforce, particularly for women, by making quality ECEC more affordable and accessible. It will aim to achieve this by reducing barriers to parents and carers participating in work, improving affordability and accessibility of ECEC, and supporting the workforce and sector. The NSW Department of Education is in the process of developing the first round of initiatives and detailed guidelines for accessing the Fund, which will be available from early financial year 2023-24.

The Productivity Commission is asked to explore the effectiveness of current fee assistance, including the CCS activity test, to improve access to early childhood education and care for all children, particularly families with complex needs. In the longer term, funding mechanisms that promote equity of access to ECEC for all families and support the workforce participation of parents as well as educational outcomes of children, should be explored as part of a reformed national funding approach (see below).

Any new funding approach should also consider the impact of current tax and income support arrangements on the workforce disincentive rate (the amount of take home pay a person receives for each additional day of work, after the withdrawal of income tax, family tax benefits and childcare costs), particularly for the secondary income earners within families.

Revised national funding arrangements will likely be required to deliver on the National Vision for ECEC, support a thriving and sustainable ECEC workforce, and improve access, equity, quality and outcomes for children.

In August 2022, National Cabinet tasked Education Ministers to work together to develop a long-term, national vision to support parents' workforce participation and children's education and development outcomes, underpinned by key principles of quality, affordability, accessibility and equity. The draft vision, currently the subject of consultation, contemplates ECEC as an entitlement for all families and lays the groundwork for all Governments to invest in the early years to achieve an effective, sustainable ECEC system that supports children to thrive, families to work and a strong and sustainable ECEC workforce.

It is unclear how Governments, the ECEC Sector and the community will deliver on this collective ambition and commitment to ECEC reform under current funding settings. As noted above, fee assistance has not effectively supported families to access affordable care when and where they need it. The current PRA covers only 600 hours (or two days a week) of preschool education for children in the year before school, even as there is growing evidence of the benefits of children attending two years of preschool and the value of increased hours of preschool, particularly for children experiencing vulnerability. The PRA does not provide scope for more flexible delivery of preschool hours to align with parents' work hours. Additionally, the per child funding amount (\$1,378 in 2023 for NSW) does not provide any equity loadings to support access by children with particular needs or any capital funding. Neither the CCS nor the PRA encompass funding for the ECEC workforce. Without a national approach to funding the workforce, fragmented pay and conditions and investment in capability uplift will continue.

Consideration of a new national funding approach is recommended to make more efficient and effective use of Governments' investment in ECEC. Principles for the new funding approach could include:

- a universal access, needs-based funding model that takes account of socio-economic need and inclusion;
- support for children's educational and developmental outcomes as well as parents' workforce participation;

- quality uplift across the sector;
- provision of capital funding for the sector;
- a harmonised preschool entitlement across all jurisdictions to ensure all children have equitable access to preschool, while ensuring no State or Territory is disadvantaged by having made investments ahead of a new agreement; and
- implementing funding consistently across different ECEC settings, in recognition that all ECEC services play a role in supporting child education and development outcomes and the workforce participation of parents, particularly women.

The Productivity Commission could explore broad, staged reform to national funding for ECEC which incorporates both current CCS and PRA-based funding arrangements. Consideration could be given to a new national funding approach which is based on a universal needs-based funding model; supports participation and outcomes for all children aged 0 to 5 years; provides capital funding for the sector; addresses cost of living pressures and enables the workforce participation of parents; supports a sustainable ECEC workforce; and delivers consistent funding arrangements across ECEC regardless of the setting.

NSW suggests investigating whether the cost base provided by the CCS and PRA funding should more explicitly encompass ECEC workforce pay and conditions.

The Commission could also explore options for flexible models of care to ensure carers, particularly women and shift workers, have choice in hours of work and access to affordable and quality care, including outside school hours care.

The South Australia Royal Commission Interim Report could also be considered, including its recommendation that states adopt the role of supporting quality in the ECEC system, with ECEC services forming the "backbone" of an early child development system, and the Australian Government's role being to support accessibility, with a significant focus on reducing the cost for families.²⁶

²⁶ Royal Commission into Early Childhood Education and Care. (2023). *Interim report*. April 2023.

System stewardship

Active system and market stewardship is required by Governments, in partnership with the ECEC sector

As noted above, there are overlaps between the roles, responsibilities and priorities of the Australian and State and Territory governments in the ECEC system. No one level of government holds all the key levers to influence system outcomes. This makes it essential for different levels of government to effectively collaborate in their ongoing work to influence the ECEC system and improve child, family and sector outcomes. Governments also need to regularly engage with other system actors, including service providers.

With many ECEC national reform discussions underway, it is timely to consider the roles and responsibilities for different levels of government and also what co-stewardship could look like in practice, recognising the varied funding, regulatory and policy levers available to different players in the ECEC system. Without sufficient alignment of stewardship activities, there is a risk of making the ECEC system more complex and missing opportunities to improve child, family and system outcomes.

The National Vision on ECEC will also provide an opportunity to establish a national approach to system stewardship, encompassing Governments, the ECEC sector, and families. The NSW Government looks forward to further collaboration with Governments, ECEC providers, families and peak bodies on the development of the Vision.

Governments should consider how they can enable ECEC markets to operate more effectively and remove barriers to access

Children and families continue to experience barriers to accessing ECEC services, with some regions in NSW and across Australia particularly affected by a lack of ECEC services. The capacity of ECEC providers to deliver increased supply is constrained by several factors, including the current workforce shortages, existing levels of physical infrastructure, access to capital, and planning and other regulatory barriers. These constraints are often more severe in areas with thin markets.

The Mitchell Institute (2022) has conducted preliminary research on this issue, finding that about one third of the Australian population live in neighbourhoods classified as ‘childcare deserts’ where there are less than 0.33 childcare places per child.²⁷ The report noted childcare ‘deserts’ are far more common in regional communities than in cities, where childcare deserts may mean a total absence of services. In a NSW context, data suggests that the vacancy rate of ECEC places in 46% of Local Government Areas (LGAs) in NSW is less than 5 percent.²⁸ To target policy responses effectively, further research and market intelligence is required to better understand the drivers of low availability and low vacancy rates within particular geographic areas.

Thin market conditions, including in areas classified as ‘childcare deserts’, often result in market inefficiencies such as price volatility, undersupply of infrastructure, and limited flexibility and choice in service offerings to meet the different needs of families. This means that it is difficult for families to find services for the days and times they prefer, at an affordable cost, within a reasonable travel distance and at an appropriate level of quality.

There are also instances where existing ECEC services do not sufficiently meet families’ needs and preferences, creating a “matching” problem. The local service mix may not reflect family preferences or create appropriate competition on price or quality. This limited flexibility is a key barrier to ECEC usage, particularly in regional areas, as found in the NSW Productivity Commission ECEC survey ([Appendix B](#)). We note from a previous Commonwealth pilot of flexible ECEC hours in 2013-14 that the design of innovative services must account for access flexibility (on-demand nature due to shift changes), impacts to educator wellbeing, parental affordability and service viability. The NSW Productivity Commission survey also found that uncertainty of costs is a large barrier to ECEC usage. Families do not have clear visibility of their ECEC costs given the multiple funding streams coming from different levels of Government.

These ECEC service gaps not only have direct impacts on child development outcomes and workforce participation, particularly for families experiencing vulnerability and disadvantage, but also on the basic functioning and economic prosperity of many regional communities. In these communities, availability of childcare spaces and ECEC services are a critical success factor for the attraction and retention of skilled workers.

²⁷ Hurley, P. (2022). [Childcare deserts & oases: how accessible is childcare in Australia?](#) The Mitchell Institute, Victoria University.

²⁸ Analysis based on National Workforce Census (2021) and ABS Census (2021) data

To support a strategic response to these challenges, there is a need to improve information and data about the type of ECEC services families require across Australia, and identify the socio-economic and demographic characteristics where thin markets are present. The NSW Government has made a \$3 million election commitment to undertake an outcomes study, which will gather evidence on early childhood delivery models to improve the availability and efficacy of early childhood education. This research will include a focus on a strong workforce pipeline, with work underway to explore potential options for delivery.

We suggest that further work could examine the impact of planning regulations on the ability of parents to access flexible ECEC services, the interaction with policies relating to out of hours care services, and funding models and refinements to the activity test criteria for remote and shift working households. There may also be opportunities to improve the provision of information to families on how to navigate the complex ECEC system. This could include enhancements to centralised sources of information and coordination with all actors in the system, for reliable, up to date sources of truth.

The Productivity Commission could consider options for appropriate system stewardship approaches to support a reformed ECEC system. For example, stakeholders including the Centre for Policy Development, have proposed universal ECEC as the backbone of an integrated early childhood development system. This system would maximise social and economic benefits for children, families and society and requires a holistic approach from all levels of government.³⁰

Another perspective comes from the Interim Report from the South Australian Royal Commission into ECEC, which sets out an option to frame the role of the states as one of supporting quality, with consequential impacts on increased equity of learning outcomes.³¹ ECEC services would form the “backbone” of an early child development system, with the Commonwealth’s role then being to support accessibility, with a significant focus on reducing the cost for families. Whilst the NSW Government is yet to consider the recommendations of the Commission, it is supportive of engagement between the Australian and State and Territory Governments to explore roles and responsibilities.

The Productivity Commission could consider the merits of a clear system stewardship framework, including options to stimulate supply and evidence-based incentives and supports to attract ECEC professionals to live and work in thin markets. This could include exploration of the levers available to governments and how they can coordinate their responses to develop effective, sustainable solutions in partnership with the sector.

Options to collect, coordinate and improve provision of information on supply and demand dynamics could also be explored. Improved information will allow service providers to better understand where sufficient demand exists to maintain viable services, and support governments to design and deliver programs to promote equitable access.

There is also merit for the Productivity Commission to explore the use of information portals to effectively match families with providers and provide improved information on service waitlists and costs.

^{29, 30} Centre for Policy Development. (2022). [Submission to the Select Committee on Work and Care](#).

³¹ Royal Commission into Early Childhood Education and Care. (2023). [Interim report](#). April 2023.

Good system stewardship relies on effective data sharing arrangements between Governments and the sector

There is considerable scope for increased data and information sharing to strengthen decision-making, practice and behaviours for policymakers, ECEC services and ECEC users. The Australian Government is the largest custodian of administrative data through the tax and income support system. The NSW Government currently has limited and irregular access to comprehensive data on the ECEC sector.

States require access to the right data and insights in a timely manner to effectively act as system stewards, for policy design and delivery, and to make more effective and efficient investment decisions. Regular and timely access to CCS data would enhance State and Territory oversight over which children are attending preschool programs in which setting and allow for NSW to act more effectively as system steward across all service types. Other system actors, including existing and prospective service providers, would also benefit from access to quality, transparent and timely data, to inform operational and investment decisions. The NSW Government would welcome support for more comprehensive data sharing arrangements from the Australian Government Department of Education, Skills and Employment.

Similarly, there is limited publicly available information on the sector's economic, market dynamics and business models:

- the cost of service delivery is not well understood, including across different demographics and geographies;
- it is unclear what the optimal scale of service delivery is and if some service provider business models deliver better or worse outcomes;
- financial and operational data and information on service providers is limited, which can make it difficult to assess the viability of service providers; and
- there is limited visibility of key inputs and enablers of the market, such as property market dynamics.

Experiences from other sectors such as the National Disability Insurance Scheme indicate limited public information on market dynamics and business models can contribute to poor child and family, sector and system outcomes. In addition to making data more available, support may be needed to ensure this is accessible to the sector.

The current reform environment provides an opportunity to establish future-proofed data sharing agreements between the Australian Government, States and Territories and the sector in a streamlined manner that benefits all parties. There is an opportunity to explore a strategy on the regulation and sharing of data collected from the jurisdictions and the non-government sector. This will assist governments in identifying and addressing market and service delivery deficiencies to allow for innovation and provide a better understanding of the effectiveness of different ECEC settings.

Further research is required on market capacity, the need for better data on waitlists and informational barriers, and a better understanding of the short and long-term impacts of policies to ensure reform success.

There are substantial benefits to ongoing data sharing arrangements between the Australian Government, States and Territories and the sector.

Quality and outcomes

High quality ECEC is a strong predictor of positive outcomes for children, but access to quality services varies. Quality uplift could significantly improve cognitive, social and emotional outcomes for children.

High-quality early education and care benefits all children's developmental outcomes and predispositions to learning, with children living with disadvantage experiencing significant long-lasting benefits.³² ECEC must be high quality to deliver good outcomes for children. NSW Treasury analysis shows that those who attend a quality early childhood education service are more likely to be employed and will earn an average of 2.3 per cent more per hour.³³

Despite this, quality ECEC is not guaranteed, with some children attending services that do not meet the national standard. In NSW, 89 per cent of services are rated as meeting or above the National Quality Standard, in line with the national average.³⁴ However, high quality services are not evenly dispersed. While variation exists, services in low socio-economic status areas are more likely to be rated lower on the National Quality Framework than high socio-economic status areas; 27% of services rated significant improvement required or "working towards" the NQS are located in just five Local Government Areas, all in lower socio-economic areas.

Quality varies substantially across different provider types, between centre-based day care and preschools/ kindergartens, and geographically.³⁴ Across Australia in Quarter 4 of 2022:

- 11% of LDCs were rated as working towards the NQS, compared to just 4% of preschools/ kindergartens; and
- 24% of LDCs were rated as exceeding the NQS, compared to 56% of preschools/ kindergartens.

Educator qualifications and educator to child ratios are key dimensions of quality.³⁵ Higher qualified educators have a greater understanding of child development, health and safety issues, lead activities that inspire and engage and use strategies to extend and support learning, all of which improve children's learning and development outcomes.³⁶

In Australia, analysis of data linked during the pilot for the National Disability Data Asset (NDDA)³⁷ suggests a link between more than 600 hours of community preschool in the year before school and decreased chances of developmental vulnerability. Internationally, benchmarking tests like PISA suggest that students who have attended at least two years of preschool achieve much higher scores.³⁸ Meanwhile, the Murdoch Children's Research Institute³⁹ found 'promising' evidence that the physical environment influences quality. However, more data on both of these aspects is required.

Targeted investment requires examination of the evidence base and further research into the educational benefits of the number of days per week a child attends an ECEC service (dosage), drivers of quality and the interaction of ECEC participation with household characteristics.

NSW encourages the Productivity Commission to examine the current evidence base and identify data gaps to help guide future research, in particular, further research on the drivers of quality including geographic disparities; educational benefits of the dosage of ECEC; investigation of the link between staffing and quality and the interaction of ECEC participation to household characteristics. Examination could also include consideration of strategic information needs and what nationally coordinated capabilities would be needed to meet these needs, noting the coordination work being done by the Australian Institute of Health and Welfare on a child wellbeing data asset and development of enduring national data linkage infrastructure as part of the NDDA.

³² Royal Commission into Early Childhood Education and Care. (2023). *Interim report*. April 2023.

³³ NSW Government. (2022). *2022-23 Half-yearly review*. NSW Budget.

³⁴ Australian Children's Education and Care Quality Authority. (2023). *NQF Snapshot Q4 2022*.

^{35, 36} Australian Children's Education and Care Quality Authority. (2014). *Why improving qualifications is so important*.

³⁷ Green, M.J, Harris, F., Cheung, K. Hindmarsh, G., Giorgio, J., Gummersall, D., Gibbs, S., Walker, C. (2022). *NSW Early Childhood Test Case – Final Report. Prevalence, Supports and Outcomes for children with disability in New South Wales*. NSW Department of Education.

³⁸ Mitchell Institute. (2016). *International preschool programs for 3 year olds: two years are better than one*. Victoria University.

³⁹ Molloy, C., Quinn, P., Harrop, C., Perini, N., Goldfeld, S. (n.d.). *Restacking the odds: technical report*. Murdoch Children's Research Institute.

ECEC workforce

The ECEC workforce is the primary enabler of the sector and should be recognised as such. Pay and conditions are key determinants of workforce supply.

The Inquiry Terms of Reference note the Commission will consider ECEC sector requirements and the capacity to meet these within current Australian, State and Territory Government initiatives. The most pressing issue, and the one Sector stakeholders (including services, individual educators, and teachers) are calling upon governments to urgently address is the need to improve pay and working conditions for ECEC professionals, including to be commensurate with school workforce peers.

The ECEC workforce is experiencing entrenched and worsening shortages across Australia. Prior to the pandemic, it was predicted that 39,000 additional educators would be needed nationally by 2023, equating to 10,500 educators and 3,150 degree-qualified early childhood teachers in NSW.^{40,41} Since 2019, job vacancies in the ECEC sector have more than doubled, with over 6,000 jobs being advertised in August 2022.⁴²

The existing workforce is not sufficiently incentivised to remain in the sector under the current award, due to low pay and working conditions relative to qualifications, skills and experience; high workloads and burnout; lack of clear career pathways; and community perceptions of the sector. Community demand for ECEC services is increasing as a result of national and state-based reforms, and the ECEC sector is in competition with other sectors for skilled workers.

The most cited reason for workforce shortages is pay and conditions, with the ECEC workforce as a whole earning below the general workforce average, with a high proportion of casual or part-time workers.⁴³ Uncompetitive pay, excessive workloads and high employee turnover leaves educators consistently reporting working conditions that are high in stress and detrimental to their mental health.⁴⁴ It is also important to note that the highly feminised nature of the ECEC workforce and the corresponding low pay contributes to the gender pay gap, occupational segregation and unequal family responsibilities.

As the Inquiry Terms of Reference recognise ECEC as a key lever for increasing workforce participation – in particular, for women – it is worth noting that ECEC continues to be a female-dominated sector (approximately 92 per cent of the ECEC sector identifies as female⁴⁵), poorly paid relative to other highly qualified sectors, or indeed industries such as retail which require no or minimal qualifications. Over the past 20 years, the proportion of women in traditionally ‘female-dominated’ industries (health care and social assistance and education and training) has increased, while average remuneration in female-dominated organisations remains lower than in male-dominated organisations. This trend, coupled with unpaid care work still being largely performed by women, continues to exacerbate the gender pay gap, occupational segregation and unequal family responsibilities.⁴⁶

Work is being progressed under Focus Area 1-1 of the National Children’s Education and Care Workforce Strategy 2022-2031⁴⁷ to investigate options for improving workforce pay and conditions, though the timeframes for this work do not attend to the immediate need to address workforce shortages. Through the Early Childhood Policy Group, the Commonwealth and State and Territory Governments are working to develop options for short term action and advice to National Cabinet to address immediate pressures.

⁴⁰ Australian Children’s Education and Care Quality Authority. (2019). [Progressing a National Approach to the Children’s Education and Care Workforce](#). Workforce Report November 2019.

⁴¹ Women’s Opportunity Statement (2022). [NSW Budget 2022-23 Women’s Opportunity Statement](#). NSW Budget 2022-23

⁴² Australian Children’s Education and Care Quality Authority. (2023). [Workforce snapshot March 2023](#). National Children’s Education and Care Workforce Strategy.

⁴³ NSW Department of Education Early Childhood, Early Childhood Directorate. (n.d.). [National Literature Review: Early Childhood Education Workforce Issues in Australian and international contexts](#).

⁴⁴ United Workers Union. (2021). [Exhausted, undervalued and leaving: the crisis in early education](#).

⁴⁵ Australian Government. (2021). [National workforce census](#). Department of Education.

⁴⁶ Workplace Gender Equality Agency. (2019). [Gender segregation in Australia’s workforce](#).

⁴⁷ Australian Children’s Education and Care Quality Authority. (2021). [Shaping our future: a ten-year strategy to ensure a sustainable, high-quality children’s education and care workforce 2022-2031](#). National Children’s Education and Care Workforce Strategy.

Existing NSW interventions include measures to stimulate the supply of ECEC services as well as investment in the ECEC workforce through higher education scholarships and accelerated skills pathways. These are important initiatives; however, they do not impact on improved pay and conditions. Minimum wages for many ECEC workers are set by their award and any pay above that is set by employers, often through an Enterprise Agreement. This contrasts with that of the primary and high school sectors where the NSW Government is the primary employer. NSW welcomes national collaboration to consider coordinated strategies to address these challenges.

NSW recognises that shortages in ECEC need to be considered in the context of overall teacher and educator shortages, and shortages in the wider care sector. We would support further consideration of options to attract and retain ECEC professionals, including support for pay and conditions, as part of a broader care workforce discussion. NSW would encourage policies to create opportunities for skill development and career progression, as well as addressing gender diversity in the sector. NSW also recognises the tension and considerations at play, particularly as increasing pay has significant, flow on implications for cost drivers, labour markets, State budgets and the broader economy.

It is important to note that in addressing pay and conditions matters:

- The makeup of the sector varies greatly across jurisdictions. Some state governments are the major employer of its preschool workforce, while others are minority employers for both preschool and the broader market. The Child Care Subsidy provides the vast majority of government funding to ECEC services other than preschool in all jurisdictions.
- There are federal and state-based Industrial Relations instruments which add to the complexity of the workforce and in how greater consistency is achieved.
- The need to avoid creating further fragmentation by addressing fair pay and conditions within some parts of the education and care sector and not others.
- Consideration is required on how future pay gaps may be funded.

- A focus on conditions is important – with varying degrees of allowances, penalties and approach to aspects such as ordinary hours and overtime.
- We need to avoid unintended consequences for children and families, such as pass on of cost associated with higher wages, or lower service quality associated with urgent need to address skills shortages.

Governments should explore further supports for ECEC workers that are offered to other essential workers, including teachers, doctors, and nurses

The Inquiry Terms of Reference note that “the Australian Government recognises that ECEC is an essential part of Australia’s education system and is integral to Australia’s economic prosperity as a powerful lever for increasing workforce participation”.

Throughout the COVID-19 pandemic, ECEC services remained open to support parents’ and carers’ ongoing workforce participation and children’s access to early learning, highlighting the essential social and economic contributions of such services. While there is no clear definition of a ‘key’ or ‘essential’ worker at the NSW level (including in public health orders in place throughout the pandemic), National Cabinet recognised ECEC professionals as a critical sector and professionals as essential workers.⁴⁸

Migration and regulatory settings should also be reviewed with a view to addressing critical skills shortages while alleviating pressures on the existing workforce. Despite significant Government investments to support Australians to obtain ECEC qualifications and undertake training, demand for early childhood educators and teachers cannot be met from within Australia. Overseas trained early childhood professionals are required, with the National Skills Commission’s Skills Priority List noting shortages in all States and Territories for ‘child care workers’ and ‘early childhood (pre-primary) teachers’. ECEC migrant workers are also beneficial in contributing to a culturally aware and competent workforce that can ensure the implementation of strategic interventions are culturally inclusive and responsive to the diverse needs of NSW communities.

⁴⁸ Morrison, S. (2022). [National Cabinet press release](#). 13 January.

There is a need for simplified skills recognition requirements for overseas trained early childhood teachers. Currently, recognition of international qualifications in early childhood education and care can require case-by-case engagement with the Australian Children's Education and Care Quality Authority (ACECQA) and the Australian Institute for Teaching and School Leadership (AITSL) depending on the length of their degree and where it was obtained.

If an individual seeks to obtain a qualification in Australia, they face a higher cost than a domestic student. Service providers also face barriers in sponsorship, whether it be employee eligibility, the complexity of the paperwork or the cost of sponsorship. Recent calls for action from NSW sector stakeholders have included the need for streamlined visa sponsorship processes (including for certificate III and diploma qualified educators) and streamlined approaches to recognition of international qualifications.

The Review of Australia's Migration System has also raised concerns with immigration backlogs and the overall complexity of the system. There are over 100 different visas as well as tailored labour agreements. Coupled with the detailed admission requirements, these act as deterrents to potential migrants.

NSW notes the Productivity Commission's recent report, *Advancing Prosperity: Recommendations and Reform Directives*, includes recommendation 7.4 relating to the need to meet the needs of human services without stifling wage increases. NSW considers that there is scope to include ECEC occupations in this pilot, should it proceed.

Further, the 2023-24 Federal Budget announced increases to international student visa fees, and reintroduction of pre-COVID working caps at 48 hours per fortnight. Student visa holders already working in the aged care sector on 9 May 2023 can continue to work unrestricted hours in the aged care sector until 31 December 2023. There is no such provision for other care sectors, including ECEC.

NSW notes that quality outcomes for children should remain front and centre when considering reforms to address workforce attraction and retention.

NSW encourages the Productivity Commission to investigate:

- **Options to attract and retain ECEC professionals, including ways to sustainably support improved pay and conditions. This should include consideration of the impacts such as costs on households, governments and the broader economy.**
- **The impact of migration settings and how these could better address ECEC workforce shortages, including through the new national migration strategy.**
- **Non-pay related reforms such as the inclusion of ECEC professionals within the definition of 'key' or 'essential' workers and exploration of measures to reduce regulatory burden on the workforce.**

Equity, access and inclusion

Governments should prioritise improving equity, access and inclusion for all children regardless of ability, cultural or socio-economic background.

Aboriginal and Torres Strait Islander children, children from multicultural backgrounds, children with disability and children experiencing vulnerability and disadvantage often encounter a range of barriers in accessing and receiving quality ECEC, despite evidence showing they have the most to gain. Governments should prioritise removing or reducing barriers to these children's enrolment, attendance and participation in ECEC.

Children from multicultural backgrounds are less likely to participate in ECEC and more likely to be developmentally vulnerable when they start school.⁴⁹ Aboriginal and Torres Strait Islander children and children from the most disadvantaged socio-economic areas are twice as likely to be developmentally vulnerable in at least one of the Australian Early Development Census (AEDC) domains by the time they start school.⁵⁰ Further, AEDC data suggests rates of developmental vulnerability rise with increased distance from metropolitan areas.⁵¹

There is evidence of an increase in the number of children with disability accessing early childhood services. In NSW, there has been an increase in requests for support for children with disability through the NSW Disability Inclusion Program. Whilst data indicates many children with a disability are enrolled in ECEC and the proportion of children with disability enrolled in/attending ECEC remains slightly below representation levels in the population, there are a number of ongoing barriers to participation, including for children with very high support needs, limitations on the physical adjustments or

modifications that can be made to services, staffing availability and capability which can be exacerbated in rural and remote areas, and overall complexity in coordinating support arrangements across ECEC and early intervention pathways. There is anecdotal evidence of service refusal in relation to enrolment for children with a disability, and in some cases limitations or reduction in attendance where a child's inclusion is not fully supported.^{52,53} Further investigation and research into these areas is warranted.

Quality ECEC is a protective factor for children experiencing vulnerability, and can buffer the impact of stress and support health development. Targeted income and service support is key for children experiencing vulnerability and disadvantage, who would otherwise risk missing the support they need through more universal service provision. The South Australia Royal Commission Interim Report into ECEC details the results of an intensive early childhood educational trial in Melbourne that targeted highly disadvantaged families. Within this study, participating children experienced improvements in IQ, language, and social emotional development.⁵⁴ Prevention and early intervention services can particularly benefit vulnerable cohorts and lead to better outcomes for families involved.

While not all Aboriginal and Torres Strait Islander children or children from multicultural backgrounds experience disadvantage, it is important that policies lead to the provision of culturally informed ECEC services to enable children to benefit from, and connect to, their cultural backgrounds. Policies should also support the Aboriginal Community Controlled Sector, be consistent with the Closing the Gap framework, and work in partnership with First Nations communities.

⁴⁹ Settlement Services International. (2021). [Stronger starts, brighter futures: exploring trends in the early development of children from culturally and linguistically diverse backgrounds in Australia](#). Occasional paper number 3.

⁵⁰ SNAICC (n.d.). [Early childhood](#).

⁵¹ Australian Early Development Census. (2021). [Australian Early Development Census National Report 2021](#).

⁵² Australian Children's Education and Care Quality Authority. (n.d.). [Children with disability in ECEC and school age education and care discussion paper](#).

⁵³ Productivity Commission. (2022). [Report on government services](#). Australian Government.

⁵⁴ Royal Commission into Early Childhood Education and Care. (2023). [Interim report](#). April 2023.

ECEC should be culturally appropriate and inclusive for all children, as well as accessible and affordable, to remove barriers to participation.

ECEC services should recognise and value a child's diversity and provide physically and culturally inclusive spaces for all children regardless of their background, ability or circumstances. Barriers to participation may include a lack of cultural safety⁵⁵, logistical barriers such as transport issues, language barriers, trauma experiences⁵⁶ or barriers associated with meeting additional needs. Further, children living in rural and remote areas are more likely to access ECEC services of lesser quality, with preschool programs in some locations and service categories more likely to need waivers from NQF workforce requirements.⁵⁷

Accessing culturally inclusive ECEC that recognises and values diverse cultural beliefs and experiences is crucial to overcoming barriers to participation. Experiences of 'culturally unsafe' services may lead to disengagement, negative perceptions of service provision, and mistrust in government.⁵⁸

Creating culturally inclusive spaces for Aboriginal and Torres Strait Islander children

A lack of cultural awareness at early childhood services is a key barrier to participation for Aboriginal and Torres Strait Islander children.

Integrating local Aboriginal knowledge into the classroom is essential to creating a culturally safe learning environment and increasing engagement and outcomes of Aboriginal children in ECEC.⁵⁹ Aboriginal communities should be involved in the design and delivery of their local ECEC, through both formal and informal structures, to ensure Aboriginal culture is being recognised and valued. By providing appropriate teacher training and support, educators can be equipped with the knowledge and skills to appropriately understand and work with Aboriginal children. Whilst curriculum and training packages could be adapted for new scholars, national requirements for continuing professional development could be made available for all other ECEC professionals to ensure

continuity of understanding, capability and practice across the sector. Strategies are needed to encourage a greater number of Aboriginal educators into ECEC (especially males who make up very low numbers), with just over 2% of the workforce identifying as Aboriginal or Torres Strait Islander.⁶⁰

Specialised organisations, specifically Aboriginal Community Controlled Organisations, currently experience difficulty with funding under a fragmented funding model and would be better able to serve children and communities with a more joined-up approach. Cost of care is also a key barrier to participation for Aboriginal and Torres Strait Islander children.

The NSW Government is currently driving innovative work to create culturally safe environments for Aboriginal and Torres Strait Islander children and the families through the development of the first ever Cultural Safety Framework for ECEC providers and services in NSW, with aspirations to roll out nationally with support from partner jurisdictions and ACECQA. This Framework will ensure a culturally safe ECEC journey for all Aboriginal and Torres Strait Islander children and has strong linkages to the national agreement for Closing the Gap.

Governments should prioritise removing or reducing barriers to enrolment, attendance and participation in ECEC for Aboriginal and Torres Strait Islander children, children from multicultural backgrounds, children with a disability and children experiencing vulnerability and disadvantage.

Further research is needed to identify population groups that are not currently participating in early childhood education.

There is a need for governments to better understand how and to what extent culturally and linguistically diverse communities engage with early childhood development and family support systems, and understand and address barriers to access.

⁵⁵ Lamb, C. (2019). Constructing early childhood services as culturally credible trauma-recovery environments: Participatory barriers and enablers for refugee families. *European Early Childhood Education Research Journal*, 28(2), 1-20.

⁵⁶ Bove, C., Sharmahd, N. (2020). Beyond invisibility: Welcoming children and families with migrant and refugee background in ECEC settings. *European Early Childhood Education Research Journal*, 28(1), 1-9. DOI: [10.1080/1350293X.2020.1707940](https://doi.org/10.1080/1350293X.2020.1707940)

⁵⁷ COAG Education Council (2020). *UANP Review: Final Review Report*.

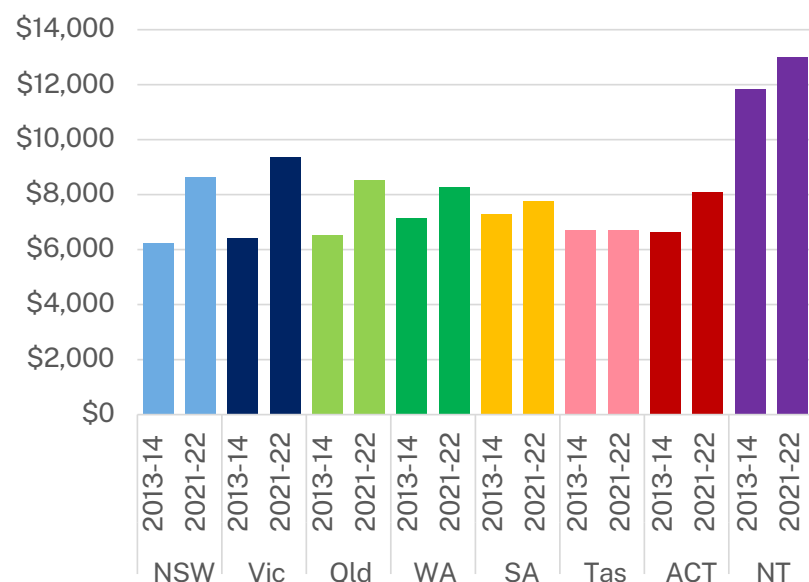
⁵⁸ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. (2021). *The experiences of culturally and linguistically diverse people with disability Issues paper*.

⁵⁹ Krakouer, J. (2016). *Aboriginal Early Childhood Education: Why attendance and true engagement are equally important*. Australian Council for Educational Research. Melbourne.

⁶⁰ Australian Children's Education and Care Quality Authority. (2021). *Shaping our future: a ten-year strategy to ensure a sustainable, high-quality children's education and care workforce 2022-2031*. National Children's Education and Care Workforce Strategy.

Appendix A – Commonwealth and NSW funding for ECEC

State recurrent government expenditure on ECEC services per child (2021-22 dollars)



Commonwealth contributions to NSW Early Childhood Education and Care

- \$3.6 billion in Child Care Subsidy (21/22, ages 0 to 12)
- \$140.8 million in Preschool Reform Agreement (2022, Year Before School)



NSW Investment in Early Childhood Education and Care

- NSW funding has increased by 40% from 2021/22 (\$725.9 million) to 2022/23 (\$1.1 billion)
- NSW has traditionally focused on funding the community and government preschool sectors as long day care attracts the commonwealth child care subsidy. However, the 2021-22 investment takes a sector agnostic approach, recognising that the majority of children are accessing ECEC through long day care.

Data Note: Source for 2014-15 to 2021-22 expenditure is the 2023 Report on Government Services. Includes recurrent expenditure only (not capital). NSW spend includes preschool and child care, and including funding provided by Commonwealth through National Partnership on Universal Access to Early Education. Spend includes Out of School Hours Care and Family Day Care. Future growth in Commonwealth expenditure in NSW does not account for any displacement by state investment. NSW Budget data is nominal 21-22 (actual), 22-23 (budget) and 23-25 (indicative only, averaging of \$15.9 billion over ten years).

Appendix B – NSW Productivity Commission Early Childhood Education and Care survey

NSW Treasury



Early Childhood Education and Care (ECEC) survey What affects a household's decision to access ECEC?

Friday, 21 April 2023

Survey background

- The Commonwealth and state governments have made substantial policy commitments to help improve the affordability and accessibility of ECEC. Understanding the barriers parents face in accessing ECEC, and the policy options they value most, is important to ensure government investment in the sector is effective.
- Policies that support ECEC usage among vulnerable cohorts also tend to yield larger economic benefits; however, there is little detailed information on their barriers and preferences for ECEC services, particularly for those who do not currently access the ECEC market.
- In turn, the NSW Treasury commissioned a survey of over 2,000 NSW families with children aged 0 to 5 years in early 2023. The survey addressed the following questions:
 - What are the main barriers to accessing or utilising formal ECEC services?
 - What policy levers are valued the most by parents?
 - Do the barriers and values placed on policy levers differ across varying household types?
- The survey design was informed based on a literature review, household interviews, and a pilot survey.

Key takeaways

- Perceived barriers and preferred policy options differ according to the level of ECEC usage (non, low, and high users) of parents/guardians and where they live. In particular:
 - Non users (do not use formal ECEC services) value additional subsidies the least, particularly in Sydney. This reflects the large array of access challenges this group faces. Parental role perceptions are more of a barrier to accessing ECEC services.
 - Low users (typically use formal ECEC less than 15 hours per week) value price reductions the most; however, this group also experiences access issues. This group struggles more with juggling childcare arrangements, likely because they have more children on average.
 - High users (use formal ECEC more than 15 hours per week) place more value on choice of ECEC rather than direct subsidies compared with low users.
- Other common observations across households:
 - Many parents are willing to trade off lower subsidies for improved ECEC access.
 - Parents/guardians value flexibility and choice in ECEC services.

Appendix B – NSW Productivity Commission Early Childhood Education and Care survey

- Regional households face larger ECEC access issues and are more concerned about quality; however, quality of care is generally not a large barrier to ECEC usage.
- The uncertainty of out-of-pocket costs is a barrier to ECEC usage, potentially reflecting the complexity of the Child Care Subsidy payments.
- Half of families report ECEC access and affordability issues are barriers to seeking more employment.
- Successfully addressing barriers to ECEC usage will boost workforce participation.

Next steps

- A report and detailed technical appendix will be published in mid-2023, which will provide further details around the survey design and key takeaways.
- The survey questionnaire and raw survey data will be uploaded to Data NSW.

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NSW Government submission

Productivity Commission Inquiry draft report

March 2024



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Introduction

NSW welcomes the opportunity to respond to the draft report for the Productivity Commission Inquiry into early childhood education and care (ECEC). Australian and international research is unequivocal; investing in early childhood is the key to transforming children's futures.

The draft report highlights some of the systemic challenges which exist across the national ECEC system and suggests some initial actions governments can take to alleviate these challenges within the current economic and fiscal environment. Changes to current policy and funding structures are welcomed and are likely to provide short-term improvements for the system, children, families and ECEC educators; however NSW notes that more significant system redesign is required to appropriately ameliorate the current challenges and deliver the full and wide-ranging benefits of a universal ECEC system, as envisaged by the Commission and outlined in the draft National Vision on ECEC.

This submission will respond to the Productivity Commission's draft recommendations and will consider opportunities for the Productivity Commission to be more ambitious in its final report. This submission also represents the NSW Government's response to key national reform elements of the final report recommendations of the NSW Independent Pricing and Regulatory Tribunal (NSW IPART) Review of Early Childhood Education and Care.

The issues highlighted under each focus area do not constitute commitments by the NSW Government to fund new programs or adopt particular policies. Further analysis and collaboration with the Australian Government, including through funding agreements would be required for NSW to implement any recommendations arising from the Inquiry.

Funding reform

General comments

Broader, more ambitious funding reform including explicit consideration of preschool, will be required to achieve the Commission's vision for a universal ECEC system.

The NSW Government welcomes the details of the Commission's vision for a universal ECEC system in which "all children aged 0–5 years should be able to attend up to 30 hours or 3 days of quality ECEC a week for 48 weeks per year" (draft finding 5.1). NSW agrees that a universal ECEC system should be high quality and support the educational and developmental needs of all children, whilst also supporting family choice and needs. NSW welcomes the Commission's consideration that a universal system be consistent with the draft National Vision on ECEC whilst acknowledging that there are a number of affordability, availability and workforce barriers that need to be addressed.

However, NSW notes that achieving this system will require a level of ambition and reform that is not detailed in the Commission's draft report, or that the Commission proposes be resolved via a future national partnership agreement.

The NSW Government encourages the Commission to provide further detail on how the universal entitlement might be implemented in different settings, given the range of funding and delivery arrangements that may apply to different ECEC services. The draft Report stops short of making its vision for a universal ECEC system a specific recommendation. However, the Report does recommend amendments to the Child Care Subsidy (CCS) (draft recommendation 6.2), and Australian Government funding to support universal access in thin markets (draft recommendation 5.1) to support children to access up to 30 hours per week of

ECEC without an activity requirement. It is unclear whether and how public and community preschool services sit within the Commission's vision for a universal entitlement. The current Preschool Reform Agreement supports delivery of 15 hours per week of preschool for children in the year before school only. The NSW Government encourages the final report to provide more detail on how an ECEC entitlement might be delivered and funded through public and community preschools, within a more holistic concept of a universal ECEC system.

NSW acknowledges the Commission's proposal for staging of reforms to account for budget constraints and notes that this approach will allow for future adjustments. However, NSW considers that a focus on short-term adjustments to current subsidies and programs, as suggested in draft finding 9.2, in the absence of a long-term roadmap is a missed opportunity to reduce complexity and puts at risk the achievement of the draft National Vision on ECEC.

NSW urges the Commission to detail opportunities for broader, more ambitious funding reform, including a new national funding approach which takes into account the different needs of individual children, beyond family income, that is consistent across all ECEC settings, and supports participation and outcomes for all children aged 0 to 5 years, including Aboriginal and Torres Strait Islander children, children from diverse cultural backgrounds and children with a disability. In light of caring responsibilities largely resting with women, reforming ECEC to make childcare more accessible and affordable will also support women's workforce participation. This will have a substantial economic benefit – the Women's Economic Equality Taskforce estimates \$128 billion could be added to the economy by boosting women's workforce participation.¹

Suggested elements of broad funding reform are detailed over the page.

¹ Women's Economic Equality Taskforce. (2023). <https://www.pmc.gov.au/sites/default/files/resource/download/womens-economic-equality-taskforce-final-report.pdf>

Specific comments on draft recommendations and information requests

Information request 9.1: The Commission welcomes views on the implications of broader funding reform in ECEC for children, families, service providers and governments, including the benefits and costs of expanding the use of supply-side funding mechanisms.

The NSW Government supports the development of clearer, more streamlined roles and responsibilities for the Australian and State and Territory Governments and revised national funding arrangements to reduce misalignment between objectives, improve access and affordability for families and achieve positive outcomes for children.

In its final report NSW suggests the Commission consider a national funding model that:

- takes a holistic approach to meeting the rights and different needs of individual children, beyond family income, which should include more consistent support to meet the needs of children from targeted cohorts
- supports an increased universal preschool entitlement that meets the diverse educational needs of 3-, 4- and 5-year-old children at low or no cost, which could include considering whether the ability to access additional hours, beyond a universal preschool commitment, would further improve educational and developmental outcomes for those children who need it
- supports children and families in all settings to access wrap around supports and early intervention programs, where appropriate, and is aligned to best practice inclusive pedagogies for ECEC to achieve better health, social and educational outcomes
- ensures the rights of all children to inclusive play-based ECEC are upheld as outlined in the National Quality Framework, including the Belonging, Being and Becoming: The Early Years Learning Framework for Australia
- ensures all ECEC settings are supportive of both educational and developmental outcomes, and workforce participation of parents and carers
- promotes consistent yet flexible funding settings, quality care and education and outcomes for families and children regardless of setting
- prioritises improving affordability and accessibility for families with lower incomes or experiencing socioeconomic disadvantage, families living in regional or remote Australia, Aboriginal and Torres Strait Islander families, and families experiencing multiple vulnerabilities
- provides additional support for families with household incomes under \$20,800 to access early childhood services, in particular those experiencing disadvantage and/or vulnerability, children in out-of-home care and asylum seeker status families
- aligns with and works towards National Closing the Gap targets, in particular Target 3 which aims to increase the proportion of Aboriginal and Torres Strait Islander children enrolled in Year Before Full time Schooling early childhood education to 95 per cent by 2025. This includes by referencing work being undertaken by the Early Childhood Care and Development Policy Partnership relating to uniform and sustainable funding models for Aboriginal Community Controlled Organisations (ACCOs).

NSW also notes that there is a need to consider improvements to current approaches to capital funding, both nationally and state-wide. Improved supply-side funding for capital will help to address the persistent undersupply in areas where the market is unlikely to respond to demand (and government demand-side funding). NSW encourages the Australian Government to work with states and territories as they continue to consider their approach to capital funding, particularly the Community Child Care Fund. As discussed further in the submission, governments should take a market stewardship approach to address these market failures where recurrent funding models are not meeting the needs of families and children, particularly in areas where there are no viable private providers of ECEC services.

The NSW Government encourages the Commission to further consider and consult with expert practitioners and researchers on inclusive ECEC on how a new national funding model could support alignment and coordination between ECEC services and broader child development supports, including wrap around child, family and maternity support, as suggested in draft recommendation 7.2. This should be done in a way that upholds the rights of all children to access and engage in inclusive play-based education and contributes to national priorities, including Closing the Gap Target 3.

Draft recommendation 6.2: Modify the CCS to improve affordability and access.

The NSW Government broadly welcomes this recommendation as a positive first step to be actioned within current policy and funding settings. Relaxation of the CCS activity test is likely to address some immediate access barriers for families, particularly those from low-income households or experiencing vulnerability and disadvantage. NSW looks to the Commission for suggestions on staging and prioritisation of such reforms, including how this recommendation would be funded.

Additionally, NSW offers the following comments for consideration in the Final Inquiry report:

- As suggested above, the Final Report should outline how the proposed entitlement to 30 hours of activity-free ECEC for all children would intersect with preschool funding and entitlements. Currently there is no universal nationally consistent entitlement for preschool for 3- and 4-year-old children, with the PRA providing a contribution towards 600 hours (or 15 hours per week) of preschool for children in the year before school only. Families should be supported to access the 30 hours of activity-free ECEC in a setting that best suits their needs and preferences.
- Concurrent implementation of reforms to boost the supply of ECEC places and the ECEC workforce will be critical to ensure that such demand-side measures do not exacerbate ECEC access challenges and lead to inflationary pressures that may not reduce out of pocket costs for families in the long run. This is particularly important for prospective users who do not yet have their foot in the door with an ECEC service.

Overall, amending CCS alone will not be sufficient to achieve the universal system envisaged by the Commission, or the draft National Vision on ECEC. NSW reiterates its call for the Commission to detail broader and more ambitious funding reform incorporating both current CCS and PRA-based funding arrangements in its final report.

Draft recommendations 6.3 to 6.6: Improve information about CCS for families.

The NSW Government supports recommendations to improve families' ability to understand and access CCS. NSW further suggests the Commission consider how the CCS application process for families could be made less complex and easier to navigate.

Draft recommendation 7.6: Support out of preschool hours care through amendment of the Family Assistance Law to allow dedicated preschools to claim the CCS for additional ‘non-preschool’ hours.

NSW supports further development of the proposal to amend Family Assistance Law to allow dedicated preschools to claim the CCS for additional ‘non-preschool’ hours by creating a separate ‘wrap around preschool’ care type. NSW notes that this care type would not be subject to minimum operating periods or restrictions that it must not predominantly provide a preschool program in the year before full-time school and would attract the CCS for hours of ECEC delivered beyond jurisdiction-specific standard preschool hours, with services required to report on the length of the preschool session delivered. This is a positive step towards more consistent funding arrangements across sectors and recognising the role preschool has in meeting families’ needs for both education and workforce participation. However, there is a risk this could bring greater complexity to the system. Further work would need to consider:

- the implications for jurisdiction-specific regulations – NSW notes there are differences in staffing ratio requirements between preschool and OSHC. Consideration should be given to training requirements, including ensuring OSHC providers have sufficient training to provide tailored and quality education and care for children experiencing additional needs and/or a disability
- the impacts on children and families, particularly in relation to continuity of care between preschool and OSHC and transitions for children
- the ECEC workforce impacts, noting current workforce shortages and potential impacts on service sustainability and viability
- the potential impact on alternative extended hours care such as family day care, particularly in rural and remote locations.

Draft finding 7.3: ACCOs are well placed to provide early years and family services –but face funding challenges.

NSW agrees with the Commission’s draft finding that ACCOs can struggle to source adequate funding to deliver tailored programs that meet community priorities, and welcomes the recognition that a sustainable funding model, which recognises their knowledge and expertise to deliver the ECEC priorities of their communities, is required. NSW notes however that the Commission has stopped short of making a clear recommendation that aims to improve these challenges and would encourage this to be considered in the final report.

NSW is supportive of work that is currently being done to support long term, secure and flexible funding for ACCOs and has been contributing to the development of a national review into an ACCO funding model for ECEC undertaken by the Early Childhood Care and Development Policy Partnership (ECCPP). With this review now finalised, NSW is seeking to scope up an NSW-specific funding model for ACCOs delivering ECEC in NSW that aligns with the national approach being developed and ensures funding is long term, secure and flexible, providing ECEC that is inclusive, wrapped around the child and their family and incorporates language and cultural programs. NSW notes the Commission’s intention to consider this work in its final report and encourages it to examine different funding arrangements that would align with the national approach identified by the ECCPP that might better support ACCOs and contribute to the Closing the Gap Target 4: Aboriginal and Torres Strait Islander children thrive in their early years. NSW would like to highlight the importance of partnership with Aboriginal and Torres Strait Islander communities when considering how to improve outcomes for children. The NSW Department of Education values its partnership with the NSW Aboriginal Education Consultative Group Inc. (AECG) and acknowledges the AECG as the peak advisory body on Aboriginal Education.

Information request 5.1: Low rates of expansion among not-for-profit providers.

The NSW IPART interim report found that the proportion of not-for-profit (NFP) providers in regional and remote locations is significantly higher compared to major cities, while the share of NFP providers of ECEC services has declined over the past decade. NFPs in regional and remote locations often face barriers such as access to capital, lack of availability of suitable premises, and challenging planning approval process which often include short application timeframes. In any funding recommendations, the Commission should consider strategies to grow the NFP sector, particularly those servicing regional and remote communities.



National roles, responsibilities and system stewardship

General comments

Leveraging the draft National Vision to establish a national system stewardship approach will enable governments to effectively steward the system and alleviate barriers to access.

NSW welcomes the Commission's consideration of the merits of a system stewardship approach to the ECEC system. The draft ECEC National Vision, due to be considered by National Cabinet in 2024, presents a strong foundation to establish this approach, as it will require governmental coordination and accountability to deliver on its outcomes. However, to achieve the draft National Vision and the universal ECEC system envisaged in the Commission's draft report, significant change is required to redefine governmental roles and responsibilities and develop a national system stewardship approach.

Issues such as thin markets would benefit from a national system stewardship approach, where significant collaboration and coordination between local, state and federal governments and ECEC providers is required in order to alleviate barriers to access. The final report would benefit from greater detail on what a national system stewardship approach should entail to assist Governments to implement the draft National Vision and develop the next national ECEC agreement, as well as how a national system stewardship approach could ensure that early intervention and the commitments made in response to the NDIS Review regarding foundational supports are addressed.

Specific comments

Draft recommendation 9.1: Improve policy coordination and implementation through a new National Partnership Agreement.

NSW broadly supports the formation of a new National Partnership Agreement (NPA) for ECEC by 2026 and supports the NPA adopting the draft National Vision as its foundation and clarifying roles and responsibilities between all governments. If implemented, it would be critical for the NPA to adhere to the principles of the Intergovernmental Agreement on Federal Financial Relations and ensure state policy and budget autonomy with respect to ECEC.

NSW suggests the final report provide greater detail on the possible funding and governance arrangements of the NPA to support an effective ECEC system and achievement of the Vision. The Report would also benefit from more detailed reasoning for the proposed division of responsibilities in the draft report, including consideration of funding and delivery incentives and potential for cost-shifting.

NSW notes the findings of the South Australian Royal Commission into ECEC which proposed that the Australian Government take primary responsibility for affordability, accessibility and inclusion support across all ECEC settings. This approach could help achieve more consistent, sector-agnostic policy and funding approaches that would enable all families to choose an ECEC setting that best suits their needs. It could also limit cost shifting between governments if families decide to move children between service types. This central function could be funded by the Commonwealth and supplemented by the state, using a new funding model similar to the Schooling Resource Standard,

the Australian Government's needs-based sector-neutral funding model for all Australian schools, which is made up of a base amount and 6 equity loadings that provides additional funding to priority cohorts and disadvantaged schools. States could then focus on utilising local knowledge and be responsible for the quality and delivery of the service system and wrap-around supports more broadly. It would be beneficial for the final report to detail whether and how the Commission considered and assessed this model, as well as any other governance models.

Draft recommendation 9.2 and Information request 9.2: Establish an ECEC Commission.

While it is critical that there is a cohesive national direction in ECEC policy, NSW suggests further details on the proposed ECEC Commission are needed to establish its merits, including its remit, governance and how it would be funded.

Draft recommendations 7.1, 7.2 and 7.5 refer to the ECEC Commission potentially being responsible for assessing and advising on the need for integrated and occasional services in communities. NSW questions whether a centralised national body is best placed to advise on local need and service integration opportunities across jurisdictions, with no known precedents in similar service delivery or social support sectors. NSW suggests that these proposed main functions of the ECEC Commission be mapped against the existing functions of the Australian, state and territory governments, regulatory authorities and statutory authorities to avoid overlap and determine how this new body could best improve coordination rather than contribute to its complexity. NSW also notes that the Australian Government's Early Years Strategy may provide a platform for achieving the local-level integration the Commission envisages a national ECEC Commission could achieve.

It is also currently unclear on what an ECEC Commission could offer outside of existing collaborative mechanisms including Education Ministers Meeting, and how it would hold governments to account in a more effective way than a national agreement. A national agreement may be better equipped to provide guidance and cohesion, while ultimately leaving policy decisions to states and territories.

Draft recommendation 5.1: Support universal access in persistently thin markets via supply-side funding

ECEC supply issues should be addressed as a priority to sustainably deliver upon CCS and broader funding reforms. NSW welcomes the Commission's recommendations to support universal access in persistently thin markets via supply-side funding however it is critical that there are clear definitions of the role of the state versus the role of the Commonwealth. This will ensure the right approach for government intervention and will determine the right level of government to lead in certain areas.

NSW broadly supports an enhanced focus on supply-side measures, given evidence suggesting supply may not be keeping up with the growing demand for ECEC services in particular locations. Without investment in supply measures, demand-side measures on their own could:

- exacerbate ECEC access challenges in the short-term, particularly for prospective users who do not have their foot in the door with an ECEC service
- lead to inflationary pressures that may not even reduce the out-of-pocket cost for families in the long run
- lead to an increase in resource misallocation.

General comments

Improved data sharing arrangements between governments are required to enable effective system stewardship.

Families need accessible and accurate information to make informed decisions about ECEC, particularly in relation to fees, subsidy and out of pocket costs. The NSW Productivity Commission survey of about 2,000 NSW families with children aged 0 to 5 years found that high out-of-pocket costs and uncertainty about these costs were ranked as the 2 biggest barriers to accessing services.² Increased data transparency on service fees and out-of-pocket costs would be beneficial to families making decisions about using early childhood services. Publicly available information on Starting Blocks and commercial websites can often be outdated, inaccurate, inconsistent or incomplete. Improvements are needed to ensure families can access up-to-date service information, including locations, fees and out-of-pocket costs, waiting lists, quality ratings, and other markers of quality and inclusion. The Australian Government should provide greater access to the operating information reported by services to enable comparison and information services and additional support to services to comply with their reporting obligations, for example with validation checks to improve data quality. Targeted improvements to information requirements should be developed with service providers, users and the Australian Children's Education and Care Quality Authority (ACECQA), which operates the Starting Blocks website, to ensure there is national consistency. The ACCC Childcare Inquiry has also recommended improvements to the information collected and provided through the Starting Blocks website.

Nearly a quarter of all children in early childhood services are from families where a language other than English is spoken at home. Culturally and linguistically diverse families often find it more difficult to navigate the early childhood system. There is a need for the Australian Government to review its resources and programs to ensure information is accessible for all families and consider opportunities to help services engage with, and provide information to families in their first language, to improve accessibility and inclusion. Physical offices of Centrelink can be resourced to provide information to families about ECEC that is equivalent to the information available on the government-run websites. This would ensure that families without digital access can still access information to make informed decisions about ECEC for their children.

There is considerable scope for increased data transparency and information sharing to strengthen decision-making, practice and behaviours for policymakers, ECEC services and users. The Australian Government is the largest custodian of ECEC data through the CCS, tax and income support systems. The NSW Government currently has limited and irregular access to comprehensive data on the ECEC sector, including CCS data, which does not allow for timely access, effective funding and policy decision making or data sharing. Access to CCS data would also enable more effective regulation of the ECEC sector by the NSW Regulatory Authority (NSW RA). NSW notes that while the draft report acknowledges the importance of high-quality data, it has not presented any recommendations on how data gathering and sharing could be improved. NSW suggests the Australian Government work with states and territory governments to improve data transparency, collection and sharing agreements. Data sharing between government agencies should also be streamlined to improve turnaround time and quality of data collection.

² NSW Productivity Commission, *Childcare choices: What parents want – Technical Appendix*, July 2023, pp 42-44.

Inclusion

General comments

Inclusion support mechanisms require increased funding and support to deliver equitable outcomes for all children.

NSW supports consideration into how state and federal inclusion support programs can be better coordinated and funded to assist ECEC services to be inclusion ready and provide inclusive ECEC for all children. Findings from the 2023 review of the Commonwealth Inclusion Support Program (ISP) showed that while policy objectives of the ISP are broadly appropriate, there remain significant inclusion gaps in achieving its objectives in a systemic way. NSW understands the Australian Government is currently working through the review's recommendation and NSW will continue to work with them to optimise participation and inclusion in ECEC.

NSW also notes the commitment made by National Cabinet to jointly design additional Foundational Supports, which would look to be delivered through existing government service settings where appropriate (e.g. child care), as a result of the recommendations made by the NDIS Review.³ NSW encourages the Commission to consider Foundational Supports in ECEC settings, given the productivity impacts of early intervention versus the latent demand for services when children begin primary school. Continued consideration of the interaction between disability policy, programs and reforms with the ECEC ecosystem and reforms is also encouraged.

Specific comments on draft recommendations and information requests

Draft recommendation 2.3: Amend eligibility requirements for inclusion funding.

NSW supports the premise that all children with disability, additional need or developmental delay who require additional support should have access to inclusion funding. The funding and program landscape is currently complex and inconsistent, and there is a need for a greater focus on enhancing access for children with a disability. The NSW Disability and Inclusion Program (DIP) includes funding for children with disability and/or additional needs in NSW community preschools (who are not eligible for funding or assistance through the Australian Government's ISP).

Under the NSW DIP, community preschools may submit a NDIS plan or written diagnosis or preschool observations from educators to support their application. Observations provide data about how the child functions in the preschool environment.

The Australian Government's Inclusion Support Program does not currently accept observations as a form of evidence to support applications for the Inclusion Development Fund Subsidy for an Additional Educator or Family Day Care Top Up. Accepting observations-based applications will allow more children with disability or additional needs who may not have a formal diagnosis or other relevant documents, to access support through the ISP (and could be particularly beneficial for children living in regional and remote areas, who may have limited access to diagnostic services). This may reduce barriers to participation and inclusion and minimise the risk that children will be excluded from ECEC services through gatekeeping practices.

³ The Hon Anthony Albanese MP. (2023). [Meeting of National Cabinet - the Federation working for Australia](#).

Draft recommendation 2.4: Review and amend additional educator subsidies.

NSW notes that while educator subsidies are important to support the inclusion of children with disability, additional needs or developmental delay, further consideration should be given to a broader range of recommendations that support a service to become inclusion ready. In addition to high learning support needs funding (which can be used to hire an additional educator), the NSW DIP includes sector capacity building and inclusive environments funding. The program recognises that evidence-based inclusion practice requires supports other than additional educators. NSW suggests the Commission place a greater focus on inclusion readiness in its recommendations.

NSW does not support the recommendation that other human services staff, such as allied health professionals, be employed as an additional educator. There is a distinct difference between early childhood education services and disability intervention services. Allied health professionals do not have the fundamental educational pedagogical practice required for best practice educational inclusion. There is a risk that a child's inherent right to engage in play-based educational programs may be undermined by the medical interventionist approach to disability which may lead to the exclusion of some children with disability and would not align with the principles and practices of the National Quality Framework or the UN Convention on the Rights of the Child.

NSW notes that in response to the NDIS review, National Cabinet has agreed to jointly design a system of foundational supports. NSW suggests this discussion could consider the connection between ECEC and disability support.

Sector Capacity Building supports under the NSW DIP includes funding for training and assistance from allied health professionals. To always ensure compliance with the National Quality Framework, any training or support provided as part of the DIP by an allied health professional must be delivered under the direct supervision of an EC inclusion professional. This may be a better approach to seeking support from allied health professionals in ECEC services while embracing a two-way knowledge sharing strategy.

Draft recommendation 2.6: Improve coordination of inclusion funding between governments.

The NSW DIP is only available to NSW community preschools, and not NSW ECEC services eligible for ISP supports. There is a clear distinction between the funding responsibilities of each program, with no overlap. Further work could be done to identify genuine overlap or complexities where programs in other states and territories intersect with the ISP.

There may be instances where a child attends 2 different services and receives NSW DIP support from one service and ISP support in the other. This circumstance often gives visibility to differences within the funding models regarding the type and amount of support provided. Opportunities to facilitate information sharing between these services could be explored to assist in application submission and reduce the burden on services and families to manage evidentiary documents.

However, improving inclusion supports available in ECEC services is likely to reduce the need for a child to attend more than one service and further consideration should be given to proactive inclusion readiness funding instead of reactive post enrolment funding.

A single, nationally agreed inclusion program may potentially provide greater clarity and consistency for children and families across different ECEC services and settings and could streamline processes for families and services, for instance where they are engaged across different types of services. It could also support broader policy changes such as the introduction of foundational supports under the NDIS. The NDIS Review recommended that the delivery of early supports be linked to and integrated with mainstream services, particularly education and early childhood services (see recommendation 1, action 1.12). It also recommended that a continuum of support should be created for children under the age of 9 and their families. This may involve greater investment in inclusive mainstream services (see recommendation 6).

Furthermore, Deloitte's 2023 review of the ISP recommended piloting collaborative, 'wrap-around' approaches to inclusion supports in ECEC services, which may involve the establishment of a cross-sector ECEC inclusion taskforce, to enable a more coordinated response between families, services, state government agencies, the NDIA and community organisations (see long term opportunity 1).⁴

Any consideration of changes to arrangements to support the inclusion of children with disability and additional needs in ECEC should consider and be shaped by the broader reform environment of both ECEC and the provision of disability supports. Agreement across the Australian and other State and Territory Governments would be required to agree to a nationally consistent program. This would include clarity on the funding approach, model of support and program eligibility and would need to be considered in the context of increasing demand for supports.

Information request 7.2: 'System navigator' roles in the ECEC sector

The introduction of a 'system navigator' role in the ECEC sector may be beneficial, particularly for families experiencing additional barriers to navigating the ECEC system. This may include 'socially impacted families' which is inclusive of families of children with disability or additional needs, families from diverse cultural backgrounds, Aboriginal and Torres Strait Islander families, and families experiencing socio-economic disadvantage or vulnerability due to other social factors. A 'system navigator' should be equipped to manage intersectional and often compounding barriers experienced by families.

An ECEC 'system navigator' could assist socially impacted families by:

- sharing the benefits of attending ECEC, in a format that is responsive to the needs of the family (i.e. Plain English resources, translated resources, using pictorial information)
- providing liaison between families and service providers, to facilitate the building of trust and confidence in the services' ability to provide adequate and culturally appropriate care and to reduce feelings of not feeling welcome or belonging to the education service
- providing support with the administrative complexities, including around enrolment
- supporting families to locate an education service with places available and operating hours that meets the needs of the family
- providing education services with access to professional learning to enhance inclusive practice of educators of children with disability, Aboriginal and Torres Strait Islander children and children from diverse cultural backgrounds
- providing information about the importance of learning through play in the Early Years and everyday practices in the home that support child development and learning improvement.

⁴ NSW Department of Education. (2023). [Review of the Inclusion Support Program - Final Report](#).

Specifically, an ECEC 'system navigator' could assist families of children with disability by supporting them to:

- understand the range of inclusion funding and supports available to children with disability or additional needs across the different ECEC service types
- understand their child and family's rights to access ECEC services and provide information on how to make a complaint if they experience discrimination.

Whereas, cultural liaison roles could:

- provide cultural awareness for education staff to develop their knowledge and understanding of diverse cultural backgrounds and experiences
- promote parent engagement and participation of parents and caregivers in site-based ECEC activities
- work closely with families to support their participation in the ECEC setting.

It is however important to note, that the need for a 'system navigator' role is symptomatic of the inefficiencies and complexity of the system. A role such as this would also not solve the fundamental access issues that plague the system.

Information request 2.2: Cultural safety in ECEC services

NSW welcomes the recognition that it is important for all services to provide culturally safe ECEC for children of diverse backgrounds. Accessing culturally inclusive ECEC that recognises and values diverse cultural beliefs and experiences is crucial to overcoming barriers to participation.

Aboriginal and Torres Strait Islander children and families:

NSW welcomes the Commission's acknowledgement that ACCOs are well placed to provide culturally safe ECEC to Aboriginal and Torres Strait Islander children and are often the first preference of Aboriginal and Torres Strait Islander children and families when accessing ECEC. The Early Childhood Care and Development Policy Partnership is currently working on developing a new funding model in response to the challenges experienced by ACCOs caused by patchwork, piecemeal funding approaches. These challenges create barriers to delivering stable, high quality, efficient and effective service, as well as retaining staff and building service capacity and capability.

The NSW RA is leading innovative work to create culturally safe environments for Aboriginal children and their families accessing ECEC. It is also committed to enhancing the knowledge and understanding of all children and their families about Aboriginal peoples and their cultures.

The NSW Aboriginal Cultural Safety Framework (ACSF) for Early Childhood Education and Care (the framework) aims to:

- support uplift within the ECEC sector by providing clear expectations, standards and guidance to support services to develop, maintain and improve cultural safety
- encourage best provision and maintenance of culturally safe and responsive environments for Aboriginal children, their families and ECEC staff in every type of ECEC service
- support an increased participation of Aboriginal children in ECEC services
- enhance knowledge and understanding of Aboriginal history and culture.

The ACSF is currently in phase 3 – this phase will see the development of a toolkit, tailored learning for ECEC providers and the dynamic promotion of the cultural safety learning journey reflective tool to the ECEC sector.

The NSW RA is keeping other states and territories informed of its progress and would welcome a focused meeting with the Commission if required.

There are a range of opportunities to leverage guidance and expectations on Aboriginal Cultural Safety in ECEC from existing provisions within the NQF and this may be the best starting point. Currently there are relevant Quality Areas that prescribe requirements for Aboriginal perspectives to be incorporated into ECEC, and the Guiding Principle of the NQF 3 (d) states ‘that Aboriginal and Torres Strait Islander Cultures are valued’. All entities with prescribed functions under National Law must operate in accordance with this guiding principle. The NSW RA considers that future national work in relation to cultural safety in ECEC should be informed by the work currently led by the NSW RA, and any other similar initiatives across other jurisdictions.

Whether or not changes to the NQF would further promote cultural safety in ECEC is yet to be determined. The NSW RA will consider this as it progresses its work on cultural safety.

Culturally and linguistically diverse children and families:

Throughout 2023, the NSW Department of Education partnered with Multicultural NSW to consult multicultural community representatives on ECEC issues and with the ECEC sector.

Consultations with stakeholders indicate that families seek ECEC services that not only acknowledge but actively promote and support cultural inclusion. They indicate an interest in services that support and promote cultural connection through cultural and religious celebrations, language use, community connections, and culturally relevant learning materials. The branding of the service with cultural symbols and imagery also matters as it is seen to signify respect and build trust. More bilingual staff with connections to local communities, and resources in languages other than English would improve inclusion.

Free and flexible professional development opportunities in areas such as trauma-informed care, unconscious bias, cultural responsiveness and supporting language development in emergent multilingual learners would promote cultural safety in ECEC services. Alongside this there is an opportunity to consider attraction and retention workforce strategies, that value cultural expertise, and multilingualism.

Within the ISP there is an opportunity to enhance cultural inclusion and culturally appropriate supports to ensure the provision of ECEC for children with diverse learning needs is consistent priority among services.

Regulatory authorities

General comments

NSW welcomes the opportunity to provide insights on the important safety and quality oversight role it brings, and in doing so, contributes to supporting a well-functioning and viable ECEC sector. The NSW RA applies a risk-based approach to its functions and the feedback below reflects this perspective.

Outside of the draft recommendations, the NSW RA suggests there is opportunity to consider introducing a (forensic) financial analysis oversight function of ECEC providers. Given the significant public funding and government subsidisation available to the ECEC sector, this function would provide reassurance that funding is appropriately directed toward safe, inclusive and quality provision of ECEC to children and families.

Considerations of the governance structure, including whether it should be a national or state-based oversight function, could be informed by agreed principles that uphold the integrity of state and Australian Government funding levers.

This function could feed into existing regulatory oversight or decision-making domains, for example, granting approval to operate as an ECEC provider, applying for CCS, approval to operate ECEC services, or new ECEC acquisitions. The function's primary focus should be to ensure government funding is directed to core areas of safe and high-quality service provision in alignment with the National Quality Framework (NQF) and other relevant legislative instruments, as a key policy priority supported by government.

Standards and requirements of ECEC providers across safety and quality in ECEC services are prescribed by the NQF and monitored by state and territory regulatory authorities. Specifically, to the question of NSW having autonomy to considerations of safe and high-quality service provision, ongoing commitment to a national standards and consistency through the NQF is strongly recommended.

Further to legislative protections regarding safety and quality NSW has the opportunity through increased state funding to the sector to consider introducing quality levers attached to funding above and beyond that of the NQF.

Other regulatory regimes incorporate financial viability and performance, and the Commission could consider examining how the function works elsewhere, in comparable industry or sectors. This financial performance and viability oversight function, delivered independently of those providing policy, grant or program funding, could aid governments in effective, holistic stewardship and closer alignment of ECEC providers business modelling to government policy positions and national strategic priorities for ECEC.

As with all proposed regulatory changes, the Commission should carefully consider whether the benefits of the function outweigh the costs. The oversight function could lead to an increase in regulatory burden for ECEC providers, which may further increase the time taken for providers to enter the market or deter them altogether. The function will also require resourcing, which may detract from the work of other areas.

Specific comments on draft recommendations and findings

Draft recommendation 8.1: State and territory regulatory authorities should improve their performance reporting.

NSW recognises the importance of performance reporting and notes that this is an initiative that the NSW RA has implemented. The NSW RA plans to shortly publish an annual statement of performance report as part of its Ministerial Statement of Expectations (subject to ministerial approval). The Statement of Expectations has been in force since July 2022.

Draft recommendation 8.2: A new review of the National Quality Framework.

NSW suggests that this recommendation is considered in the next cyclical review of the NQF. This would require an independently appointed secretariat to lead the consultative process, or, to consider appointing an independent entity to lead the review of the NQS, should governments prefer to conduct the review at an earlier date. ACECQA would not be an independent entity, as it is a prescribed entity under the NQF. NSW also seeks to highlight that the sector is currently experiencing significant change fatigue. The NQF focuses on the obligations of providers to ensure safe, high quality service provision in ECEC. If child level outcomes were to be considered in metrics on provider's performance, this would require significant and broad-reaching systemic change. Whilst the child is considered the primary beneficiary of effective regulation, regulatory settings are primarily focused on the performance of ECEC providers. Further consideration could be given to leveraging eligibility for grants and program funding by way of child outcome performance metrics. It is vital to consider the extent of further administrative reporting relative to benefits realised, arising out of any such proposed criteria linked to child outcomes. Entities delivering ECEC service provision should have clarity of regulatory settings and funding and grants criteria in relation to any proposed metrics on child level outcomes.

Draft recommendation 8.3: Ensure regulatory authorities are adequately resourced.

NSW notes that any proposed independent review would need to consider the full span of prescribed functions as set out in the National Law, part 12, Section 260. The regulatory authority is required to organise and allocate its scarce resources based on level of risk. As the regulatory authority regulates for safety and quality, any consideration of improving timeliness of assessments needs to be balanced so as not to deviate from its important focus on child safety. The NSW RA, along with other jurisdictions, is already taking steps to increase the frequency and efficiency of assessments and ratings through implementing improvements. NSW notes that resourcing is just one mechanism available to improve the operation of assessments and ratings. The purpose of any independent review would need to consider other oversight processes regulatory authorities are subject to, to ensure no duplication.

Draft recommendation 8.4: Incentivise quality provision in new ECEC services.

NSW agrees with this recommendation and notes that the NSW RA already uses a risk-based approach to its assessment of applications which includes the provider and related entities' compliance with the National Quality Framework. The next cyclical NQF review could consider the merits and value of any proposed regulatory amendments to extend regulatory authority powers to make decisions regarding new services. This should include a comprehensive review to determine motivations and reasons for sector growth (in particular, growth of for-profit services), and whether regulatory authorities should have remit over financial viability. Caution is drawn to the important context of timing for both subsequent regulatory assessments of quality and the time required for services to take steps toward quality improvement. Prioritising new service approvals of higher-rated providers may delay and deter recent or new providers from operating and/or expanding.

As noted above, however, the Commission should carefully consider the costs and benefits of any regulatory changes to avoid unintended consequences. For example, the NSW Productivity Commission's survey of NSW families did not find quality to be a major barrier to ECEC use.

Information request 8.1: Provision of service ratings information for families.

The NSW RA has led a review on behalf of all jurisdictions that was conducted following the 2019 NQF Review finding that families sometimes find the current National Quality Standard difficult to engage with and struggle to interpret quality rating labels. The review tested alternative quality rating terminology with parents and found that there are certain approaches that might be taken to enhance and further promote the understanding of the quality rating system with families. The outcome of this review will be provided to the Early Childhood Policy Group (ECPG) in early 2024, and following ECPG consideration (if time permits), could be provided in response to this information request.

Information request 8.2: Regulatory actions against serial underperformers.

As previously noted, the NSW RA applies a risk-based approach to regulation – both as a proactive and responsive approach to its regulatory compliance functions. There is a tension in exercising regulatory powers as and when required with more severe measures including closure of services that are not meeting safety and quality requirements. Regulatory settings do not and should not mandate consideration of impact on families or of alternative ECEC supply for children and families in these instances. This is because regulators should be focused on prevention of harm and safety of children. NSW suggests that these remedial responses for impacted families should be activated via a different and distinct arm of the relevant department responsible for ECEC programs, rather than the RA. However, NSW welcomes further

consideration of broadening regulatory powers to incorporate proactive information sharing to government contracting and funding arms regarding serial underperformers, with the aim of motivating behaviour change.

Information request 8.3: Support for services to meet the NQS.

NSW notes that it is funding ACECQA to deliver free of charge to the sector, a targeted Quality Support Program (QSP) for services. The program includes 2 pathways to support ECEC providers to uplift quality for services Working Towards NQS, and embed compliant practices (Compliance Support Pathway-CSP), with key findings of the recent Stage 5 evaluation report now available.⁵ While the QSP entry/eligibility criteria is quite defined, the NSW RA also offers the NSW ECEC sector free of charge tailored guidance, learning and regulatory information including across NQS requirements via its Safety and Quality Practice Program, which is then evaluated to ensure outcomes for the sector are achieved. Generally, single service providers and those in rural and remote areas require more support to effectively operate in accordance with NQF, however, performance data is ever changing with trends and clusters in other provider types emerging over time. Regulators would be best placed to analyse their jurisdictional performance data and to tailor their guidance and support accordingly. Consideration could be given to recurrent funding from the AG to ensure state and territory regulatory authorities can effectively support their ECEC providers on the NQF requirements, as required under its legislated function (National Law, Part 12, Sec 260 (f)). The NSW Regulatory Authority also notes a downward trend in number of services rated Exceeding, nationally.⁶ Consideration should also be given to funding from the AG to state and territory regulators for the delivery of tailored support to providers, and to guide them in maintaining high quality in the sector.

⁵ NSW Department of Education. (2023). [Quality Support Program](#).

⁶ ACECQA. (2023). [NQF Snapshot Q3 2023](#).

ECEC workforce

General comments

ECEC reforms hinge on the supply of quality ECEC, which is dependent on a high-quality workforce and strong workforce pipeline. Reforms must be supported by comprehensive and urgent reforms for the ECEC workforce to improve the attraction and retention of workforce, particularly through increased pay and conditions. The draft report recognises the importance of increased pay, however it defers to processes currently underway through the Fair Work Commission to resolve this. While other methods to support attraction (pathways and innovative delivery of qualifications) and retention (professional development and upskilling) are welcomed, improving pay remains the most significant issue to resolve regarding the ECEC workforce and the final report should articulate this. The Australian Government holds significant influence to attract and retain a high quality ECEC workforce and capacity to influence pay, conditions and employer relations. The NSW Department of Education is a minority employer, employing approximately 2 per cent of the NSW ECEC workforce. NSW would welcome the Commission's analysis of the best mechanism to achieve wage increases, as well as other options to address workforce supply. Presentations given at the inaugural biennial National Workforce Forum held in November 2023 may provide options for how pay and conditions of the workforce could be sustainably implemented.

Women make up 96 per cent of the ECEC workforce. Workforce segregation is a key contributor to the gender pay gap and increasing wages and attracting more men to these roles will be essential to sustaining the workforce in the longer term and breaking down gender norms relating to caring responsibilities.

NSW also encourages the Commission to consider migration as part of an overarching workforce supply strategy. This should include student and graduate visas, permanent pathways for migrant workers and opportunities to support parts of the sector experiencing chronic shortages, such as rural, regional and remote areas. This should be considered in close consultation with key sector stakeholders to support the long-term viability of the sector.

Specific comments on draft recommendations and findings

Draft recommendation 3.1: Reduce barriers to educator upskilling.

NSW supports this recommendation and the premise that barriers to educator upskilling should be reduced. The Australian Government holds the key levers to influence system-wide reform in this space, including by overseeing key bodies including ACECQA, Jobs and Skills Australia and the Australian Skills Quality Authority. NSW may complement this role by addressing system barriers and incentivising completion of study and upskilling through targeted fee-free VET scholarships, such as the ECEC Scholarships Program.

For consideration around implementing this recommendation, the Commission should consider:

- opportunities to 'learn and earn', as a notable barrier to upskilling may include a need for students to also have an income
- barriers presented by the supervision of students/trainees reducing the capacity of supervisors to deliver care and education
- extending wrap around supports to staff who are upskilling educators, not just those upskilling to become Early Childhood Teachers (ECTs). This would support a stronger pipeline of upskilling across the broader ECEC workforce
- when considering prior recognition, pipelines from other sectors should also be factored in to allow for mobility across care and support economies as well as along the education spectrum
- education and training systems that support the development of ECEC workers in the communities where they live. On-the-job training and online education and assessment modules support flexibility and may improve training pathways.

NSW supports ACECQA examining supervised professional experience and allowing students to fulfil requirements in existing workplaces. Providing greater flexibility will help remove barriers to entering the profession and aid in attracting candidates to ECEC roles (especially in rural and remote contexts). There are also opportunities for larger childcare centres and council owned centres to be incentivised to offer greater numbers of traineeships and increase retention rates of current trainees who currently may be asked to leave once the traineeship has been completed due to salary increases. NSW is working to reduce barriers to educator upskilling by partnering with the University of Wollongong to design an accelerated degree pathway. This pathway is currently being delivered to allow educators to undertake an intensive, but supported Initial Teacher Education qualification, which support the pipeline of future ECTs. The NSW Department of Education has also partnered with Training Services NSW to deliver an ECEC Recognition of Prior Learning Upgrade Initiative to support educators holding a pre-2013 Certificate III to recertify (due to National Training Package changes in 2021).

Draft recommendation 3.4: Lift support and mentoring for new early childhood teachers.

While NSW supports this recommendation, this support should extend to educators, noting that in the NSW ECEC context, the workforce is comprised of over 80% educators. Mentoring would also be beneficial at change points along a career journey or when delivering targeted services, including complex and additional supports. Mentoring programs could also be tailored to support specific cohorts and groups, for example, creating an Aboriginal and Torres Strait Islander mentoring program which can provide cultural safety and support to educators.

Draft recommendation 3.5: Improve pathways and support for Aboriginal and Torres Strait Islander people to obtain ECEC qualifications.

NSW supports this recommendation and is currently piloting the Grow Your Own program. Established in 2021, it offers a supported pathway to qualification completion and employment in an ECEC service for Aboriginal and Torres Strait Islander students studying Certification III or Diploma level qualifications in ECEC. The program will be evaluated in 2024 to inform future program directions including possible expansion. As governments look to improve pathways for Aboriginal and Torres Strait Islander people in ECEC, consideration should be given to offsetting the cost of obtaining qualifications (such as travel, digital supports, support leaving Country and community) and ensuring flexibility is provided to support a balance between working, studying and personal time. As is a key focus of the Grow Your Own pilot in NSW, Aboriginal and Torres Strait Islander students should be supported to transition into roles in the sector once they have completed their studies and qualifications.

NSW suggests the Commission consider extending this recommendation to support Aboriginal and Torres Strait Islander people throughout their whole career, including educator retention measures and career development. This would align with the National Closing the Gap target 6: Aboriginal and Torres Strait Islander students reach their full potential through further education pathways.

NSW also acknowledges that the need to fill critical staff shortages is immediate and encourages the Commission to consider the development of programs that would address this immediate need, whilst training occurs.

Draft recommendation 3.6: Contribute to professional development for the ECEC workforce.

NSW supports this recommendation, noting that a key 2023 NSW election commitment is to contribute \$10 million for a professional development fund for professionals to access quality professional learning, regardless of the qualification they hold. Consideration should be made around the need to extend contributions to additional wrap-around supports to enable access, and support completion of, professional development, including backfill and community of practice components. Leadership has also been identified as a key professional development theme to support workplace culture uplift and sector wellbeing. Consideration should be made for this to be included as a professional learning priority for building staff capability. Development of nationally recognised ECEC micro-credentials will also assist with greater availability and access to professional learning opportunities, will drive quality and consistency in learning experience, and provide a framework for funding.

As acknowledged in the National Children's Education and Care Workforce Strategy, educator and teacher wellbeing initiatives are required that help ensure there are strong mental health and wellbeing supports for the ECEC workforce. Further consideration should be made in the final report on establishing a framework to provide adequate support across the ECEC sector.

In line with recommendations made in the draft report to ensure universal access to ECEC for children with disability, there should be a focus on the workforce requirements to support increased access. These include additional suitably qualified, experienced and knowledgeable educators; supported capacity building within services including professional development and mentoring; educators or service coordination and administration and support for allied health professionals and families where a 'key worker' is required; and minor capital works and specialist equipment.

Consideration should also be given to how professional development can be supported in regional settings in a time of critical workforce shortages. Staff may need to travel a significant distance to attend training and subsequently require to be backfilled for longer periods of time.

Draft recommendation 3.7: Improve the ECEC Workforce Strategy.

As an overarching framework for national engagement on ECEC workforce matters, NSW supports the Commission's recommendation to improve the ECEC Workforce Strategy, in particular welcoming the recommendation to address the challenge that a lack of committed funding to the National Workforce Strategy poses. Further, we support the articulation of a clear objective for the Strategy. Clearly articulated success measures are essential to ensure accountability, enable progress to be monitored and assess returns on investments. NSW also encourages the ECEC Workforce Strategy to include a focus on the attraction and retention of educators in regional settings.

NSW notes there is currently work underway to enhance the national Workforce Dashboard, which monitors progress on the focus actions on the Workforce Strategy, with a new 'monitoring improvement' tab. This tab will be populated by April 2024 and will include improved measures, milestones and data information for each focus action to capture progress more closely.

NSW is also currently establishing an NSW Early Childhood Workforce Strategy which will align with the key priority areas of the national workforce strategy and provide supports to specifically address issues in the NSW context. The strategy will set in place a cohesive program of work for the department to address key workforce challenges in the NSW early childhood sector, support future sector growth and sustainability, and deliver the government's reform priorities.



Information request 3.2: Effectiveness of traineeship arrangements.

NSW understands traineeships to be an effective career pathway, and current administrative and entry requirements are not seen as posing barriers to entry. The Educational Pathways Program Apprenticeship and Traineeship Head Start initiative in NSW targets selected high school students in years 10-12 who participate in part qualification vocational training, giving them a taste of the industry. Training is fully subsidised and provides the host employer with an indicator of the capability and cultural fit of the student at the work experience stage with a view to full time employment as a trainee. As of 30 June 2023, 5980 trainees were undertaking the Certificate III in Early Childhood Education and Care which is also the top traineeship qualification. NSW data indicates that in 2023 there were 4968 trainee contract approvals with 1469 employers, with strong growth on the 2022 data. There was a slight decline in completion rates in 2023, with reasons for non-completion mostly linked to unsuitable matches between the individual and the employer, or workplace conditions including training skills and poor wages.

Information request 3.3: Falling completion rates for early childhood teaching qualifications.

Whilst early childhood teaching qualifications reported a decline in completions between 2012 and 2018, the completions of the Diploma of ECEC saw a small growth of 3 per cent between 2015 and 2021. Reasons for program withdrawal amongst VET students included training not as expected, training schedule inflexibility, career changes and personal reasons. Of those VET students who withdraw, the highest proportion were aged 17-24 years.

Conclusion

NSW thanks the Productivity Commission for the opportunity to respond to its draft report on its Inquiry into ECEC. The ECEC national reform landscape is currently extremely crowded, which is indicative of the high priority it has within the Australian and State and Territory governments, as well as within the community.

There is robust evidence that access to high quality, inclusive and culturally appropriate ECEC has positive outcomes for children, families and the economy. It is critical that the Productivity Commission recognises within the final report the opportunity it has in recommending ways to revolutionise the ECEC system and support improved lifelong outcomes for children and families.

NSW looks forward to receiving the final report and welcomes the opportunity for increased collaboration between the Australian Government and States and Territories to work together to seize new opportunities and realise the potential of a high quality, affordable and accessible ECEC system.

