



Australian Government

Australian Government Response to the Disability Royal Commission

July 2024



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Cover Artwork by Helen Butcher: 'Belonging'

Artwork Title: Belonging
Medium: Pencil on paper
Developed: 2024



'To me, the artwork 'Belonging' represents the inclusion of all people in society, embracing their differences. Inclusion means less discrimination, allowing people to feel they are part of the community and accepted for who they are. It's about having a place in society, having a voice, being seen, and being able to access more opportunities. It's not about being confined to a tiny box, but about creating more space for us — for instance, inclusive workplaces and interest groups.'

Helen Butcher, 2024

Helen Butcher is an artist at ArtGusto, a supported art studio in Geelong, Victoria, dedicated to local disabled and neurodiverse artists.

In mid-2017, Helen reignited her passion for art by joining ArtGusto. Over the past seven years, she has developed her own distinctive style through her exploration of florals and patterns. By using patterns, Helen creatively experiments with colour and design. While her love for florals remains, her art has evolved to include unexpected yet delightful expressions using geometric shapes and dynamic background-foreground interactions. Recently, she has expanded her artistic repertoire to include shaping clay into vessels, experimenting with glaze colour dynamics.

When Helen first started at ArtGusto, she was hesitant to exhibit her work due to fear of criticism. However, she has since achieved significant milestones: her work has been published as cover art, exhibited in 27 group shows and more than eight competitions, commissioned for a short film, featured in a mural, and she has sold her art.

In 2022, Helen moved with her parents from Geelong to North-Eastern Victoria. Despite the move, she continues to participate in ArtGusto through video link and occasional in-person visits to the Geelong studio and excursions in Melbourne. Maintaining these social connections has been crucial for Helen and beneficial for her colleagues at ArtGusto.

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Acknowledgement of Country

The Australian Government acknowledges the traditional owners of Country throughout Australia on which we gather, live and work. We acknowledge all traditional custodians, their Elders past, present and emerging, and we pay our respects to their continuing connection to their culture, community, land, sea and water.

Content warning

This publication contains information about violence, abuse, neglect and exploitation that may be distressing to readers.

Support services

National Disability Abuse and Neglect Hotline: 1800 880 052

The National Disability Abuse and Neglect Hotline is a free, independent and confidential service for reporting abuse and neglect of people with disability. The Hotline works with callers to find appropriate ways of dealing with reports of abuse or neglect through referral, information and support.

1800RESPECT: Call 1800 737 732, Text 0458 737 732

1800 RESPECT is Australia's national counselling, information and support service for anyone affected by domestic, family and sexual violence. It is available, 24 hours a day, 7 days a week.

Disability Advocacy Support Helpline: 1800 643 787

The Disability Advocacy Support Helpline (the Helpline) is a pilot initiative announced as part of *Australia's Disability Strategy 2021–2031*, designed to improve access to individual advocacy support. The Helpline is a phone-based service that is delivered by Advocacy Law Alliance and accessed through the Disability Gateway. The Helpline is a free service for people with disability, their families and carers, who require short-term individual disability advocacy support.

Disability Advocacy Finder:

The National Disability Advocacy Program provides people with disability access to effective advocacy support. The Department of Social Services funds 59 advocacy organisations across Australia to protect and promote the rights of people with disability. Services can be found through the Disability Advocacy Finder at the Ask Izzy website: www.askizzy.org.au/disability/advocacy-finder.

Lifeline Crisis Support: Call 13 11 14, Text 0477 13 11 14

Lifeline is a national charity providing all Australians experiencing emotional distress with access to 24-hour crisis support and suicide prevention services.

Beyond Blue Support Service: 1300 224 636

Beyond Blue is an organisation that provides a free online and telephone helpline for people with depression, anxiety or other mental health issues. You can talk to trained mental health professionals who can give you support and advice. Beyond Blue can also help you find mental health services near you.

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Reader's guide

This document is the Australian Government Response to the Final Report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission).

The Disability Royal Commission's Final Report includes 222 recommendations. This document includes responses to the 172 recommendations within the Australian Government's primary or shared responsibility. It does not include responses to the 50 recommendations within state and territory governments' primary responsibility.

Guide to key sections of this document

- **Foreword:** Introduction to the Australian Government Response provided by the Minister for Social Services, the Hon Amanda Rishworth MP.
- **Response Snapshot:** One-page summary of the Australian Government Response.
- **Consultation:** Summary of the consultation and engagement activities to inform the Australian Government Response.
- **Australian Government Response:** Includes a policy statement on disability reform; overview of investment and action; and the Government's responses to the 172 recommendations within its primary or shared responsibility. Some related recommendations have been grouped together with a single response provided.

To support your understanding of the Australian Government Response to the Disability Royal Commission's Final Report, you can access:

- a **glossary of key terms** used (page 290).
- a **summary table** of the Australian Government's position on each of the 172 recommendations within its primary or shared responsibility (page 278).
- a **state and territory recommendation table** indicating which recommendations are within the primary responsibility of state and territory governments (page 287).

Accessible material

Summaries of the Australian Government Response are available in Easy Read, large print, braille ready format and in 13 languages. An accessible summary video is also available, including Auslan interpretation, captions and audio. Various fact sheets are also available. Visit www.dss.gov.au/DRC-Aus-Gov-Response.

Foreword

We are pleased to present the Australian Government response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission).

The Disability Royal Commission was Australia's largest inquiry into the experiences of people with disability. It highlighted that people with disability are subjected to harm, exclusion, and discrimination at significantly higher rates than people without disability.

As a nation we must do better. We must work together to ensure all Australians can participate as equal members of society, regardless of disability, gender, age, race, culture, religion, or sexual orientation.

The Disability Royal Commission's Final Report includes 222 recommendations and sets out a vision for an inclusive Australia where people with disability live free from harm; where human rights are protected; and where individuals live with dignity, equality and respect, can take risks, and develop and fulfil their potential. **The Australian Government supports this vision.**

The Australian Government has primary or shared responsibility for 172 recommendations. In this initial response we:

- accept or accept in principle 130 recommendations,
- are considering further 36 recommendations, and
- note 6 recommendations.

There are several recommendations that relate to ongoing or recently concluded inquiries or negotiations that require further consideration in consultation with people with disability, state and territory governments and other stakeholders. We will continue to publish responses to outstanding recommendations as this work concludes.

We thank the nearly 10,000 people with disability, their families, friends, representatives and carers who shared their experiences and ideas with the Royal Commission. We also thank the Commissioners and Royal Commission staff for their important work and everyone who contributed to the Australian Government's consultation and engagement process to inform responses and reform. These contributions have already made a difference and will continue to inform national change towards a safe, inclusive and accessible Australia.

We have listened to what is most important to people with disability and will focus the first stage of reform and implementation activities on:

- **Safety:** Developing targets to reduce and eliminate restrictive practices; unifying quality and safeguarding arrangements; ensuring people with disability have access to consistent community visitor schemes as a safeguarding mechanism; improving the safety of women and girls with disability; and continuing the National Disability Abuse and Neglect Hotline.
- **Rights & Anti-Discrimination:** Establishing a new disability advocacy program to better support people with disability to protect and defend their rights; initiating a review and modernisation of the *Disability Discrimination Act 1992*; amending the migration health requirement to be fairer and more inclusive for children with disability; and considering further the Royal Commission's recommended Disability Rights Act alongside the final report of the Parliamentary Joint Committee on Human Rights' Inquiry into Australia's Human Rights Framework.
- **Inclusion & Access:** Reviewing *Australia's Disability Strategy 2021–2031*; improving national approaches to accessible information and communications, including Auslan; consulting on a First Nations Disability Forum or other appropriate shared decision-making mechanism; continuing the Primary Care Enhancement Program for People with Intellectual Disability; working with state and territory governments to improve outcomes for students with disability; and supporting grassroots efforts to break down stigma and improve community attitudes towards people with disability.
- **Employment:** Implementing a new specialist disability employment program to help more people with disability prepare for, find, and maintain suitable employment; establishing a Disability Employment Centre for Excellence to build the capacity of employment service providers to deliver high quality and effective services; and continuing to work with people with disability, their families, representatives, advocates and service providers to evolve the supported employment sector.

This builds on our existing work identified in the Australian Government Progress Update on the Disability Royal Commission and investment to get the National Disability Insurance Scheme (NDIS) back on track, establish additional foundational supports, improve outcomes under *Australia's Disability Strategy 2021–2031*, enhance approaches to inclusion and access for people with disability in mainstream settings, and improve data and research through the National Disability Data Asset and National Disability Research Partnership.¹

We look forward to continuing to work in partnership with the disability community to implement meaningful change to embed our shared vision for an inclusive Australia.



The Hon Amanda Rishworth MP
Minister for Social Services

¹ The Australian Government Progress Update on the Disability Royal Commission is available on the Disability Royal Commission Response Hub at www.dss.gov.au/DRC-Aus-Gov-Response.

Response snapshot

The Australian Government:

- has primary or shared responsibility for **172 recommendations**
- accepts or accepts in principle **130 recommendations**
- is considering further **36 recommendations**, and
- notes **6 recommendations**.

To build on existing funding and commitments to support a safe, inclusive and accessible Australia for people with disability, the Australian Government is making a significant investment towards the first phase of its response to the Disability Royal Commission, including:

\$39.7 million to establish a new disability advocacy program

\$23.3 million to establish a Disability Employment Centre of Excellence

\$227.6 million to implement a new specialist disability employment program

\$1.2 million to develop targets to reduce and eliminate restrictive practices

\$15.6 million to unify national disability quality and safeguarding arrangements

\$6.9 million to review and modernise the Disability Discrimination Act

\$2.6 million for the continued delivery of the National Disability Abuse and Neglect Hotline and the Complaints Resolution and Referral Service

\$12.3 million to improve national approaches to accessible information and communications, including Auslan

\$3.7 million to continue the Primary Care Enhancement Program for People with Intellectual Disability

\$12.1 million to amend the Migration Health Requirement to be fairer and more inclusive for children with disability

\$4.4 million for consistent approaches to community visitor schemes as a safeguarding mechanism

\$2 million towards improving the safety of women and girls with disability

\$19.6 million to support grassroots efforts to improve community attitudes around disability

This builds on the significant investment made over the last three Budgets totalling **more than \$3 billion to build a more inclusive Australia**. This includes considerable investment and action to get the National Disability Insurance Scheme (NDIS) back on track, \$57 million in the 2023–24 Budget to evolve the supported employment sector, \$68.3 million in the October 2022–23 Budget for the analysis, research and delivery of the National Disability Data Asset, as well as the enactment of the *Disability Services and Inclusion Act 2023* to strengthen quality and safeguarding arrangements for people with disability outside the NDIS.

About the Disability Royal Commission

The Disability Royal Commission was established in response to community concern about widespread reports of violence, abuse, neglect and exploitation of people with disability.

In March 2019, the Australian Government, through the Department of Social Services (DSS), consulted on the draft terms of reference with people with disability, their families and carers, disability peak bodies, advocates, human rights organisations, and state and territory governments. Feedback was sought on the draft terms of reference through an online public survey, receiving more than 3,700 responses and 65 written submissions.

The then Governor-General, His Excellency General the Honourable Sir Peter Cosgrove AK (CVO) MC (Retd), issued letters patent on 4 April 2019 establishing the Disability Royal Commission and appointing the following Commissioners:

- The Hon Ronald Sackville AO QC (as Chair of the Royal Commission)
- Ms Barbara Bennett PSM
- Dr Rhonda Louise Galbally AC
- Ms Andrea Jane Mason OAM
- Mr Alastair James McEwin
- The Hon John Francis Ryan AM

The Honourable Roslyn Atkinson AO was appointed to the Royal Commission as its seventh Commissioner on 13 September 2019 and resigned with effect from 24 June 2021.

Letters patent were issued by the Commonwealth and each Australian state. Accordingly, the Royal Commission was conducted, in effect, as seven concurrent Royal Commissions. All state and territory governments supported the establishment of the Disability Royal Commission.

In accordance with its terms of reference, the Disability Royal Commission investigated what governments, institutions and the community should do to:

- prevent and better protect people with disability from experiencing violence, abuse, neglect and exploitation,
- achieve best practice in reporting, investigating, and responding to violence, abuse, neglect and exploitation of people with disability, and
- promote a more inclusive society that supports people with disability to be independent and live free from violence, abuse, neglect and exploitation.

The Disability Royal Commission held a ceremonial opening hearing in Brisbane on 16 September 2019 in which the Chair, the Hon Ronald Sackville AO QC, said:

'The most important part of the Royal Commission's work is our engagement with people with disability, their families, and supporters. Your contributions will be the heart and soul of this Royal Commission. You are the key to its success.'

Over four and a half years of inquiry, the Disability Royal Commission heard from people with disability, their families, organisations, and government officials through 32 substantive public hearings, 1,785 private sessions, 7,944 submissions, and more than 700 community engagements.

In addition to its own publications, which included progress reports, issues papers and public hearing reports, the Disability Royal Commission commissioned 28 external research reports to provide additional data and analysis to inform findings.

The public hearings covered a wide range of topics relating to violence, abuse, neglect and exploitation of people with disability, including: the human rights of people with disability; the experience of women and girls with disability with a particular focus on domestic and family violence; First Nations children with disability in out-of-home care; barriers to employment; the experiences of children and young people with disability in education settings; violence, abuse and neglect in disability services; guardianship, substituted and supported decision-making; and the experiences of people with cognitive disability in the criminal justice system. The final substantive hearing in May 2023 focused on the nature and extent of violence, abuse and neglect

experienced by people with disability over the life course. A final ceremonial closing sitting was held in Sydney on 15 September 2023.

The Disability Royal Commission delivered its Final Report to the then Governor-General of Australia, His Excellency General the Honourable David Hurley AC DSC (Retd), state Governors and territory Chief Ministers on 28 September 2023. The Australian Government tabled the Final Report in the Australian Parliament the next day, on 29 September 2023.

The Final Report comprises 12 volumes, 6,788 pages and 222 recommendations.

It is a critical living resource for governments, organisations, and the wider community to access and engage with into the future. It lays the foundations for a more just and equitable society — one that recognises and values the diverse contributions of people with disability.

Consultation and engagement to inform the Australian Government Response



Public consultation

The Australian Government, at ministerial level and through the Commonwealth Disability Royal Commission Taskforce (Taskforce), has consulted and engaged with people with disability, their families, carers, representative organisations, service providers, unions, and the broader community to inform decision-making on reform in response to the Disability Royal Commission's Final Report and recommendations.

We acknowledge the extensive input of people with disability, their families, carers, advocates, and supporters over the four and a half years of the Disability Royal Commission. We also acknowledge the hurt and trauma associated with sharing these experiences.

We have engaged in consultation with the disability community to better understand the views and perspectives on the Disability Royal Commission's specific recommendations to inform government responses and reform, we have not repeated the work of the Disability Royal Commission.

Following the release of the Disability Royal Commission's Final Report on 29 September 2023, the Taskforce was established to lead national engagement and consultation to coordinate the preparation of the Australian Government's response. Engaging with stakeholders to draw out and understand the nuances of their views of the recommendations was critical to developing an informed Government response and shaping the detailed policy reforms that will follow.

Who we consulted

Everybody was invited to have their say and put forward their views relating to the Disability Royal Commission's recommendations. This included:

- people with disability, their families, and carers,
- advocates and representative organisations,
- disability support providers, unions, and workers, and
- peak bodies, academics, and other organisations.

The Australian Government also acknowledges the Disability Representative Organisations, peak bodies and other organisations that conducted significant independent engagement and consultation within their own membership networks and represented their views to the Taskforce. These efforts have enabled us to have a wider reach into the community, to hear more voices and to better understand what is important to them.

How we consulted

Initial engagement with Disability Representative Organisations and peak bodies was undertaken through existing consultation forums to draw out and understand the nuances of their views of the recommendations and seek input on the approach to consulting. Taskforce representatives also undertook extensive desktop monitoring and analysis of public submissions, commentary and forums on the Disability Royal Commission and attended many forums with disability stakeholders to better understand their response to the Disability Royal Commission recommendations. We heard from various advisory councils, including Australia's Disability Strategy Advisory Council, as well as numerous consultation and inter-jurisdictional forums.

The Government has also engaged with stakeholders and the community through a combination of high-level roundtables, forums, workshops, and individual meetings.

The DSS Engage page on the DSS website was the Taskforce's primary public facing engagement mechanism. It went live shortly after the release of the Disability Royal Commission's Final Report and remained active for the duration of consultations. Interested members of the public were invited to subscribe for updates through the DSS Engage page, to be kept up to date on stakeholder consultation activities.

Public Consultation

A public consultation was opened on 28 November 2023, through an online questionnaire and submission process.

The questionnaire was open to everyone. Respondents were invited to select up to three recommendations they considered the most important to them, and up to three recommendations they did not support. Free text fields were available to provide more information. Respondents were also given the option to provide a written submission to the consultation.

The public consultation closed on 19 January 2024. It received 335 questionnaire responses and 118 written submissions from a wide range of individuals and organisations.

All questionnaire responses and written submissions were analysed and consolidated into a de-identified report outlining key themes of responses. The report is available on the Disability Royal Commission Response Hub at www.dss.gov.au/DRC-Aus-Gov-Response.

What we have heard

The public consultation revealed a high level of overall support for the recommendations of the Disability Royal Commission. Respondents indicated optimism about the potential for Royal Commission recommendations to have a positive impact on the lives of people with disability. Many stakeholders also called for people with disability to be involved in implementation. While many recommendations attracted broad support, some recommendations attracted divergent views, particularly those related to special/segregated education, employment and housing. It is clear community members, like the Disability Royal Commissioners, have differing views on the future of these settings. All stakeholders agree that better accessibility and inclusion of people with disability across mainstream education, employment and housing settings is critical.

Ministerial Roundtables

Four Ministerial roundtables were conducted to bring in stakeholder expertise and to facilitate open dialogue around topics relating to the Disability Royal Commission's Final Report.

Australia's Disability Strategy Roundtable

On 30 January 2024, the Hon Amanda Rishworth MP, Minister for Social Services and the Hon Kate Washington MP, NSW Minister for Disability Inclusion, facilitated an online roundtable with members of Australia's Disability Strategy Advisory Council and Disability Representative Organisations. The roundtable explored opportunities to strengthen *Australia's Disability Strategy 2021–2031* through its implementation, performance measures and accountability structures. Key discussion areas included:

- driving greater accountability, with national approaches to achieving tangible outcomes in key policy areas,
- ensuring a human rights based approach in every action, and greater focus on intersectionality and diversity, and
- effective and equitable co-design of reform.

Intersections with the NDIS Review: Safeguards, Quality and Housing

On 4 March 2024, the Hon Amanda Rishworth MP and the Hon Bill Shorten MP, Minister for the NDIS, facilitated a roundtable with representatives including Disability Representative Organisations, academics, service providers, disability and advocacy organisations.

The roundtable considered intersections between the Disability Royal Commission's recommendations and findings from the independent NDIS Review, particularly those relating to safeguards, quality, and housing. Key discussion areas included:

- strengthening protections for people with disability,
- the regulation of the NDIS,
- innovative housing and living options, and
- improving housing and homelessness outcomes for all people with disability.

First Nations People with Disability

On 13 March 2024, the Hon Amanda Rishworth MP and the Hon Linda Burney MP, Minister for Indigenous Australians, facilitated a roundtable in Darwin to discuss the Final Report recommendations relating to First Nations people with disability. Attendees represented First Peoples Disability Network, First Nations community-controlled organisations and First Nations advocacy organisations. Key discussion topics included:

- current experiences of First Nations people with disability raised through the Disability Royal Commission,
- effective partnership mechanisms that enable First Nations people with disability to set priorities to drive improved outcomes, and
- the importance of embedding cultural capability and responsiveness of supports for First Nations people with disability, including but not limited to remote services.

Embedding Human Rights

On 26 April 2024, the Hon Amanda Rishworth MP and the Attorney-General, the Hon Mark Dreyfus KC MP, co-chaired a virtual roundtable to discuss Disability Royal Commission recommendations relating to embedding human rights. Attendees included the Disability Discrimination Commissioner, representatives from Disability Representative Organisations, the Law Council of Australia, the Human Rights Law Centre and other stakeholders with a key interest in disability rights and justice. The roundtable explored:

- views around embedding human rights and disability-specific rights,
- practical considerations for modernising the *Disability Discrimination Act 1992*,
- improving access to justice for people with disability, including the need for a strong focus on lifting the capability of legal services to enable culturally safe, trauma-informed, and inclusive and accessible legal services,
- ensuring funding and access to legal supports across the spectrum of justice, including for civil law, criminal law, complainants, victims, and perpetrators, and both specialist legal supports for disability services, including and beyond the NDIS, and accessible general legal services, and
- the importance of co-design (with people with disability) on shaping legal and justice policy and service systems.

Next steps

Given the breadth and scope of the recommendations, a staged approach is required to respond and implement changes in response to the Disability Royal Commission's recommendations. It will take time and collaboration to drive meaningful and lasting change. The Government is committed to ongoing consultation with the community, in particular on the implementation of Government reforms. We will continue to engage, communicate and work together to make Australia safe, accessible and inclusive for all people with disability.

A national approach: working with states and territories

The Disability Royal Commission was a national inquiry involving the Australian Government and all state and territory governments. Its Final Report calls for a coordinated approach across all governments.

On 3 November 2023, the Disability Reform Ministerial Council — which includes Commonwealth, state and territory ministers with responsibility for disability policy and services — committed to work collaboratively to progress the necessary reform to make Australia safe and inclusive for all people with disability. It noted that addressing the issues highlighted by the Disability Royal Commission requires a national effort, including all governments and all parts of our community.

Disability Ministers also agreed to include consideration and implementation of responses to the Disability Royal Commission as a standing agenda item on all future Disability Reform Ministerial Council meetings until further notice. This illustrates all governments' commitment to working in a nationally coordinated way to progress integrated reform to enhance the quality and availability of disability and mainstream supports and services, improve safeguarding across all settings, and advance the rights of all people with disability.

In addition to the Disability Reform Ministerial Council, other ministerial councils have collaboratively considered and agreed joint responses to recommendations within the shared responsibility of Australian, state and territory governments. This includes the Standing Council of Attorneys-General; the Women and Women's Safety Ministerial Council; Housing and Homelessness Ministerial Council; Indigenous Affairs Ministers; Education Ministers; Health Ministers; and Police Ministers. Several other ministerial councils will have an ongoing role in implementing the Disability Royal Commission's vision for an inclusive Australia, including, but not limited to, Data and Digital Ministers; Building Ministers; Community Services Ministers; and the Skills and Workforce Ministerial Council.

The Joint Australian, State and Territory Response is available on the Disability Royal Commission Response Hub at www.dss.gov.au/DRC-Joint-Response. It demonstrates a strong collaborative approach to implementing nationally coordinated change in response to the Disability Royal Commission. This builds on National Cabinet's historic agreement on 6 December 2023 to secure the future of the NDIS including through jointly designing additional foundational supports for people with disability.

The Applied Principles and Tables of Support outline the roles and responsibilities of different sectors that deliver supports to people with disability and have informed the handling of joint recommendations.²

² www.dss.gov.au/disability-and-carers-programs-services-government-international-disability-reform-ministerial-council-reports-and-publications/the-applied-principles-and-tables-of-support-to-determine-the-responsibilities-of-the-ndis-and-other-service-systems.

Australian Government policy statement on disability reform



Australian Government policy statement on disability reform

The Australian Government is committed to a national effort and working in partnership with the disability community to implement the necessary reforms to make Australia more inclusive, accessible, and safe.

The Disability Royal Commission's Final Report included wide-ranging recommendations. The response prioritises investment in measures that will deliver better safeguarding, promote inclusion and accessibility, and uphold human rights, and recognises the unique perspectives and experiences of First Nations people with disability. The program of reform activity will be staged over several years and aligned with broader reforms to the disability ecosystem — as well as mainstream system reforms in health, education, and housing — as this supports the ongoing involvement of people with disability and enables lasting change.

Implementing and embedding our shared vision for an inclusive Australia requires a sustained national effort.

The following are the **key principles** that will shape and inform the ongoing development and implementation of the Australian Government's disability reform agenda in response to the Disability Royal Commission.

The Australian Government commits to enabling policy and delivering services that realise the vision set out by the Disability Royal Commission of an Australian community where people with disability:

- live free from violence, abuse, neglect, and exploitation,
- where human rights are protected, and
- individuals live with dignity, equality and respect and can fulfil their potential.

This includes a future where people with and without disability:

- live, learn, work, play, create, and engage together in safe and diverse communities,
- have the power of choice, independence, and the dignity to take risks,
- make significant contributions to communities that value their presence and treat them with respect, and
- are culturally safe and belong in families, communities, and peer networks.

The Australian Government commits to strengthening safeguards, independent oversight and complaint mechanisms that will help to reduce the unacceptable levels of violence, abuse and neglect experienced by people with disability. In many instances this will require working together with state and territory governments to enhance protections and services systems nationally.

The Australian Government commits to listening to the voices of people with disability and working in partnership with the disability community to design, implement and evaluate policies and programs that drive reforms to make Australia more inclusive, accessible, and safe for people with disability.

The Australian Government commits to recognising and responding to the intersectional and diverse needs of people with disability, including women and children; First Nations people; people from culturally and linguistically diverse backgrounds; LGBTIQ+ people; and older Australians. The Australian Government commits to upholding the human rights of people with disability to enable them to live with dignity, equality and respect.

The Australian Government commits to lifting capability across the Australian Public Service to deliver culturally safe, trauma-informed, inclusive, and accessible services. The Australian Government commits to promoting a more inclusive society where people with disability feel they belong, are respected, valued and able to fully contribute. *Australia's Disability Strategy 2021–2031* remains the key national policy mechanism to drive the necessary reforms at a national level.

Overview of investment and action



Safety



Prioritising action to improve the quality of disability services, strengthen safeguards in the community, and better prevent violence, abuse, neglect, and exploitation is central to the Australian Government's initial response to the Disability Royal Commission.

- \$15.6 million to establish a **Quality and Safeguarding Framework and Disability Support Ecosystem Safeguarding Strategy** to unify disability quality and safeguarding arrangements for people with disability across Australia.
- \$4.4 million to ensure people with disability have access to consistent **community visitor schemes** as a safeguarding mechanism.
- \$2.6 million to continue the **National Disability Abuse and Neglect Hotline** and **Complaints Resolution and Referral Service**.
- \$1.2 million towards a whole-of-government approach to **reduce and eliminate the use of restrictive practices**, through establishing targets and performance indicators within the NDIS and developing a joint action plan with states and territories.
- The initial design of a **Risk Profile Model** to better identify NDIS participants who may be at risk of harm and support comprehensive individualised response strategies.
- \$0.5 million to apply a disability lens to the **First Action Plan** of the **National Plan to End Violence Against Women and Children 2022–2032** to identify how each action in the Action Plan will address the needs of women and girls with disability.
- \$0.25 million to ensure **Guidance Materials for Family Domestic and Sexual Violence front line services** are accessible for women and girls with disability in Australia.
- \$1.25 million to expand the **Safer Girls Safer Women Project** to support women, girls and gender diverse people with disability, through implementing **best practice guidelines and learning resources and tools for workplaces** for sexual health, respectful relationships and consent education.

This builds on existing work and investment to strengthen quality and safeguarding for people with disability, including:

- \$160.7 million through the 2024–25 Budget to transform the NDIS Quality and Safeguards Commission’s ability to protect people with disability from abuse, violence and neglect, and to detect and prevent fraud through the **Data and Regulatory Transformation Program**.
- \$142.6 million through the 2023–24 Budget to support the **NDIS Quality and Safeguards Commission in safeguarding NDIS participants**.
- The establishment of 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 release of the new National Disability Insurance Agency (NDIA) **Participant Safeguarding Policy and Implementation Plan** in April 2023.

Rights & Anti-Discrimination



The Australian Government welcomes the Disability Royal Commission's rights-based approach to its inquiry and recommendations and is committed to advancing the rights of people with disability through ongoing law and policy reform, and strengthening on the ground programs that support people with disability to defend and protect their rights.

- \$6.9 million for **disability discrimination law reform**, to undertake a review and modernisation of the *Disability Discrimination Act 1992* in consultation with people with disability.
- \$39.7 million in additional funding to establish a **new individual disability advocacy program**. The new program will bring together current services to establish a streamlined and cohesive delivery model of ongoing individual disability advocacy supports. This will deliver better outcomes for individuals with disability who are at high risk of harm by addressing unmet demand and providing better support capability for the most vulnerable cohorts. It will be informed by and align with work already progressing under the National Disability Advocacy Framework.
- \$12.1 million to amend the **Migration Health Requirement** to be fairer for children with disability who are born and living in Australia.

These measures are consistent with the Government's ongoing commitment to implement the United Nations *Convention on the Rights of Persons with Disabilities* and build on the work already underway to advance the rights of people with disability, including:

- The enactment of the **Disability Services and Inclusion Act 2023** (the DSI Act) to strengthen quality and safeguards arrangements for people with disability outside the NDIS. The DSI Act was developed through extensive consultation with people with disability and seeks to embed human rights principles.
- The development of a new **International Disability Equity and Rights Strategy** to ensure Australia remains a strong and consistent global leader in advancing equity and human rights for persons with disability.

- **Parliamentary Joint Committee on Human Rights Inquiry into Australia’s Human Rights Framework:** In March 2023, the Attorney-General, the Hon Mark Dreyfus KC MP, referred Australia’s Human Rights Framework to the Parliamentary Joint Committee on Human Rights. The Parliamentary Joint Committee on Human Rights tabled its **inquiry report** on 30 May 2024.³ The report provides 17 recommendations, including that the Government re-establish and significantly improve Australia’s Human Rights Framework, enact a Human Rights Act, and enhance the role of the Australian Human Rights Commission. The Government is carefully considering the recommendations alongside the Disability Royal Commission’s recommendations to establish a Disability Rights Act and National Disability Commission.

³ www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/HumanRightsFramework.

Inclusion & Access



To achieve an inclusive society, systems and services must be universally accessible and responsive to the diverse experiences, circumstances and needs of all people with disability. Through the initial response to the Disability Royal Commission, the Australian Government is investing in a range of initiatives to better support inclusion and access, recognising the diverse and intersectional experiences of people with disability and their carers at all life stages. These initiatives include:

- Working with state and territory governments in partnership with First Nations people on consultations to develop a **First Nations Disability Forum** or other appropriate shared decision-making mechanism for the cross-cutting outcome of disability under the National Agreement on Closing the Gap.
- Reviewing **Australia's Disability Strategy 2021–2031** in 2024 to ensure it is strengthened as a key driver in delivering national change in response to the Disability Royal Commission by working with state and territory governments, the Australian Local Government Association, Australia's Disability Strategy Advisory Council, and people with disability, their families, and representative organisations.
- \$12.3 million for a **national approach to accessible information and communications for people with disability**, including the development of an Associated Plan under *Australia's Disability Strategy 2021–2031* building capability across Australia's Public Service agencies to embed accessibility in the policy design and implementation of government policies, programs and services and everyday interactions with the community.
- \$3.7 million to continue the **Primary Care Enhancement Program for People with Intellectual Disability** to support access to health services for people with intellectual disability.
- \$19.6 million to **lift disability responsiveness and capability of key professional workforces** and support **grassroots efforts to improve community attitudes** and understanding of disability.
- Working with state and territory governments in partnership with people with disability to help educators, schools and school systems deliver more inclusive education to improve outcomes for school students with disability.

This complements comprehensive existing commitments and work to support an inclusive and accessible society that supports all people with disability, including people with physical, neurological, neurodevelopmental, psychosocial, sensory, intellectual and cognitive disability. Our existing work goes beyond the Disability Royal Commission's recommendations, including:

- Through the soon-to-be-released **Aviation White Paper**, the Government will implement a range of actions to affirm the rights of people with disability to access air travel, simplify travel processes and provide appropriate avenues to recourse where standards are not met.
- The **National Agreement on Closing the Gap (National Agreement) and Australia's Disability Strategy 2021–2031** provide the overarching policy frameworks that outline the expectations for transformative change at all levels of government for First Nations people with disability. Disability is recognised as a cross cutting outcome under the National Agreement. Both frameworks seek to embed a strengths-based approach. The **Disability Sector Strengthening Plan (DSSP) and the National Disability Footprint**, endorsed by the Joint Council on Closing the Gap, support implementation of Priority Reform Two under the National Agreement to build the community-controlled disability sector.
- Additional investment announced in January 2024 in response to the **NDIS Review** to support access to supports both within and outside the NDIS, including through:
 - \$11.6 million to support work to develop a **Foundational Supports Strategy** and to design additional foundational supports with states, territories, and the community.
 - \$118.1 million for **design and consultation across key recommendations of the NDIS Review**, including around fairer and better ways to access an NDIS budget, improved NDIS home and living options, better ways to access and pay for supports, and best practice early childhood supports.
- Release of the **Early Years Strategy**, which sets out the Government's vision to best support Australia's children and their families. This includes valuing all forms of diversity, such as disability, and ensuring supports and services are equitable, inclusive, and accessible. The Strategy includes a focus on empowering parents, caregivers, and families, which includes enabling and encouraging early access to early childhood supports when required to detect and act on early developmental delay signals.

- Development of a **National Autism Strategy** which will improve life outcomes for all Autistic people in Australia. It will provide, for the first time, a coordinated national approach to services and supports for Autistic Australians and their families.
- In **education**, the Australian Government is providing an estimated **\$3.7 billion** in 2024 to support schools to implement reasonable adjustments through the Schooling Resource Standard **students with disability loading**. The Department of Education will also commence work to inform national system reforms to drive more accessible and inclusive school education and improve outcomes for students with disabilities. To complement this, the Government produces resources to support students, parents, and carers to understand their rights; and support school staff to understand their obligations. The Government also supports professional development for school staff to build skills and understanding around autism through the **Positive Partnerships Program**; and provides funding through the **Higher Education Disability Support Program** to assist universities to support students with disability.
- Almost 2.65 million Australians care for someone with disability, a medical condition, mental illness, or older Australians. In October 2023, the Government announced the development of a **National Carer Strategy** to better support carers. In the 2024–25 Budget, the Government announced \$18.6 million over 5 years to introduce greater flexibility for Carer Payment recipients to manage their work, study, and caring responsibilities.

Employment



The Australian Government is committed to ensuring that Australians with disability of working age have the opportunity to access secure and inclusive work. Achieving this requires lasting reform across the disability employment ecosystem to boost workforce participation, stamp out discrimination in the workplace, and foster a dynamic and inclusive labour market.

Over the next 4 years, the Government has committed over \$5.5 billion to help more people with disability prepare for and find suitable employment. This includes additional investment announced in the 2024–25 Budget, including:

- \$227.6 million in additional funding to implement **a new specialist disability employment program** commencing 1 July 2025. The new program will replace the current Disability Employment Services program and help people with disability, injury or illness find and maintain sustainable employment by delivering high-quality, personalised services.
- \$23.3 million to establish a **Disability Employment Centre of Excellence** to develop best practice, evidence-based information to help providers deliver high quality effective employment services and supports to improve disability employment outcomes.

This builds on existing actions to improve employment outcomes for people with disability:

- The release of the **Employment White Paper**, which followed the **Jobs and Skills Summit** held in September 2022 to explore avenues to achieve full employment, productivity growth and equal opportunities. The White Paper outlines the Government’s vision for a dynamic and inclusive labour market.
- Following the Jobs and Skills Summit, the Business Council of Australia and Australian Network on Disability partnered with the Commonwealth and four large employers to deliver an 18-month **Career Pathways Pilot**. The pilot aimed at increasing understanding across all levels of management of the barriers to career advancement employees with disability may face and provided strategies to reduce those barriers. A total of \$3.3 million in Commonwealth funding was allocated to the pilot.

- Another outcome of the Jobs and Skills Summit was the allocation by the Commonwealth of \$3.3 million in Commonwealth funding to deliver a 12-month **Tourism Local Navigators Pilot**. The pilot tested new ways to connect job seekers with disability to meaningful tourism jobs by supporting selected organisations to provide Local Navigators to act as a connector between small and medium tourism businesses and employment service providers along with people with disability. The Local Navigators helped to reform workplace cultures and employment practices along with building the confidence of employers to employ people with disability.
- In October 2023, the Government also launched the **Carer Inclusive Workplace Initiative** to ensure carers are better supported to participate in the workforce.
- An additional \$57 million committed in the 2023–24 Budget **to evolve the supported employment sector**. Supported employment services support the paid employment of people with disability. They play a vital role in supporting approximately 16,000 people with disability to contribute and connect to their local community through employment. The additional funding will increase the capability of the sector to provide people with disability with high support needs access to a wider range of employment opportunities with appropriately targeted supports. It will also provide access to advocacy support and information for people with disability and their families to build confidence and understanding about rights and options at work.
- A refreshed NDIA **Participant Employment Strategy 2024–26** released on 20 March 2024 to increase the efficiency and effectiveness of NDIS employment supports.
- \$707 million to deliver a new **Remote Jobs and Economic Development Program** in the second half of 2024 that provides people in remote communities with real jobs, proper wages and decent conditions. The program is being developed in partnership with First Nations people and will fund 3,000 jobs over three years. It will support remote communities to determine local projects and job priorities to increase economic opportunities in their areas. The program will support people with disability through boosting the care and support economy in remote areas.

- In November 2022, the Government invested \$2 million to develop disability leaders across Australia through the **Disability Leadership Program**. The pilot was offered through the Australian Institute of Company Directors for people living with disability to boost their leadership and senior executive skills to undertake board positions. Over the two-year pilot, 208 people with disability enrolled in the program, with 87% reporting meeting their goals or aspirations for the course.
- In 2022, the Government amended the **Fair Work Act 2009** to provide greater scope for employees to request flexible work and made the right to request flexible work arrangements an enforceable right. This change will benefit all eligible workers, including workers with disability.
- The Australian Public Service Commission is continuing to develop and implement initiatives to **improve employment outcomes for people with disability in the Australian Public Service**. The Australian Public Service Commission is undertaking a discovery project to ascertain the feasibility of implementing the relevant Disability Royal Commission recommendations across the Australian Public Service.

Australian Government Response



Responses to recommendations

This section details responses to the 172 recommendations in which the Australian Government has primary or shared responsibility.

It includes responses to recommendations both within the Australian Government's sole responsibility, and joint responses to recommendations within the shared responsibility of the Australian Government and state and territory governments. It does not include responses to the 50 recommendations within the sole responsibility of state and territory governments.

Please note the first recommendation in the Royal Commission's Final Report is Recommendation 4.1. This is because there are no recommendations in Volumes 1–3. Accordingly, responses commence from Recommendation 4.1.

Response language and definitions	
Response Position	Definition
Accept	Accept / support the recommendation in full.
Accept in principle	Accept / support the overarching policy intent but may consider different approaches to implementation.
Note	Used for recommendations for which it would not be appropriate to indicate acceptance or rejection, which may be due to the recommendation not being within the Australian Government's policy responsibility or remit.
Subject to further consideration	Indicates the Australian Government is still considering the recommendation. This may be due to a need to await the outcome of related inquiries or to enable further consultation and engagement to inform a response.

Volume 4: Realising the human rights of people with disability

Volume 4 examines Australia's human rights obligations and proposes changes for a stronger and more comprehensive legal framework to protect and advance the rights of people with disability. It includes 34 recommendations, all of which are within the Australian Government's primary or shared responsibility.

Disability Rights Act (Recommendations 4.1–4.21)

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.

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 Convention on the Rights of Persons with Disabilities.

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:
- 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
 - 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.
- c)** The Disability Rights Act should define ‘supports’ broadly.
- 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:
- 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.
- e)** The definition of ‘advocacy service’ in section 7 of the *Disability Services Act 1986* (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’.

Recommendation 4.7 The right to live free from exploitation, violence and abuse

The Disability Rights Act should recognise:

- a) 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
- b) people with disability have the right to accessible information and education on how to avoid, recognise and report exploitation, violence and abuse
- c) people with disability who are victims of any form of exploitation, violence or abuse have the right to:
 - 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.

Recommendation 4.8 The right to liberty and security of person

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.

Recommendation 4.9 The right to equitable access to health services

The Disability Rights Act should recognise the right of people with disability to equitable access to health services. This right should include:

- 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 and actively involving First Nations people with disability in issues that affect them
 - 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.
- b)** The Disability Rights Act should specify the nature of any consultation required and the consequences of a failure to consult.
- 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.
- d)** The *Human Rights (Parliamentary Scrutiny) Act 2011* (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.

Recommendation 4.12 Positive duty to promote disability equality and inclusion

- 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.
- 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:
- 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.

Recommendation 4.14 The duty to provide accessible information

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:

- publishing public information
- consulting or engaging with persons with disability.

Recommendation 4.15 Duties supporting compliance with the Disability Rights Act

To support compliance with the Disability Rights Act, the Act should require Commonwealth entities to:

- 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.

Recommendation 4.16 Interpretation of the Disability Rights Act consistently with international human rights

The Disability Rights Act should require interpretation of the Act to be compatible, as far as possible, with the international human rights 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 with disability (recommended in Volume 11, *Independent oversight and complaint mechanisms*)
 - 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*.
- 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 *Australian Human Rights Commission Act 1986* (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.

Recommendation 4.20 Enabling remedies through the courts

The Disability Rights Act should establish a standalone cause of action under which:

- 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):
 - 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)
- 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
- 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.

Recommendation 4.21 Strengthening awareness and understanding of disability rights

- a) The Disability Rights Act should provide the National Disability Commission with statutory functions to:
 - 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.
- 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 the Disability Rights Act and the *Disability Discrimination Act 1992* (Cth).
- c) The Australian Government should provide the National Disability Commission and the Australian Human Rights Commission with dedicated resources to undertake these roles.

Response to Recommendations 4.1–4.21

Responsibility: **Australian Government**

Response: **Subject to further consideration**

The Australian Government is committed to upholding the rights of people with disability.

On 30 May 2024, the Parliamentary Joint Committee on Human Rights (PJCHR) tabled its **inquiry report** regarding Australia's Human Rights Framework. The PJCHR made 17 recommendations, including that the Government re-establish and significantly improve Australia's Human Rights Framework. The PJCHR recommended the re-established and improved human rights framework include, among other things, the establishment of a federal Human Rights Act and enhancements to the role of the Australian Human Rights Commission.

The Australian Government will further consider the Disability Royal Commission's recommendations in relation to the enactment of a Disability Rights Act, and the accompanying functions and complaints mechanism of a National Disability Commission, alongside the PJCHR's recommendations. This will ensure a holistic approach is taken to ensuring the rights and freedoms of all Australians are respected and protected.

The Government has also continued to progress a range of reforms and measures that will better protect and advance the human rights of people with disability. Key measures include:

Enacting a new Disability Services and Inclusion Act

On 1 January 2024, the *Disability Services and Inclusion Act 2023* (the DSI Act) commenced. The DSI Act replaces the *Disability Services Act 1986* and strengthens quality and safeguard arrangements for people with disability outside the National Disability Insurance Scheme (NDIS). This includes by:

- providing a more agile way to fund disability services and supports
- introducing quality and safeguarding requirements for supports provided outside the NDIS through a mandatory code of conduct, complaints and incident reporting requirements, and certification where required
- in conjunction with other laws, giving effect to Australia's obligations under the United Nations *Convention on the Rights of Persons with Disabilities*.
- introducing a modern, inclusive legislative framework to enable responses to the Royal Commission, and
- supporting people with disability to exercise choice and control in matters that affect their lives, including by participating in the development and review of services and supports.

The DSI Act was developed through consultation with people with disability and seeks to embed human rights principles. Key objects of the DSI Act include, among other things, advancing the inclusion and social and economic participation of people with disability; promoting respect for the inherent dignity, difference and individual autonomy of people with disability; and raising community understanding of barriers to the inclusion and participation of people with disability.

Costs in discrimination proceedings

In November 2023, the Government introduced the Australian Human Rights Commission (Costs Protection) Bill 2023 to Parliament, which would introduce a new costs model for federal discrimination proceedings to reduce the risk of costs orders being made against applicants, including people with disability.

Developing a new International Disability Equity and Rights Strategy

The Australian Government is developing a new International Disability Equity and Rights Strategy to ensure Australia remains a strong and consistent global leader in advancing equity and human rights for people with disability.

Supporting participation at the Conference of States Parties (COSP) to the United Nations *Convention on the Rights of Persons with Disabilities*

The Conference of State Parties (COSP) is the most significant and diverse meeting of people with disability in the world. In 2024, the Government supported 9 Australians representing the disability community to attend the 17th COSP at the United Nations headquarters in New York.

Disability rights in state and territory laws (Recommendation 4.22)

Recommendation 4.22 Strengthening disability rights protection in state and territory laws

- a) States and territories should enact legislation complementary or equivalent to the Australian Disability Rights Act, taking into account their own legal frameworks.
- 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 Convention on the Rights of Persons with Disabilities and is capable of operating concurrently with the Act.

Response to Recommendation 4.22

Responsibility: **Australian, state and territory governments**

Joint response: **Subject to further consideration**

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 appropriate and impactful ways to strengthen disability rights protections.

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.

Disability discrimination reform (Recommendations 4.23–4.34)

Recommendation 4.23 Burden of proof in direct discrimination

The *Disability Discrimination Act 1992* (Cth) should be amended by inserting new subsections 5(1) and 5(1A). The subsections would read as follows:

(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.

(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.

Recommendation 4.24 Reforming indirect discrimination

The *Disability Discrimination Act 1992* (Cth) should be amended by inserting a new subsection 6(3) to substitute existing subsections 6(3) and (4) as follows:

6(3) Subsection (1) or (2) does not apply if avoiding the discrimination would impose an unjustifiable hardship on the alleged discriminator.

Recommendation 4.25 Adjustments

The *Disability Discrimination Act 1992* (Cth) should be amended by replacing all references to 'reasonable adjustments' with 'adjustments'.

Recommendation 4.26 Standalone duty to make adjustments

The *Disability Discrimination Act 1992* (Cth) should be amended to include 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.

Recommendation 4.30 Vilification because of disability

- a) The *Disability Discrimination Act 1992* (Cth) should be amended by inserting a new provision as follows:

Section 39C Vilification because of disability

It is unlawful for a person (the first person) to do an act otherwise than in private, if:

- (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;
 - (b) the act is reasonably likely, in all the circumstances, to incite hatred towards another person or a group of people; and
 - (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.
- 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.

Recommendation 4.31 Disability discrimination and migration law

- a) The Australian Government should initiate a review of the operation of section 52 of the *Disability Discrimination Act 1992* (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.
- b) The review should be conducted with particular reference to the rights recognised by the *Convention on the Rights of Persons with Disabilities* 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.

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.

Response to Recommendations 4.23–4.34

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government is committed to ensuring Commonwealth anti-discrimination legislation works for people with disability and is dedicating \$6.9 million to review and modernise the *Disability Discrimination Act 1992* (Disability Discrimination Act).

The Attorney-General’s Department will review the Disability Discrimination Act to ensure it remains fit-for-purpose, recognising that it has not been substantially amended since 2009.

The review will consider and consult on the Disability Royal Commission's recommended amendments, with a view to strengthening and clarifying protections for people with disability.

The Government is committed to working in partnership with the community, recognising that implementing these recommendations may impact a diverse range of stakeholders. Broad and accessible consultations will be conducted with affected stakeholders, including on potential regulatory impact.

The Department of Home Affairs has completed a review of the Migration Health Requirement, including the Significant Cost Threshold, with a focus on how to balance fairness in the migration system whilst containing public expenditure on health and community services. As part of the review, the views of people with disability, their families, carers, representative organisations, migration agents and the broader community were captured through targeted and public consultation in 2023. The review report contains 9 findings for Government consideration, and is available on the Department of Home Affairs website.

The Government has committed \$12.1 million over four years from 2024–25 and \$5.2 million ongoing to enable special consideration for child visa applicants born and ordinarily resident in Australia with a health condition or disability to enable the grant of a visa.

Volume 5: Governing for inclusion

Volume 5 examines existing national disability policy, strategy and governance arrangements. It includes 7 recommendations, 6 of which are within the Australian Government's primary or shared responsibility.

National disability agreement (Recommendation 5.1)

Recommendation 5.1 A new national disability agreement

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:

- 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).

The ADS, NDIS national agreements and policies, and other national disability frameworks should be schedules to the new National Disability Agreement.

The Agreement should clearly set out roles and responsibilities of parties to the Agreement.

The new National Disability Agreement should be developed and finalised by the end of 2024.

Response to Recommendation 5.1

Responsibility: **Australian, state and territory governments**

Commonwealth: **Subject to further consideration**

ACT, NSW, NT, QLD, SA, TAS, VIC, WA: **Accept in principle**

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.

All governments have agreed to work together, and with the disability community, to:

- 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 Federation 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.

Governments will respond to this recommendation by 31 December 2024, following further consideration alongside relevant recommendations of the NDIS Review.

Review and update Australia’s Disability Strategy (Recommendation 5.2)

Recommendation 5.2 Review and update of Australia’s Disability Strategy

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.

This review and update should:

- 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.

An updated ADS should be released by the end of 2024.

Response to Recommendation 5.2

Responsibility: **Australian, state and territory governments**

Joint response: **Accept**

The Australian Government, state and territory governments, and the 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.

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.

The review will inform the publication of changes to *Australia's Disability Strategy 2021–31* and implementation processes before the end of 2024.

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

Review national strategies (Recommendation 5.4)

Recommendation 5.4 Review of national agreements, strategies and plans

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.

Reviews should consider:

- 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.

National agreements that should be reviewed include the:

- 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.

Other national agreements, strategies and plans to be reviewed should include, but not be limited to, those relating to:

- 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 Preventive health, community health, and mental health
- family and sexual violence, such as the National Plan to End Violence against Women and Children 2022–2032.

The reviews of current agreements, strategies and plans should be completed by the end of 2025.

Response to Recommendation 5.4

Responsibility: **Australian, state and territory governments**

Joint response: **Accept in principle**

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 *Convention on the Rights of Persons with Disabilities*.

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.

Given the scope and complexity of reviewing these agreements, flexibility for delivery timeframes will be required in undertaking this action.

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).

National Disability Commission (Recommendation 5.5)

Recommendation 5.5 Establishment of a National Disability Commission

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:

- 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.

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 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.

- promoting and disseminating 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.

Response to Recommendation 5.5

Responsibility: **Australian Government**

Response: **Subject to further consideration**

On 30 May 2024, the Parliamentary Joint Committee on Human Rights (PJCHR) tabled its **inquiry report** regarding Australia's Human Rights Framework. The PJCHR made 17 recommendations, including that the Government re-establish and significantly improve Australia's Human Rights Framework. The PJCHR recommended the re-established and improved human rights framework include, among other things, the establishment of a federal Human Rights Act and enhancements to the role of the Australian Human Rights Commission.

The Australian Government will further consider the Disability Royal Commission's recommendations in relation to the enactment of a Disability Rights Act and the accompanying functions and complaints mechanism of a National Disability Commission alongside the PJCHR's recommendations. This will ensure a holistic approach is taken to ensuring the rights and freedoms of all Australians are respected and protected.

The Government has continued to progress a range of reforms and measures that will better protect and advance the human rights of people with disability. Further information on these reforms and measures can be found in the response to recommendations 4.1–4.21 and the *Overview of initial investment and action* section of this initial Australian Government Response to the Disability Royal Commission.

New Governance for Disability (Recommendation 5.6)

Recommendation 5.6 New governance arrangements for disability

The Australian Government should establish:

- 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.

People with disability should be recruited to positions within the new department, including into leadership positions.

These new arrangements should be established by the end of 2024.

Response to Recommendation 5.6

Responsibility: **Australian Government**

Response: **Note**

The Australian Government supports strong national leadership on disability policy and programs. The Government currently has two Cabinet positions with responsibility for national disability policies and programs: The Minister for Social Services and the Minister for the National Disability Insurance Scheme (NDIS).

Both federal Cabinet Ministers with responsibility for disability are also members of the Disability Reform Ministerial Council (DRMC), which includes Commonwealth, state and territory ministers with responsibility for disability policy. DRMC meets regularly to consider ways to improve and implement policy through *Australia's Disability Strategy 2021–2031* and the NDIS. It reports to National Cabinet, signifying the importance governments places on matters affecting people with disability.

The Minister for Social Services and Minister for the NDIS are working closely together with relevant Commonwealth, state and territory ministers to drive national change in response to the Disability Royal Commission and NDIS Review to ensure Australia is safe, accessible and inclusive for people with disability. This work will continue to be led by the Department of Social Services, which will continue to work closely with all relevant departments and agencies to drive and promote accessible and inclusive approaches to policy, program and service design and implementation across all systems.

Through the Australian Public Service Disability Employment Strategy (2020–2025), the Government is also supporting the recruitment of people with disability across Commonwealth departments and agencies, including in leadership positions.

Government Focal Points for the United Nations Convention on the Rights of Persons with Disabilities (Recommendation 5.7)

Recommendation 5.7 Focal points across jurisdictions to implement the CRPD

The Australian Government and state and territory governments should ensure each jurisdiction has a designated focal point for matters relating to implementation of the *Convention on the Rights of Persons with Disabilities* (CRPD).

At the Australian Government level, this should be the new Department of Disability Equality and Inclusion, alongside the Attorney-General's Department.

Each *CRPD* focal point should include people with disability in leadership positions.

Each jurisdiction should designate focal points by the end of 2024.

Response to Recommendation 5.7

Responsibility: **Australian, state and territory governments**

Joint response: **Accept in principle**

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 *Convention on the Rights of Persons with Disabilities*.

Australian Government — additional information

At the Australian Government level, the Attorney-General's Department and the Department of Social Services will continue to act as the joint focal point for implementation of the United Nations *Convention on the Rights of Persons with Disabilities*.

Volume 6: Enabling autonomy and access

Volume 6 examines the barriers that impact people with disability being able to exercise autonomy and access services and systems on an equal basis with others. This includes barriers to accessible information and communication, support for decision-making, advocacy, healthcare, and the overuse of restrictive practices in various settings. Volume 6 includes 41 recommendations, 24 of which are within the Australian Government's primary or shared responsibility.

Accessible information and communications (Recommendation 6.1–6.2)

Recommendation 6.1 A national plan to promote accessible information and communications

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:

- 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
- identify and allocate appropriate funding and resources for delivery
- include mechanisms for review and public reporting of progress made against the Associated Plan.

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:

- 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:
 - 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.

The strategy should be developed by September 2024, and implementation of the strategy should begin by January 2025.

Response to Recommendation 6.1

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

All governments support the development of an Associated Plan under *Australia's Disability Strategy 2021–31* to improve the accessibility of information and communications for people with disability.

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 state and territory governments.

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. Scoping and development will commence in 2024.

Australian Government — additional information

In addition to leading on the development of the Associated Plan, the Australian Government will build capability across the Australian Public Service (APS) for effective policy engagement, design and consultation with the disability community. This will enable the APS to embed accessibility in the policy design and implementation of government policies, programs and services and everyday interactions with the community.

Response to Recommendation 6.2

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

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 2021–2031* 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.

Australian Government — additional information

To support delivery of recommendations 6.1 and 6.2, the Australian Government has allocated \$12.3 million to develop an Associated Plan under *Australia's Disability Strategy 2021–2031* to improve national approaches to accessible information and communications for people with disability and build capability across the Australian Public Service for effective policy engagement, design and consultation. The Associated Plan will be developed through consultation and is expected to, among other things:

- create common standards for all government information products, with additional specific standards for emergencies, natural disasters, and for First Nations people with disability
- develop minimum standards for use by disability service providers
- improve national approaches to accessible information and communication for people with disability with diverse or intersecting needs

- develop mechanisms to ensure Government agencies are properly accounting for disability community accessibility needs in their everyday communication products and as part of new policy proposals
- develop mechanisms for sharing best practice and building community organisation capability to improve communication with people with disability, and
- explore opportunities to use innovative technology to support inclusive communications.

Access to interpreters (Recommendation 6.3)

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.

Training for interpreters

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.

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.

Response to Recommendation 6.3

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government supports collaboration between relevant government departments and agencies, including the National Disability Insurance Agency (NDIA), with the National Accreditation Authority for Translators and Interpreters (NAATI) to support people with disability to have access to appropriately skilled and qualified interpreters.

The Australian Government will work closely with NAATI to ensure new and currently credentialed interpreters have access to the necessary disability awareness training required to work effectively and appropriately with people with disability.

The NDIA is committed to making sure the National Disability Insurance Scheme (NDIS) delivers a consistent and high-quality experience for all participants, their families and carers. All participants, carers and guardians must be supported to communicate in their preferred method of communication whenever they interact with the NDIA including the use of NAATI accredited translators and interpreters. The NDIA provides guidance to NDIA staff and partners about how to arrange an interpreter, including allowing extra preparation time so the interpreter can meet with the planner before the participant arrives to understand the context of the meeting. The guidance notes participants should be given the option to request a specific interpreter, although the first principle is to use a NAATI accredited interpreter.

The NDIA's Frontline Essentials Training delivered to new NDIA planning staff and partners in the community includes sessions on arranging an interpreter or translator. The NDIA's IT business system (PACE) also provides guidance for NDIA staff on assisting participants with preferred methods of communication and on booking interpreters. The NDIA also has practice guides on accessible communication and Aboriginal and Torres Strait Islander planning support.

These guides and related training will be reviewed and updated to reflect any changes to how the NDIA works with participants as work continues to improve the NDIS.

Supported decision-making (Recommendation 6.6)

Recommendation 6.6 Supported decision-making principles

- 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.

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.

Principle 2 — Presumption of decision-making ability

All people must be presumed to be able to make decisions.

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.

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.

Principle 5 — Access to support

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.

Response to Recommendation 6.6

Responsibility: **Australian, state and territory governments**

Commonwealth, ACT, NT, QLD, TAS, VIC, WA: **Accept in principle**

NSW, SA: **Subject to further consideration**

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.

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.

New South Wales, South Australia and Western Australia note that consideration of the Disability Royal Commission's supported decision-making principles is subject to legislative review processes in their respective jurisdictions.

Recommendation 6.6 (b)

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.

Australian Government — additional information

The Australian Government is also considering how best to progress national implementation of consistent supported decision-making principles and further opportunities to embed these in the practices of Australian Government services and supports working with people who require decision-making support.

Support and representation data (Recommendation 6.19)

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 Australian Institute of Health and Welfare.

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.

The national approach should include collection and publication of data on:

- 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.

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.

Response to Recommendation 6.19

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

Interpretative declaration (Recommendation 6.20)

Recommendation 6.20 Interpretative declaration

Commissioners Bennett, Galbally, Mason and McEwin recommend the Australian Government withdraw its interpretative declaration in relation to article 12 of the *Convention on the Rights of Persons with Disabilities*.

Response to Recommendation 6.20

Responsibility: **Australian Government**

Response: **Subject to further consideration**

The Australian Government is committed to fulfilling its obligations under the *Convention on the Rights of Persons with Disabilities* (CRPD) to promote, protect and ensure the full and equal enjoyment of the rights of people with disability in Australia.

Australia recognises that persons with disability enjoy legal capacity on an equal basis with others in all aspects of life. Currently, Australia's interpretative declaration to the CRPD states that the Convention allows for fully supported or substituted decision-making arrangements, which provide for decisions to be made on behalf of a person, only where such arrangements are necessary, as a last resort and subject to safeguards.

As outlined in response to recommendation 6.6, the Australian Government recognises and respects the inherent dignity and individual autonomy of all people with disability and is committed to ongoing work to ensure people with disability who may require support to make decisions are provided that support. The Australian Government reaffirms that substituted decision-making should only be used as a last resort and subject to safeguards.

The Australian Government will revisit its interpretative declaration on Article 12 following its work in collaboration with states and territories to consider embedding the Disability Royal Commission's supported decision-making principles outlined at recommendation 6.6 into relevant legislation and policy.

Advocacy (Recommendations 6.21–6.23)

Recommendation 6.21 Additional funding for advocacy programs

- a) For the financial years 2024–25 and 2025–26, the Australian Government should commit additional funding of:
- \$16.6 million per annum for the National Disability Advocacy Program
 - \$20.3 million per annum for the National Disability Insurance Scheme Appeals Program.

These amounts should be indexed to maintain their value in real terms from year to year.

- 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.
- 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.

Recommendation 6.22 Improved data collection and reporting on met and unmet demand for disability advocacy

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:

- 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.

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 Disability Advocacy Framework, and progress this as part of future National Disability Advocacy Frameworks or equivalents.

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.

Publication of the data should commence no later than 1 July 2026.

Recommendation 6.23 Culturally safe disability advocacy

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.

Response to Recommendation 6.21–6.23

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

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.

Australian Government — additional information

As part of its initial response to the Disability Royal Commission, the Australian Government is committing \$39.7 million in additional funding over four years to establish a new individual disability advocacy program. The new program will bring together current services to establish a streamlined and cohesive delivery model of ongoing individual disability advocacy supports. This will deliver better outcomes for individuals with disability who are at high risk of harm by addressing unmet demand and provide better support capability for the most vulnerable cohorts. It will be informed by and align with work already progressing under the National Disability Advocacy Framework.

Health system capability regarding cognitive disability (Recommendations 6.24–6.25)

Recommendation 6.24 Improve implementation planning and coordination for the cognitive disability health capability framework

The Australian Government Department of Health and Aged Care should:

- 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
- develop a monitoring and evaluation framework to coordinate and measure delivery of the expanded capability framework and its implementation.

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

The Australian Government Department of Health and Aged Care should:

- 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.

Response to Recommendations 6.24–6.25**Responsibility: Australian Government****Response: Accept in principle**

The Australian Government is committed to supporting health professionals to provide better quality care to people with cognitive disability.

The Intellectual Disability Education and Training Expert Advisory Group is currently providing advice on the existing work to develop supporting resources for the Intellectual Disability Health Capability Framework, which was finalised in December 2023.

The Australian Government is committed to supporting health professionals through improved training to provide better quality care to people with cognitive disability.

Immediate expansion of the Framework without taking appropriate time to consider the scope and respective sectors' needs would carry significant risks. These include diluting the impact of the current Framework in addressing the specific needs of people with intellectual disability and limiting the ability to address differing needs of people with other forms of cognitive disability. The Framework could serve as a pathway for further development of cognitive disability health training.

Role of Health Ministers in monitoring progress of the intellectual disability health capability framework (Recommendation 6.26)

Recommendation 6.26 Expand the role of the Health Ministers Meeting to monitor health workforce capability development

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.

Response to Recommendation 6.26

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

Reporting by health accreditation authorities (Recommendation 6.27)

Recommendation 6.27 Establish regular progress reporting by accreditation authorities

Accreditation authorities for registered health professions and the peak professional bodies for non-registered health professions should:

- 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 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.

Response to Recommendation 6.27

Responsibility: **Australian Government and non-government**

Australian Government Response to 6.27 (a) and (b): **Accept in principle**

Australian Government Response to 6.27 (c): **Accept**

Reviewing and amending accreditation standards and encouraging or mandating education providers to develop specific curriculum content is the responsibility of accreditation authorities for registered health professions and the peak professional bodies for non-registered health professions. The Australian Government will engage with professional bodies and regulatory authorities to help progress recommendation 6.27.

The Australian Government can support annual reporting processes on progress that might be made by those professional bodies through existing governance structures.

The Government is also working with states and territories on strategic workforce matters through the Health Workforce Taskforce, which is an advisory group that reports to the Health Ministers' Meeting.

Access to clinical placement in disability health services (Recommendation 6.28)

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.

Response to Recommendation 6.28

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government recognises the need to improve opportunities for student placements in the disability sector to ensure students develop skills in disability care and increase the likelihood of students working in this setting on graduation. The Australian Government will consider further opportunities for enhancing clinical placements in a variety of sectors, including disability.

Specialist training in cognitive disability health care (Recommendation 6.29)

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)

Response to Recommendation 6.29

Responsibility: **Australian Government and non-government**

Australian Government Response: **Accept in principle**

The Australian Government accepts in principle recommendations 6.29 (a) and (b) on the promotion and development of continuing professional development (CPD) opportunities on the provision of health care to people with cognitive disability, noting this is the responsibility of national boards and professional associations.

The Australian Government accepts in principle recommendation 6.29 (c), noting the Government's efforts to provide supports through the Primary Care Enhancement Program (PCEP) for People with Intellectual Disability.

Through its initial response to the Disability Royal Commission, the Government has dedicated \$3.7 million to continue PCEP. This will enable Primary Health Networks to continue providing training and resources to general practitioners and health professionals and improve access to resources and quality care for people with intellectual disability.

Expand the National Centre of Excellence in Intellectual Disability Health (Recommendation 6.30)

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.

Response to Recommendation 6.30

Responsibility: **Australian Government**

Response: **Note**

The Australian Government notes this recommendation in its intention to develop centralised leadership in education, training, and practice in the health of people with cognitive disability.

The National Centre of Excellence in Intellectual Disability Health (the Centre) is not an appropriate mechanism to achieve this intent. Simple expansion carries significant risks and would dilute the focus of the Centre on the specific needs of people with intellectual disability. Expansion would also risk limiting the ability to address differing needs of people with other forms of cognitive disability.

The Australian Government supports in principle further development of national leadership in education, training and practice for Autistic people and people with cognitive disability.

Progressing these goals requires further consideration and may involve mechanisms more suitable to the respective sectors' needs. Consultation and integration with other developing strategies and existing research will be necessary.

Right to equitable access to health services (Recommendation 6.31)

Recommendation 6.31 Embed the right to equitable access to health services in key policy instruments

- a)** The Australian Commission on Safety and Quality in Health Care should:
- 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.
- 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.

Response to Recommendation 6.31

Responsibility: **Australian, state and territory governments**

Joint Response to 6.31 (a): **Accept**

Joint Response to 6.31 (b): **Accept in principle**

Recommendation 6.31 (a)

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 and in consultation with Commonwealth and State and Territory health governments, will develop a plan 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.

Recommendation 6.31 (b)

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.

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.

Accessible health care (Recommendation 6.32)

Recommendation 6.32 Increase capacity to provide supports and adaptations through improved guidance, funding and accessible information

The Australian Government and state and territory governments, in consultation with people with disability, should:

- 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:
 - 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.
- 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.
- c)** disseminate information about the provision of adaptations and supports in a range of accessible formats.

Response to Recommendation 6.32

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

The Australian Government and state and territory governments 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.

All governments acknowledge that aspects of this recommendation require further consideration in the context of any changes to Australia's human rights framework.

This recognises that the Disability Royal Commission's proposed Disability Rights Act will be considered alongside the recently published recommendations of the Parliamentary Joint Committee on Human Rights Inquiry into Australia's Human Rights Framework.

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.

Health navigators (Recommendation 6.34)

Recommendation 6.34 Introduce disability health navigators to support navigation of health care for people with disability

Through the Health Ministers Meeting, the Australian Government and state and territory governments should:

- 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
- b) develop a national evaluation framework to assess the impact of disability health navigators and share lessons learned across jurisdictions. Evaluation findings should be published.

Response to Recommendation 6.34

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

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.

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 state and territory health systems. Stakeholders, including people with disability would be consulted as part of the scoping of disability health navigation.

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.

Data collection and reporting on psychotropic medication (Recommendation 6.37)

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:

- 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.

Response to Recommendation 6.37

Responsibility: **Australian Government**

Response: **Accept**

The Australian Government accepts this recommendation in full, as there are safety and quality issues arising from the misuse and overuse of psychotropic medicines. To improve health outcomes for people with cognitive disability or impairment, the Australian Commission on Safety and Quality in Health Care is finalising the Psychotropic Medicines in Cognitive Disability or Impairment Clinical Care Standard (Clinical Care Standard) to provide national clinical guidance on the appropriate management, and use of, psychotropic medicines for people with cognitive disability or impairment.

The Australian Government recognises there is a lack of accessible information and guidance for the health and disability sectors on the use and management of psychotropic medication for people with cognitive disability and will ask the Australian Commission on Safety and Quality in Health Care to provide advice and a plan to further promote the implementation of the Clinical Care Standard, and other measures to minimise and evaluate psychotropic related harms.

Restrictive practices (Recommendation 6.38–6.40)

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:

- 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 with disability, LGBTIQ+ people with disability, and culturally and linguistically diverse people with disability.

Upon completion, the findings of the study should be made publicly available. Interim findings should be published at regular intervals.

Recommendation 6.39 Improving collection and reporting of restrictive practices data

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:

- 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+.

Recommendation 6.40 Targets and performance indicators to drive the reduction and elimination of restrictive practices

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.

Response to Recommendation 6.38

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government supports in principle the National Disability Research Partnership (NDRP) commissioning a longitudinal study of the impact of positive behaviour support and other strategies to reduce and eliminate restrictive practices and supports its co-design with people with disability and other relevant stakeholders.

Further work is recommended to develop the case for such a study noting it would impose significant methodological challenges and may pose risks to study participants. Consideration should also be given to leveraging existing investments in longitudinal studies and longitudinal data assets if feasible to do so.

Once it is fully operational, the newly established independent NDRP is expected to be in a position to support research directly commissioned to it by governments and other organisations, subject to the approval of the NDRP Board. While the NDRP Research Agenda will be responsive to the outcomes of processes such as the Royal Commission, the NDRP will not be the only (or major) vehicle for new research identified through these processes.

Response to Recommendations 6.39 and 6.40

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

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.

Australian Government — additional information

As part of its response to the Disability Royal Commission, the Australian Government is supporting initial work to implement recommendations 6.39 and 6.40 through the investment of \$1.2 million towards a whole-of-government approach to reduce and eliminate the use of restrictive practices. This work will include establishing targets and performance indicators within the NDIS and developing a joint action plan with states and territories.

Non-therapeutic sterilisation (Recommendation 6.41)

Recommendation 6.41 Legislative prohibition of non-therapeutic sterilisation

- a) All jurisdictions should amend or enact legislation prohibiting non-therapeutic procedures resulting in permanent sterilisation of people with disability, except where:
 - 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.
- b) All jurisdictions should amend or enact legislation in accordance with paragraph a) by the end of 2024.
- 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.

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+.

- d) 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.

Response to Recommendation 6.41

Responsibility: **Australian, state and territory governments**

ACT and WA: **Accept in principle**

Commonwealth, NSW, QLD, NT, SA, TAS, VIC: **Subject to further consideration**

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.

The need to protect the privacy of individuals is relevant in considering approaches to expanding data collection and reporting.

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.

Australian Government — additional information

As sterilisation is a surgical procedure, state and territory jurisdictions are better placed to regulate this practice. The Commonwealth does not currently have any jurisdiction in relation to sterilisation of adults; this is the responsibility of states and territories. Very rarely, sterilisation cases may come before the family law courts for decision under the welfare of children power in the *Family Law Act 1975*.

The Australian Government supports greater publication of data on the sterilisation of people with disability. Further consideration would be required to ensure accurate data can be published while protecting the privacy of individuals.

Volume 7: Inclusive education, employment and housing

Volume 7 considers the experiences of people with disability in accessing inclusive education, employment and housing. It includes 44 recommendations, 35 of which are within the Australian Government's primary or shared responsibility.

Inclusive education (Recommendations 7.2, 7.3, 7.6 and 7.13)

Recommendation 7.2 Prevent the inappropriate use of exclusionary discipline against students with disability

State and territory educational authorities should review all regulations, rules, procedures and other instruments regulating exclusionary discipline to ensure they:

- adopt the principle that education providers:
 - 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
- support students with disability to re-engage in education post exclusion.

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 *Disability Discrimination Act 1992* (Cth) should be amended to cover 'suspension and exclusion' as well as expulsions.

Recommendation 7.3 Improve policies and procedures on the provision of reasonable adjustments to students with disability

- a) State and territory educational authorities should develop and make available in accessible form:
- 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 *Disability Standards for Education 2005* (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
 - 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.

- b) State and territory educational authorities should ensure that education providers have greater access to tools and resources to:
- 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 *Disability Discrimination Act 1992* (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.
- 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).

Recommendation 7.6 Student and parental communication and relationships

- 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:
- 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.

- 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.
- 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.
- 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.
- e) The Australian Government through the responsible minister, should consider updating the *Disability Standards for Education 2005* (Cth) to:
 - 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.

Recommendation 7.13 National Roadmap to Inclusive Education

- a) The Education Ministers Meeting should publicly release a 'National Roadmap to Inclusive Education' for students with disability. The roadmap should:
- 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.
- b) State and territory education ministers should report annually to the Education Ministers Meeting on progress against agreed milestones and associated outcome performance measures in the roadmap. Annual progress reports should outline actions to overcome identified barriers to progress and be publicly released.
- 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.

Response to Recommendations 7.2, 7.3, 7.6 and 7.13

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

Education Ministers commit to work in partnership with people with disability to set out how this vision will be achieved over time.

Australian Government — additional information

The Australian Government has done significant work to implement recommendations arising from the 2020 Review of the *Disability Standards for Education 2005* (the Standards), including support for educators to meet their obligations and new co-designed resources for students with disability and their families on their rights.

The next review of *the Standards* will occur in 2025.

Education workforce capability and complaints management (Recommendations 7.8 and 7.10)

Recommendation 7.8 Workforce capabilities, expertise and development

Knowledge and skills

- 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.
- 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.

Continuing professional development

- 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.

Disability expertise and skills shortages

- 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.
- e) State and territory governments should increase access to expertise in inclusive education in government schools by:
 - 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.

Recommendation 7.10 Complaint management

- 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:
- 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
 - 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.
- b) The Australian Government should include new duties and measures relating to complaint management procedures in the Disability Standards for Education 2005 (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.
- 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.

- d) School principals should ensure their school-level operating policies and procedures for handling complaints:
- satisfy the Education Standards requirements
 - are student-centric, accessible, efficient, safe, trauma-informed and culturally appropriate
 - are observed in practice.

Response to Recommendations 7.8 and 7.10

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

Australian Government — additional information

In response to a recent review of Initial Teacher Education all Education Ministers agreed to amend accreditation standards and procedures to require content in Initial Teacher Education programs that builds teachers' responsiveness to the needs of diverse students, including content on students with disability, by the end of 2025. The amendments were agreed at the 11 December 2023 meeting of Education Ministers and have been published by the Australian Institute for Teaching and School Leadership as an addendum to the Accreditation Standards and Procedures.

Education data, evidence and funding (Recommendations 7.9 and 7.12)

Recommendation 7.9 Data, evidence and building best practice

Data development and collection

- a)** The Education Ministers Meeting should:
- 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 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:
 - student experiences
 - school outcomes for students with disability
 - progress in addressing barriers to inclusive education practices.
- 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.
- c)** State and territory school registration authorities should:
- 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.

Monitoring and reporting

- 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:
- the educational experiences of students with disability
 - outcomes of students with disability
 - progress in addressing barriers to inclusive education practices.
- e) To improve reporting of disability data, the Education Ministers Meeting should:
- 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.

Improving the evidence base

- f) To improve the evidence base for best practice for inclusive education, the Education Ministers Meeting should commission the Australian Education Research Organisation to:
- 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.

Recommendation 7.12 Improving funding

- 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.
- 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.
- c) State and territory governments should ensure they are using a 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.
- d) State and territory education departments should improve transparency on the use of disability funding in the government school sector by:
 - 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.
- 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.

Response to Recommendations 7.9 and 7.12

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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 recommendations will require consideration of impacts on workload for schools and data management systems.

State and territory governments will consider how to deliver the intent of these recommendations within their jurisdictions.

Australian Government — additional information

In 2024, the Australian Government is providing an estimated \$29.1 billion in recurrent funding for schools under the Schooling Resource Standard funding arrangements, of which an estimated \$3.7 billion is being provided under the student with disability loading.

Phasing out segregated education (Recommendations 7.14–7.15)

Recommendation 7.14 Phasing out and ending special/segregated education

Commissioners Bennett, Galbally and McEwin recommend:

- a) The Australian Government and state and territory governments should recognise that inclusive education as required by article 24 of the Convention on the Rights of Persons with Disabilities is not compatible with sustaining special/segregated education as a long-term feature of education systems in Australia.
- b) As part of the National School Reform Agreement 2025–2029, the Education Ministers Meeting should agree to:
 - 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.
- 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:
 - 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
 - no students remaining in special/segregated schools by the end of 2051.
- 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.

- 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.
- f) Consistent with phasing out and ending special/segregated education, states and territories should implement the following recommendations:
 - when no students are in special/segregated schools, the sunsetting of:
 - 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):
 - 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.

Recommendation 7.15 An alternative approach

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 for post-school transition, including assistance in planning and preparing for further study and training
 - 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.
- 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.

Response to Recommendations 7.14–7.15

Responsibility: **Australian, state and territory governments**

Joint Response: **Note**

The Australian Government and state and territory governments note the differing views held by Commissioners and the community on special / segregated settings.

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.

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.

Disability Employment Services (Recommendation 7.16)

Recommendation 7.16 Priorities for inclusion in the new Disability Employment Services model

The Australian Government Department of Social Services should ensure that the design of the new Disability Employment Services model:

- is developed using inclusive design principles, and co-designed by people with disability who are employed as paid members of the design team
- adopts customised employment models as a core component of service provision
- 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
- 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.

Response to Recommendation 7.16

Responsibility: **Australian Government**

Response: **Accept**

The Australian Government has announced an additional **\$227.6 million** to implement a new specialist disability employment program commencing on **1 July 2025**. The new program will replace the current Disability Employment Services program and help people with disability, injury or illness find and maintain sustainable employment by delivering high-quality, personalised services. The design of the new program addresses key elements proposed in this recommendation.

The new program will focus on improving the quality of services and provide personalised supports to people with disability. It will include an intensive and flexible service that will be tailored to individual circumstances. Providers will assist more people with disability with their employment and career goals through expanded eligibility. An estimated 15,000 additional people with disability will be able to voluntarily access the program each year, including those with less than 8 hours per week work capacity and volunteers who are not in receipt of an income support payment. The new program will benefit employers with access to improved supports to employ people with disability and support them in the workplace. Employers will also benefit from a simplified and increased wage subsidy that will pay up to \$10,000 when hiring an eligible program participant to ensure they are well-supported in the workplace.

The Australian Government has undertaken extensive consultation with the disability employment sector to inform the new specialist disability employment program and further consultation will be undertaken on how the new program will work ahead of implementation.

Training and education resources for disability employment services staff (Recommendation 7.17)

Recommendation 7.17 Develop education and training resources for Disability Employment Services staff

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:

- disability awareness
- cultural competence
- human rights
- customised employment
- employer engagement
- Disability Employment Services guidelines and procedures.

Response to Recommendation 7.17

Responsibility: **Australian Government**

Response: **Accept**

The Australian Government has committed **\$23.3 million** to establish a Disability Employment Centre of Excellence, which will develop best practice, evidence-based information and training to help disability employment service providers deliver high quality and effective employment services.

Consistent with this Disability Royal Commission recommendation, the Centre will ensure employment service providers and staff have access to clear and useful information and training on disability awareness, cultural competency, human rights, customised employment, and employer engagement. It will complement the role of the current JobAccess service, which builds employer capability and disability confidence, and facilitates access to supports for workplace adjustments, advice and training.

Recognising that some people with disability have additional or intersectional barriers to employment and communication, the Centre will ensure disability employment resources and tools are culturally appropriate and accessible, with a focus on supporting employment services for culturally and linguistically diverse, First Nations, women, and LGBTIQ+ people with disability.

Disability employment in the public sector (Recommendations 7.18–7.23)

Recommendation 7.18 Establish specific and disaggregated targets for disability employment in the public sector

The Australian Government and state and territory governments should adopt specific and disaggregated targets to increase the proportion in the public sector of:

- employees with disability at entry and graduate levels
- employees with disability at executive levels
- employees with cognitive disability.

Public sector targets should be supported by:

- 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.

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.

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.

Recommendation 7.20 Clarify the application of the merit principle 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:

- specifically address the importance of having a diverse public sector workforce that reflects the community it serves
- provide guidance in considering the need for diversity in the application of the merit principle in recruitment.

Recommendation 7.21 Introduce consistent adjustment principles and adjustment passports

a) The Australian Public Service Commission should:

- 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:
 - 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.

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.

Recommendation 7.22 Public reporting on public sector disability employment strategies and targets

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.

Recommendation 7.23 Strengthen disability employment procurement policies

The Australian Government and state and territory governments should adopt procurement policies that:

- 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.
- 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).

Response to Recommendations 7.18, 7.19, 7.21, 7.22 and 7.23

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

Response to Recommendation 7.20

Responsibility: **Australian Government**

Joint Response: **Accept in principle**

The Australian Government and state and territory governments support continued action to increase opportunities for people with disability in public sector employment across Australia.

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.

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.

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.

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.

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.

Australian Government — additional information

The Australian Public Service Commission (APS Commission) is undertaking a phased, sequenced project to consider the feasibility of implementing recommendations 7.18 to 7.22 through the APS Commission's Disability Royal Commission Discovery Project.

Phase 1 of the project (recommendations 7.18 and 7.21) will include a stocktake of agency activities across the Australian Public Service, review of lessons learned and identification of the feasibility or barriers to implementation of the recommendations.

Disability Employment Rights Council (Recommendation 7.24)

Recommendation 7.24 Convene a Disability Employment Rights Council

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.

Response to Recommendation 7.24

Responsibility: **Australian Government**

Response: **Note**

The Australian Government recognises the benefits of bringing together key disability, employee and employer representatives, and people's organisations, regulators, and policy bodies to discuss how legal and regulatory frameworks can be used or clarified to improve outcomes for people with a disability at work. Existing forums can be leveraged for this collaboration as required.

The Government has continued to progress a range of reforms and measures that will better protect and advance the human rights of people with disability and is undertaking significant reform and investment to drive quality employment outcomes and help more people with disability prepare for and find suitable employment. Over the next 4 years, the Government has committed over \$5.5 billion towards disability employment, including an additional \$227.6 million to implement a new specialist disability employment program commencing on 1 July 2025 and \$23.3 million to establish a Disability Employment Centre of Excellence.

Further information on these reforms and measures can be found in the responses to recommendations 4.1 to 4.21, 7.16, 7.17, and the *Overview of initial investment and action* section of this response.

Definition of 'disability' in the Fair Work Act (Recommendation 7.25)

Recommendation 7.25 Amend the *Fair Work Act 2009* (Cth)

The *Fair Work Act 2009* (Cth) should be amended to:

- a) ensure the definition of 'disability' is consistent with the *Disability Discrimination Act 1992* (Cth)
- b) remove the words 'physical and mental' preceding 'disability' in sections 351 and 772.

Response to Recommendation 7.25

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government supports strengthening workplace protections against discrimination for people with disability by clarifying what constitutes a disability for the purposes of the anti-discrimination provisions of the *Fair Work Act 2009* (Fair Work Act).

The Government has committed to review and modernise the *Disability Discrimination Act 1992* (Disability Discrimination Act) to strengthen protections against discrimination for people with disability, including in respect of employment.

Alongside the review, the Department of Employment and Workplace Relations will, in consultation with the Attorney-General's Department, consider interactions between the Disability Discrimination Act and other relevant laws, including the Fair Work Act, building on consultation undertaken as part of the 2023 Closing Loopholes reforms to the Fair Work Act.

The Government will act on this recommendation once the Disability Discrimination Act review is completed, to ensure a harmonised response across the human rights and workplace relations frameworks.

Inherent requirement exception in the Disability Discrimination Act (Recommendation 7.26)

Recommendation 7.26 Amend the Disability Discrimination Act 1992

Section 21A of the *Disability Discrimination Act 1992* (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:

- nature and extent of any adjustments made
- extent of consultation with any person with disability concerned.

Response to Recommendation 7.26

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government accepts in principle recommendations to amend the *Disability Discrimination Act 1992*. The Government will consider Recommendation 7.26 as part of its review of the Disability Discrimination Act, to which the Government has committed \$6.9 million over four years. Further information is included in the Government's response to recommendations 4.23–4.34.

Fair Work Ombudsman referral mechanism (Recommendation 7.27)

Recommendation 7.27 Enable a Fair Work Ombudsman referral mechanism

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:

- consider a complaint may be best addressed by the Fair Work Ombudsman
- have the complainant's consent to do so.

The referral mechanism should be available in instances where a matter was initially referred by the Fair Work Ombudsman to a relevant authority.

Response to Recommendation 7.27

Responsibility: **Australian Government**

Response: **Accept**

The Fair Work Ombudsman's (FWO) existing statutory functions allow for matters relating to potential contraventions of the *Fair Work Act 2009* (Fair Work Act), and involving an employee with disability, to be referred back to the FWO by relevant authorities.

Following Public Hearing 19 of the Disability Royal Commission, in September 2023 the FWO entered into formal arrangements with the Australian Human Rights Commission (AHRC) and the Fair Work Commission (FWC) to facilitate referrals of unresolved matters involving allegations of serious and/or systemic disability discrimination and certain other unlawful conduct under the Fair Work Act, to the FWO for potential investigation and enforcement action.

Where the AHRC or FWC assesses that an unresolved matter is within scope of the arrangements, they will provide the complainant with information to assist in deciding whether to refer their matter. The scope of the arrangements include, matters that were initially referred by the FWO to the AHRC or FWC.

The agencies will review the arrangements on a periodic basis to ensure they are operating efficiently and effectively under the existing regulatory frameworks.

Information about wages and the Disability Support Pension for employees with disability working in Australian Disability Enterprises (Recommendation 7.28)

Recommendation 7.28 Improve information about wages and the Disability Support Pension

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:

- open employment, including wage conditions
- how receipt of the Disability Support Pension (DSP) interacts with a person's wages, including:
 - 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.

Response to Recommendation 7.28

Responsibility: **Australian Government**

Response: **Accept**

To deliver information supports for people with disability, the Australian Government is implementing a new Disability Employment Advocacy and Information Program. The \$9.8 million program will run till 30 June 2027, and be delivered by Inclusion Australia, in partnership with Disability Advocacy Network Australia. Under this program, people with high support needs and their families and carers will be provided with advocacy supports and information to build their confidence and understanding about their rights and options at work. The program will deliver:

- Case-based advocacy support, where people with high support needs and their families would have the opportunity to access short term, on-on-one assistance to solve a particular issue.
- Group-based workshops, events, or information sessions for people with high support needs, both online and in person.
- Group-based workshops, events or information sessions for families and carers of people with high support needs, both online and in person.

NDIS Participant Employment Strategy (Recommendation 7.29)

Recommendation 7.29 Embed an ‘open employment first’ approach in the NDIS Participant Employment Strategy

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:

- 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:
 - 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:
 - transition from Australian Disability Enterprises to open and integrated employment settings
 - provide ongoing support in open and integrated employment settings

Response to Recommendation 7.29

Responsibility: **Australian Government**

Response: **Accept**

The National Disability Insurance Agency (NDIA) released the next iteration of the National Disability Insurance Scheme (NDIS) **Participant Employment Strategy 2024–2026** (Strategy) on 20 March 2024.

The Strategy was developed in consultation with Disability Representative Organisations, providers and participants and outlines the NDIA's commitment to deliver quality planning for employment and provide support to employers engaging with NDIS participants.

Through the Strategy's Action Plan, in 2024 the NDIA has:

- developed and implemented best practice guidance for Local Area Coordinators (LAC) and NDIA staff on planning for employment across life stages, with a focus on supporting participants into open and integrated employment settings
- refreshed staff training, guidance, and resources and will establish further capability and quality measures for LAC and planning staff around employment conversations, planning decisions and support for plan implementation
- supported reform of disability enterprises by fostering a more comprehensive service offering that promotes inclusive employment outcomes, for example transitioning to open employment or development of innovative and inclusive social enterprise models, and
- provided targeted information for employers on customised employment, how to tap into the NDIS talent pool and what support NDIS participants can use at work.

Inclusive employment options for people working in Australian Disability Enterprises (Recommendation 7.30)

Recommendation 7.30 Support the transition to inclusive employment

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.

The plan should incorporate:

- 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 Employment Services to ensure different employment services work cohesively to deliver supports for people with intellectual disability and others.

Response to Recommendation 7.30

Responsibility: **Australian Government**

Response: **Accept in principle**

As part of the 2023–24 Budget, the Australian Government announced a \$52.7 million investment to help strengthen the supported employment sector. These initiatives will support people with disability to move to inclusive, open employment options in a range of settings, including:

- a Structural Adjustment Fund, which will provide grants to enable supported employment services and social enterprises to evolve their business models to better meet community expectations, and create sustainable employment opportunities for people with disability
- a Disability Employment Advocacy and Information Program, which will provide people with high support needs, their families, and carers, with access to advocacy and information supports to build their capacity to be able to advocate for their rights and options at work, and
- Disability Employment Expos, which will be open to people with high support needs and their families and provide them with information on a range of employment pathways and available supports.

These initiatives, as well as other state/territory initiatives, are outlined in the Supported Employment Plan (the Plan), which was endorsed by all state and territory Disability Ministers and published 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 wide range of settings. Initiatives listed in the Plan will be reported on to the Disability Reform Ministerial Council every 12 months, and the Plan will be updated in mid-late 2024 to reflect actions being taken in response to the Disability Royal Commission and the NDIS Review. The Government will continue to consult about what further steps are needed.

More broadly, work is underway to ensure the Disability Employment Services program is more accessible and effective for people working in Australian Disability Enterprises, and other people with high support needs. This work includes:

- Disability Employment Pilots, which will support different systems (Disability Employment Services, National Disability Insurance Scheme, Disability Support Pension) to work together to support options and choice for employment for people with disability, and
- a phased approach to disability employment services reform with a new specialist disability employment program that focuses on improving the quality of services provided and removing barriers to accessing the program for people with high support needs. As outlined under recommendation 7.16, the new specialist disability employment service, will expand eligibility to include voluntary participation in the program for those with less than 8 hours per week work capacity and people who are not in receipt of an income support payment.

Raise subminimum wages (Recommendation 7.31)

Recommendation 7.31 Raise subminimum wages

- 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:
 - 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.
- b) A review of the scheme should be undertaken by the Disability Reform Ministerial Council after five years of operation.
- 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.

Response to Recommendation 7.31

Responsibility: **Australian Government**

Response: **Subject to further consideration**

The Australian Government requires further consultation with a range of stakeholders before committing to broad reform for supported employee wages. The Disability Royal Commission commissioned research and modelling into the impacts and costs of the proposed wage increase, with modelling indicating there could be significant job losses for people with disability being paid supported wages.

Consultation will require a strong focus on the impact of implementation on supported employees, as outlined in the Royal Commission's Final Report.

The independent industrial relations tribunal, the Fair Work Commission (FWC) is responsible for making, reviewing, and varying modern awards, including setting wage rates and classifications, through consultation with affected parties. The most recent review of the Supported Employment Services Award 2020 was handed down in December 2022 following extensive consultation over several years.

More broadly, work is underway to strengthen the supported employment sector (as outlined in response to Recommendation 7.30). One of the goals of this work is to increase the range of high quality, well-paid employment opportunities available for people with disability.

Segregated employment (Recommendation 7.32)

Recommendation 7.32 End segregated employment by 2034

- 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.
- b) The National Inclusive Employment Roadmap should be centred on the following principles:
 - equal access for people with disability to all opportunities for employment, starting with the Australian Public Service and state and territory public services
 - increased availability of jobs for people with disability, especially in:
 - 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

- c) The National Inclusive Employment Roadmap should address:
- 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
 - support for people with disability to transition to open employment through programs such as the School Leaver Employment Supports program.
- 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).
- e) The implementation of the National Inclusive Employment Roadmap should be monitored by the Disability Reform Ministerial Council.

Response to Recommendation 7.32

Responsibility: **Australian, state and territory governments**

Joint Response: **Subject to further consideration**

Supported employment refers to jobs where people with high employment support needs can receive extra support while they are at work.

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.

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.

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.

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.

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, albeit diminishing, role in providing employment opportunities, especially for people with intellectual or cognitive disability.

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.

Australian Government — additional information

The Australian Government acknowledges the need for improved pathways from supported to open employment. As outlined in response to recommendation 7.30, as part of the 2023–24 Budget, the Australian Government announced a \$52.7 million investment to help strengthen the supported employment sector and support people with disability to move to inclusive, open employment options in a range of settings. This investment includes:

- a Structural Adjustment Fund, which will provide grants to enable supported employment services and social enterprises to evolve their business models to better meet community expectations, and create sustainable employment opportunities for people with disability
- a Disability Employment Advocacy and Information Program, which will provide people with high support needs, their families, and carers, with access to advocacy and information supports to build their capacity to be able to advocate for their rights and options at work, and
- Disability Employment Expos, which will be open to people with high support needs and their families and provide them with information on a range of employment pathways and available supports

Prioritise people with disability in key national housing and homelessness approaches (Recommendation 7.33)

Recommendation 7.33 Prioritise people with disability in key national housing and homelessness approaches

- 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 of housing and homelessness reforms
 - 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
 - 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.
- 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.

Response to Recommendation 7.33

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

The Australian Government and state and territory governments recognise the additional barriers people with disability face in accessing appropriate housing, and the disproportionate risks and impacts of homelessness among people with disability.

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.

All governments have committed to an ambitious housing reform agenda to boost the supply of all housing, and deliver housing and homelessness supports for vulnerable communities.

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:

- The National Agreement on Social Housing and Homelessness (replacement of the NHHA) is designed to help people who are experiencing, or are 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 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, policies and action plans developed under the agreement, and the monitoring and evaluation of implementation and outcomes for people with disability.
- 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 *National Housing Supply and Affordability Council Act 2023*, acknowledges the importance of accessibility for people with disability as it is one of the areas of expertise considered when appointing members.

In addition, other housing policies and programs recognise the importance of supporting people with disability. For example:

- 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 Livable Housing Australia Silver level accreditation.

Include homelessness in Australia’s Disability Strategy (Recommendation 7.34)

Recommendation 7.34 Include homelessness in Australia’s Disability Strategy

The Australian Government should increase the focus on homelessness in Australia’s Disability Strategy by:

- a) ensuring consultations concerning, and reviews of, Australia’s Disability Strategy include people with disability at risk of experiencing homelessness and their representative organisations
- b) expressly including homelessness as a policy priority within the ‘Inclusive Homes and Communities’ key outcomes.

Response to Recommendation 7.34

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept**

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.

Preventing homelessness when people with disability transition from service or institutional settings (Recommendation 7.39)

Recommendation 7.39 Preventing homelessness when people with disability transition from service or institutional settings

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:

- developing and implementing individual plans for people with disability leaving service or institutional settings to identify housing, services and supports for a successful transition into secure housing
- 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.

Response to Recommendation 7.39

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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, focused, 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.

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.

Address homelessness for people with disability in the National Housing and Homelessness Plan (Recommendation 7.40)

Recommendation 7.40 Address homelessness for people with disability in the National Housing and Homelessness Plan

In developing the National Housing and Homelessness Plan, the Australian Government, working with state and territory governments, should:

- 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
- 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
- c) expand pathways and support for people with disability out of homelessness, including through Housing First programs
- 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.

Response to Recommendation 7.40

Responsibility: **Australian, state and territory governments**

Joint Response: **Subject to further consideration**

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.

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 deliver housing and homelessness supports for vulnerable communities, including people with disability.

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.

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:

- 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 households, but will acknowledge that some groups, including people with disability, face additional barriers; 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.

Group home reform (Recommendation 7.41)

Recommendation 7.41 Group home reform

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:

- 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)
- 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)
- c) developing an implementation plan for the Action Plan, with:
 - explicit timeframes for delivery
 - annual reporting on progress and outcomes to the Disability Reform Ministerial Council.

Response to Recommendation 7.41

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government is committed to ensuring NDIS participants receive safe, quality supports and can exercise choice and control over their support arrangements. Through the measure *Building a strong ecosystem of disability supports*, the Government has committed \$49.7 million for design and consultation to support better home and living options for NDIS participants. The measure includes targeted compliance activities and an education campaign to ensure Specialist Disability Accommodation (SDA) providers are aware of and meeting their existing conflict of interest obligations.

Further, the measure includes funding to conduct design activities to explore the legal separation of SDA and Supported Independent Living (SIL).

The NDIS Commission is currently working towards completion of the Own Motion Inquiry into Aspects of Supported Accommodation existing action plan elements which includes consideration of best practice identified through the Inquiry.

Access to alternative housing options (Recommendation 7.42)

Recommendation 7.42 Improve access to alternative housing options

The National Disability Insurance Agency (NDIA) should work with the Australian Government, and state and territory governments, to expand 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:

- a) an increase in innovative housing options, such as by —
 - expanding the NDIA Home and Living Demonstration Projects with additional rounds from 2024. These rounds should —
 - 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.
- 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.

- 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 —
- an individualised assessment of a person’s housing needs and preferences, with the option for this to be regularly updated
 - 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.
- d) prioritisation of the implementation of the NDIA Home and Living Framework, including —
- 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 *Convention on the Rights of Persons with Disabilities*
 - 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 —
 - 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.

Response to Recommendation 7.42

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

The Australian Government and state and territory governments support the development of a diverse range of inclusive housing options for people with disability.

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.

Approaches to specific reform and implementation to address the intent of this recommendation will be considered alongside relevant NDIS Review recommendations and actions.

Phasing out group homes (Recommendation 7.43–7.44)

Recommendation 7.43 A roadmap to phase out group homes within 15 years

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 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
 - prices are set to encourage development of best practice examples of SDA.
- c) transition support for people currently living in group homes, including through:
- 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
- d) implementation planning undertaken through co-design with people with disability and the disability community, including:
- 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.

Recommendation 7.44 A roadmap to phase out group homes over a generational timeframe

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.

Response to Recommendation 7.43 to 7.44

Responsibility: **Australian, state and territory governments**

Joint Response: **Subject to further consideration**

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.

In January 2023, the NDIS 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 experienced 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 properties with 610 residents.

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.

Volume 8: Criminal justice and people with disability

Volume 8 considers the experience of people with disability in contact with the criminal justice system. It includes 24 recommendations, 10 of which are within the Australian Government's primary or shared responsibility.

Disability awareness in OPCAT monitoring (Recommendation 8.2)

Recommendation 8.2 Disability awareness in OPCAT monitoring

In implementing the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 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:

- 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.

Response to Recommendation 8.2

Responsibility: **Australian, state and territory governments**

Commonwealth, ACT, NT, TAS: **Accept in principle**

NSW, QLD, SA, VIC, WA: **Subject to further consideration**

The following response is provided by the Commonwealth, ACT, NT, SA, TAS and WA

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.

All governments continue to cooperatively and progressively work towards implementation of the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT), including resolving ongoing funding arrangements.

The following response is provided by NSW, QLD and VIC

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.

Australian Government — additional information

The Australian Government accepts in principle this recommendation, noting it is also directed at state and territory governments.

The Australian Government supports education to better protect the human rights of people with disability in places of detention.

The Office of the Commonwealth Ombudsman, as National Preventive Mechanism Coordinator, has an existing function to coordinate (but not direct) the Commonwealth, state and territory bodies nominated by their governments as National Preventive Mechanisms.

The Australia's National Preventive Mechanism Network meetings, convened by the National Preventive Mechanism Coordinator, have resulted in the identification and implementation of training for Australian National Preventive Mechanisms by domestic and international human rights entities on human rights standards and human rights monitoring.

Information for courts and legal practitioners (Recommendation 8.11)

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.

Response to Recommendation 8.11

Responsibility: **Australian, state and territory governments**

Commonwealth, ACT, NSW, NT, QLD, SA, TAS, VIC: **Accept in principle**

WA: **Accept**

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.

Australian Government — additional information

The Australian Government is committed to ensuring that people with disability have equal access to justice. The Government will consider approaches to developing guidance material in the appropriate forms to provide information to judicial officers, legal practitioners and court staff about seeking or making adjustments, supports, and services available to people with disability involved in court processes.

Implementation of the National Principles Relating to Persons Unfit to Plead or Not Guilty by Reason of Cognitive or Mental Health Impairment (Recommendation 8.12)

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 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.

Response to Recommendation 8.12

Responsibility: **Australian, state and territory governments**

Commonwealth, ACT, NSW, NT, QLD, TAS, WA: **Accept in principle**

SA and VIC: **Subject to further consideration**

The Australian Government and state and territory governments have committed to review the National Principles, including aspects regarding 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.

Australian Government — additional information

The *National Statement of Principles Relating to Persons Unfit to Plead or Not Guilty by Reason of Cognitive or Mental Health Impairment* are intended to be best practice principles to ensure that treatment is tailored, inclusive and recovery oriented, with agencies and service providers collaborating to provide coordinated care. The Commonwealth will lead the review of the Principles through the Standing Council of Attorneys-General.

The National Principles seek to balance the rights of persons with cognitive or mental health impairment with the need to prevent harm to others and uphold the rights of victims. The Australian Government recognises the importance of regularly reviewing the National Principles to ensure they remain relevant and continue to represent best practice.

The Australian Government notes states and territories are responsible for corrective services and criminal law within their jurisdiction, and associated criminal justice and forensic mental health services, including step-down accommodation.

Data about people detained in forensic systems (Recommendation 8.13)

Recommendation 8.13 Data about people detained in forensic systems

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:

- the number of people under forensic orders in their jurisdiction
- the number of people under orders for detention and the numbers subject to:
 - 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:
 - an adult correctional facility
 - a youth detention facility
 - a forensic mental health or forensic disability facility
 - a general psychiatric unit.

Response to Recommendation 8.13

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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. 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.

Australian Government — additional information

The Australian Government supports improving consistency of data collection across jurisdictions, and developing a data collection framework and process, to bolster the ability of governments to evaluate policy settings relating to people with cognitive and mental health impairments in the criminal justice system.

The Attorney-General's Department will support the Australian Bureau of Statistics and Australian Institute of Health and Welfare to pursue an initial scoping exercise, through existing data sharing forums, to assess current frameworks and system capability, and potential impacts on personal privacy.

NDIS and justice system interface (Recommendation 8.17)

Recommendation 8.17 NDIS Applied Principles and Tables of Support concerning the justice system

Through the Disability Reform Ministerial Council, the Australian Government and state and territory governments should:

- review the *National Disability Insurance Scheme (Supports for Participants) Rules 2013* (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
- 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.

Proposed amendments to the *National Disability Insurance Scheme (Supports for Participants) Rules 2013* (Cth) and the APTOS should be agreed by National Cabinet.

Response to Recommendation 8.17

Responsibility: **Australian, state and territory governments**

Joint Response: **Subject to further consideration**

The Australian Government and state and territory governments are committed to working together to clarify roles and responsibilities at the interface between the National Disability Insurance Scheme (NDIS) and justice services.

This recommendation requires consideration alongside relevant recommendations of the NDIS Review related to roles and responsibilities within the disability ecosystem.

Work over the past five years at the justice/NDIS interface has included the introduction of Justice Liaison Officers (JLOs); increasing awareness 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.

Timing of NDIS transition supports for participants in custody (Recommendation 8.18)

Recommendation 8.18 Timing of NDIA-funded transition supports

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.

Response to Recommendation 8.18

Responsibility: **Australian Government**

Response: **Accept**

The NDIA will establish a publicly available framework that clearly articulates how the NDIS and other service systems will work together, supporting people entering custody and transitioning back to the community. This framework will be embedded into existing NDIA guidelines.

To enhance the experience of people with disability who are transitioning from justice and forensic settings to the community, the NDIA undertook a Justice Transition Project between October 2022 and October 2023. The Project focused on improving decision making, operational collaboration and reducing administrative delays for people with disability in adult, youth justice and forensic settings. The Project recommendations adopted by the NDIA will pave the way for a more holistic and timely service system response, so participants receive the support they need to prepare for transition and establish themselves as part of their community.

The NDIA has a strong commitment to co-design and engagement, and through the Justice Transition Project engaged with stakeholders across justice services, First Nations organisations, multiple state and territory government services, and the disability community to inform the Project's recommendations.

Amendment to the Disability Discrimination Act to cover police provision of 'services' (Recommendation 8.19)

Recommendation 8.19 Amendment of the *Disability Discrimination Act 1992 (Cth)* to cover police provision of 'services'

The *Disability Discrimination Act 1992 (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.

Response to Recommendation 8.19

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government accepts in principle recommendations to amend the *Disability Discrimination Act 1992*. The Government will consider Recommendation 8.19 as part of its review of the *Disability Discrimination Act 1992*, to which the Government has committed \$6.9 million over four years. Further information is included in the Government's response to recommendations 4.23–4.34.

Improving police responses to people with disability (Recommendation 8.20)

Recommendation 8.20 Improving police responses to people with disability

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 Government and state and territory governments should introduce an alternative reporting pathway for people with disability to report crimes to police.

Response to Recommendation 8.20

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

All governments are committed to ensuring that police services are 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 needs and circumstances of each jurisdiction.

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.

Australian Government — additional information

At the Commonwealth level, the Australian Federal Police (AFP) is currently developing a Disability Action Plan to continuously improve the AFP's approach to people with disability and mental illness and has made improvements on its website and online reporting mechanisms to ensure these are accessible for people with disability.

The AFP will also review the adequacy of the number of dedicated disability liaison officers and consider appropriate and accessible alternative reporting pathways. The Commonwealth will continue to work with state and territory governments and relevant stakeholders to improve police responses to people with disability.

Ending violence against women and children with disability (Recommendation 8.23)

Recommendation 8.23 Action plan to end violence against women and children with disability

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:

- 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*.

The Action Plan should include comprehensive actions and investment to address violence experienced by women and children with disability across the focus areas of:

- prevention
- early intervention
- response
- recovery and healing.

Response to Recommendation 8.23

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

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.

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, First Nations people, culturally and linguistically diverse communities, LGBTIQ+ people, people with disability, young people and older people.

The First Action Plan is the first 5-year action plan to drive the work needed to meet the objectives of the National Plan.

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.

Australian Government — additional information

The Australian Government is taking action through the National Plan which is a joint Australian, state and territory government framework that sets the national policy agenda for addressing family, domestic and sexual violence in Australia for the next 10 years.

The National Plan takes an intersectional approach and recognises the increased risk and specific forms of violence experienced by women and children with disability. The Australian Government has consulted broadly with stakeholders in the disability sector, including Women with Disabilities Australia through the National Plan Advisory Group, to inform development of the National Plan and ensure the experiences and needs of people with disability are represented meaningfully.

In the 2024–25 Budget, the Australian Government committed \$1.1 billion towards family, domestic and sexual violence initiatives. This builds on the \$2.3 billion invested over the 2022–23 and 2023–24 Budgets and brings the total funding commitment under the National Plan to \$3.4 billion. This funding commitment under the First Action Plan will drive efforts to end gender-based violence, including family, domestic and sexual violence against women and children with disability.

The Australian Government is committed to working closely with women and children with disability as we implement the National Plan and work to ensure support services are person-centred, inclusive and accessible. This includes an additional \$0.5 million to applying a disability lens to the First Action Plan of the National Plan to identify how each action in the Action Plan will address the needs of women and girls with disability.

The *National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030* is a nationally coordinated, 10-year strategic framework to prevent and respond to child sexual abuse. It seeks to reduce the risk, extent and impact of child sexual abuse and related harms in Australia. The National Strategy was a key recommendation of the Royal Commission into Institutional Responses to Child Sexual Abuse. People with disability are a key priority group under the National Strategy. Measures are designed and implemented in consultation with people with disability and their advocates to ensure their voices and experiences are prioritised and that measures are implemented in ways that meet their needs.

The National Centre for Action on Child Sexual Abuse (National Centre) has been established with an Australian Government funding contribution of \$22.5 million over 5 years from 2021–22 to 2025–26. The National Centre responds to Recommendation 9.9 of the Royal Commission into Institutional Responses to Child Sexual Abuse to raise awareness and reduce stigma for victims and survivors, build workforce capability to respond to child sexual abuse, and develop better intervention and service models through research and evaluation.

The National Centre is working to integrate an understanding of trauma and responses to child sexual abuse into the ways that services are designed and delivered, contextualised depending on the gender, cultural backgrounds and diverse needs of victims and survivors, including those experienced by First Nations people, people with disability and individuals and families living in regional, rural and remote areas.

Disability-inclusive definition of family and domestic violence (Recommendation 8.24)

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.

Response to Recommendation 8.24

Responsibility: **Australian, state and territory governments**

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.

Australian Government — additional information

The Australian Government has committed to work with states and territories to progress a national definition of family and domestic violence that includes coercive control. Jurisdictions are yet to agree to progressing work on a national definition.

Consideration of a national definition would likely include consideration of disability-inclusive definitions of family and domestic violence. Consideration of a national definition may include consideration of the definition of family violence in section 4AB of the *Family Law Act 1975* and influence future amendments to that section.

In addition, in 2023, the Australian Government and state and territory governments released the National Principles to Address Coercive Control in Family and Domestic Violence (National Principles), which establish a shared understanding of coercive control as an underpinning dynamic of family and domestic violence. The National Principles recognise the experiences of victim-survivors with disability and include examples of disability-based violence and abuse.

Volume 9: First Nations people with disability

Volume 9 outlines the issues and themes identified through listening to the many stories and experiences shared with the Disability Royal Commission by a wide range of First Nations people with disability, their families, carers, supporters, and communities. It includes 13 recommendations to improve the experience of First Nations people with disability in accessing culturally appropriate and safe supports and services and elevating First Nations disability policy. The Australian Government has primary or shared responsibility for 10 of the 13 recommendations in Volume 9.

Expand NDIS community connector programs (Recommendation 9.4)

Recommendation 9.4 Expand community connector programs

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.

Response to Recommendation 9.4

Responsibility: **Australian Government**

Response: **Accept**

The NDIA is committed to ensuring the NDIS is accessible and culturally appropriate for eligible First Nations people with disability in remote areas and is implementing a variety of initiatives to support this, including exploring ways to expand its Remote Community Connectors program.

The NDIA's Remote Community Connectors program consists of community-based NDIA representatives that support the culturally appropriate delivery of the NDIS in remote and very remote communities. The program recognises that people with disability in remote communities, including First Nations people, may need additional support to access the NDIS, build their NDIS plan, and use their funded supports.

The NDIA provides funding of over \$11.8 million per annum for a network of approximately 200 Remote Community Connectors to support more than 430 remote communities. Remote Community Connectors fulfil a critical function in First Nations communities promoting awareness, understanding and connection between NDIS participants, providers, and the NDIS, and have an important role in participant wellbeing. Remote Community Connectors are employed through local service partners, primarily Aboriginal Community Controlled Organisations or Aboriginal Community Controlled Health Organisations.

The introduction and implementation of the NDIA's Remote Service Delivery Model will see an expansion of Remote Community Connector roles. The direct service delivery model is designed to provide a nationally consistent pathway for remote and very remote Australia, incorporating community connector roles into NDIA Remote Service Delivery teams. Remote Community Connector roles will be both outsourced through NDIA Service Partners and supplemented with directly sourced roles to the NDIA.

NDIS block funding for First Nations Community Controlled Organisations (Recommendation 9.5)

Recommendation 9.5 Block funding the community-controlled sector

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:

- 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.

Response to Recommendation 9.5

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government is partnering with communities to explore and trial different ways to design and deliver NDIS supports for participants in remote and First Nations communities. This includes through Alternative Commissioning and Integrated Care and Commissioning.

Alternative Commissioning involves partnering with communities to pilot alternative approaches to improve access to NDIS supports in remote and First Nations communities. It will create opportunities for more culturally appropriate and sustainable services to strengthen the First Nations disability sector and build a sustainable supply of NDIS supports in remote areas. It offers flexibility and can include a range of design and delivery approaches to respond to community need, including place-based and community-driven solutions. The flexibility enhances government

collaboration with the community-controlled sector, ensuring solutions are designed by the community to meet community needs. In the 2023–24 Budget, the Australian Government allocated \$7.6 million to pilot Alternative Commissioning, with the first pilot currently underway in the Maningrida region of the Northern Territory.

Integrated Care and Commissioning brings together agencies and resources across health, aged care, disability, and veterans' care sectors to understand and address local care and support service availability issues. Through engagement with service providers and communities, it is helping to identify and leverage enablers for improving service availability through collaborative, place-based and innovative approaches. It will also help to inform longer-term strategies for a more equitable care and support economy. In the 2023–24 Budget, the Australian Government committed \$27 million over four years to trial Integrated Care and Commissioning in up to 10 locations.

On 30 January 2024, the Government announced a \$10.2 million commitment to repair the market for better ways to access and pay for supports. As part of this commitment, \$2.5 million was provided for the design and consultation of a new NDIS pricing and payments framework.

First Nations representation on the National Disability Insurance Agency Board (Recommendation 9.6)

Recommendation 9.6 National Disability Insurance Agency Board

Section 127 of the *National Disability Insurance Scheme Act 2013* (Cth) should be amended to provide that the National Disability Insurance Agency Board must include at least one First Nations person at all times.

Response to Recommendation 9.6

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government supports in principle legislative changes to the *National Disability Insurance Scheme Act 2013* (NDIS Act) to provide that the National Disability Insurance Agency (NDIA) Board must include at least one First Nations person at all times.

On 31 March 2023, the Minister for the NDIS announced the appointment of two new NDIA Board members, including First Nations appointee, Dr Richard Fejo.

Participation in cultural life (Recommendation 9.7)

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.

Response to Recommendation 9.7

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government supports in principle the development of mechanisms to support participation in cultural life. The Government is of the view that changes to NDIS Operational Guidance could achieve the goal of this recommendation through recognition of social and emotional wellbeing models of support which recognise the importance of cultural ways of knowing, being and doing.

The Government is committed to ensuring that First Nations participants are supported within the NDIS, with particular focus on initiatives detailed in recommendations 9.8 to 9.12.

NDIS return to country and family supports policies and funding (Recommendations 9.8 and 9.9)

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
- 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.

Response to Recommendations 9.8 and 9.9

Responsibility: **Australian Government**

Response: **Accept in principle**

The NDIA, with the First Peoples Disability Network, is codesigning a NDIS First Nations Strategy with participants, First Nations disability community, families, carers, and sector stakeholders, to improve access and outcomes for First Nations people with disability in the NDIS.

The NDIS First Nations Advisory Council has been established as the co-design group to ensure that the voices and perspectives of First Nations people with lived experience, and their families, carers and communities are central to the development of the First Nations Strategy.

The NDIA, First Peoples Disability Network and the First Nations Advisory Council are working together to develop goals and initiatives to best support First Nations NDIS participants and to ensure that all decisions that affect First Nations participants:

- are informed by First Nations voices and experiences;
- reflect the goals and hopes of First Nations communities;
- embed principles of self-determination; and
- are culturally informed, safe, accessible and inclusive.

This work includes consideration of the initiatives suggested by the Disability Royal Commission in Recommendations 9.8 and 9.9, including in respect of a potential 'Return to Country' policy and criteria for funding family supports.

First Nations Disability Forum (Recommendation 9.10)

Recommendation 9.10 First Nations Disability Forum

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:

- First Peoples Disability Network
- First Nations Community Controlled Organisations
- both Aboriginal and Torres Strait Islander peak bodies
- First Nations people with disability.

The Forum should be supported by a First Nations disability investment fund, with the purpose of:

- supporting the operation of, and participation in, the Forum
- implementing the DSSP
- developing the First Nations Disability Workforce.

The Forum should have the capacity to direct funding under the DSSP to:

- 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
- 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.

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.

Response to Recommendation 9.10

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

Australian Government — additional information

As part of its initial response to the Disability Royal Commission, the Australian Government has committed to working with state and territory governments in partnership with First Nations people on consultation to develop a First Nations Disability Forum or other appropriate shared decision-making mechanism. This will support the cross-cutting outcome of disability under the National Agreement on Closing the Gap and policy design, reform and implementation to improve access, inclusion and outcomes for First Nations people with disability across Australia.

Building on the Disability Sector Strengthening Plan (Recommendation 9.11)

Recommendation 9.11 Building on the Disability Sector Strengthening Plan

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:

- 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.

Response to Recommendation 9.11

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

As a first step towards progressing this recommendation, 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. The proposed shared decision-making mechanism in respect of disability (see Recommendation 9.10) would also support the response to this recommendation.

Disability-inclusive cultural safety standards (Recommendation 9.12)

Recommendation 9.12 Disability-inclusive cultural safety standards

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 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.

Response to Recommendation 9.12

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government will work with First Nations people with disability, community controlled organisations, mainstream support providers and other disability support providers to improve the cultural safety of supports, including through improved market stewardship and regulation. This will build on consultations on the regulatory model for quality and safeguarding of NDIS supports in response to the NDIS Review.

Remote workforce development (Recommendation 9.13)

Recommendation 9.13 Remote workforce development

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:

- funding for community-level assessments to determine:
 - 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.

Response to Recommendation 9.13

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

Volume 10: Disability services

Volume 10 examines how disability service providers and the National Disability Insurance Scheme Quality and Safeguards Commission (NDIS Commission) can do more to prevent, identify and respond to violence, abuse, neglect and exploitation in disability services. It includes 33 recommendations, all of which are within the Australian Government's primary or shared responsibility.

Embedding human rights in disability services (Recommendation 10.1)

Recommendation 10.1 Embedding human rights

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:

- 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 *Convention on the Rights of Persons with Disabilities*, 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 responsibilities under the *Disability Discrimination Act 1992* (Cth) and the Disability Rights Act (if enacted).

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.

Response to Recommendation 10.1

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

Independent support coordination (Recommendation 10.2)

Recommendation 10.2 Independent support coordination

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.

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.

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.

Response to Recommendation 10.2

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

Adequate support coordination (Recommendation 10.3)

Recommendation 10.3 Adequate support coordination

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. 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.

Response to Recommendation 10.3

Responsibility: **Australian Government**

Response: **Accept**

This recommendation aligns with the NDIA's *Improving Support Coordination for NDIS Participants* report which recommended better clarity of the role and the NDIA's expectations of support coordination. The NDIA will review and update staff resources to uplift frontline staff capability in reasonable and necessary decision-making through information sessions, and align internal planning, systems and reporting against support coordination expectations, to enable and support the delivery of this recommendation and the recommendations of the *Improving Support Coordination for NDIS Participants* report.

Quality of support coordination (Recommendation 10.4)

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:

- 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.

The examination may be part of the proposed own motion inquiry on support coordination.

Response to Recommendation 10.4

Responsibility: **Australian Government**

Response: **Accept in principle**

The NDIS Commission has commenced an Own Motion Inquiry into Support Coordination and Plan Management following concerns being raised about fraud, sharp practices and poor quality. The Inquiry is being conducted in two parts. Part 1, released August 2023, explores the NDIS complaints and reportable incidents data to identify quality and safeguarding concerns in support coordination and plan management, and to identify the positive contribution good support coordination and plan management can make to quality and safeguarding in the NDIS. Part 2 of the Inquiry is to commence in 2024 and will focus on the NDIS Commission's regulatory approach.

Advocacy for NDIS participants living in supported accommodation (Recommendation 10.5)

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:

- 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
- 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

The program should commence by January 2025.

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.

- 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.

Response to Recommendation 10.5

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government is committed to strengthening safeguards for NDIS participants. Free advocacy supports are already available through the National Disability Advocacy Program. NDIS support coordinators and providers can refer NDIS participants to these advocacy organisations directly to request individual disability advocacy services or participants can approach these services directly for assistance.

The NDIS Commission is also committed to continuing to promote the value of independent advocacy for NDIS participants who require it.

The *NDIS (Complaints Management and Resolution) Rules 2018* require that the NDIS Commissioner take reasonable steps to ensure that a person making a complaint, and people with disability affected by the complaint, are provided with information about accessing an independent advocate.

Supported decision-making in disability services (Recommendations 10.6 and 10.7)

Recommendation 10.6 Supported decision-making in disability services

The NDIS Quality and Safeguards Commissioner should amend the *National Disability Insurance Scheme (Quality Indicators for NDIS Practice Standards) Guidelines 2018* (Cth) to reflect that each participant:

- 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.

Amendments should be completed by 30 June 2025.

Recommendation 10.7 Practical guidance on supported decision-making

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.

Response to Recommendation 10.6 and 10.7

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government agrees that NDIS participants accessing disability services should have access to the supports they may require to make decisions about those services.

The NDIS Commission's NDIS Practice Standards and Quality Indicators include independence and informed choice, and support planning as core components of quality service provision. The NDIS Commission commissioned Flinders University, the Council on Intellectual Disability, and the University of NSW to develop *Deciding with Support*, a new toolkit of co-designed resources for everyone involved in positive behaviour support.

The NDIS Commission will continue to work with the NDIA, First Nations Community Controlled Organisations, and build connections with advocacy groups and other parties to design resources that provide guidance to providers in supported decision making where appropriate.

National disability support worker registration scheme (Recommendation 10.8)

Recommendation 10.8 A national disability support worker registration scheme

The Australian Government should establish a national disability support worker registration scheme by 1 July 2028.

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:

- 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
- 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.

Response to Recommendation 10.8

Responsibility: **Australian Government**

Response: **Subject to further consideration**

The NDIS Provider and Worker Registration Taskforce will provide a report with advice and recommendations to Government in mid-2024. This will inform the response to this recommendation.

In addition, HumanAbility has been established as the Jobs and Skills Council responsible for identifying the skills and workforce needs for the care and support sector, mapping career pathways across education sectors, developing contemporary Vocational Education and Training products, supporting collaboration between industry and training providers to improve training and assessment practice, and acting as a source of intelligence on issues affecting their industries. This includes considering job roles and career pathways for disability support workers.

The Social, Community, Home Care and Disability Services Industry Award (Recommendation 10.9)

Recommendation 10.9 The Social, Community, Home Care and Disability Services Industry Award

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 *Fair Work Act 2009* (Cth).

This would seek to ensure equal remuneration of workers for work of equal or comparable value in accordance with section 302 of the *Fair Work Act 2009* (Cth), paying particular attention to employers' continued use of Schedule E and the 'work value' of contemporary disability support work.

Response to Recommendation 10.9

Responsibility: **Australian Government and non-government**

Australian Government Response: **Note**

The Australian Government is committed to a sustainable and productive care and support economy that delivers quality care and support with quality jobs, including fair wages across the sector.

On 17 June 2024, the Australian Services Union, Australian Workers Union, Health Services Union, and United Workers Union applied to the Fair Work Commission to vary the Social, Community, Home Care and Disability Services (SCHADS) Award to clarify that Schedule B of the Award (covering social and community services workers) applies to employees providing disability services funded by the NDIS. (The Government does not have standing under section 158 of the *Fair Work Act 2009* to bring an award variation application for the majority of modern awards, including the SCHADS).

On 7 June 2024, the independent Fair Work Commission commenced own-motion work value proceedings to consider possible gender-based undervaluation in certain priority modern awards, including the SCHADS Award. The Fair Work Commission will consider the application by the

Australian Services Union, Australian Workers Union, Health Services Union, and United Workers Union alongside these own-motion proceedings.

On 24 June 2024, the Fair Work Commission issued a timetable scheduling final hearings in both of these cases in December 2024, following further consultations with and submissions by the parties.

Provider of last resort (Recommendation 10.10)

Recommendation 10.10 Provider of last resort

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:

- 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
- access to services for:
 - 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.

The Australian Government should put forward a proposal for discussion to the Disability Reform Ministers Council in 2024.

Response to Recommendation 10.10

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

The Australian Government and state and territory governments acknowledge that there are gaps when an 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.

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. 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.

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.

NDIS Commission procedures for monitoring reportable incidents (Recommendation 10.11)

Recommendation 10.11 Internal procedures for monitoring reportable incidents

The NDIS Quality and Safeguards Commission should improve its internal procedures for monitoring reportable incidents, paying particular attention to:

- a) communicating feedback about the quality of providers' handling of incidents
- 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
- c) the efficiency of the online portal used by providers to report incidents.

Response to Recommendation 10.11

Responsibility: **Australian Government**

Response: **Accept in principle**

In the 2023–2024 Budget, the NDIS Commission received funding of \$120.3 million over two years for additional resources to meet demand and address outstanding matters. In the 2024–25 Budget, the NDIS Commission received funding of \$160 million over four years for the Data and Regulatory Transformation Program to ensure the Commission has the critical technology systems required to gather intelligence and collect and analyse data to protect both participants and the NDIS itself.

Class or kind determinations (Recommendation 10.12)

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 *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018* (Cth) to:

- 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
- b) enable the NDIS Quality and Safeguards Commission to conduct audits to assess compliance with class or kind determinations.

Response to Recommendation 10.12

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

The Australian Government and state and territory governments support in principle the NDIS Commission having access to 'class or kind' determinations to enable it to effectively manage the volume of reportable incidents it receives.

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.

The NDIS Commissioner is able to amend the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018* (Cth) in consultation with states and territories.

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 provide a report with advice and recommendations to Government in mid-2024.

Creating an independent investigations panel (Recommendation 10.13)

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.

Response to Recommendation 10.13

Responsibility: **Australian Government**

Response: **Accept in principle**

Under the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018*, the NDIS Quality and Safeguards Commissioner has the power to require a registered NDIS provider to engage an independent expert to investigate an incident that has been reported in connection with the provision of supports or services by the provider.

The NDIS Commission will explore options and feasibility of establishing a panel of independent investigators with the appropriate skills and credentials in relation to safeguarding, human rights and investigative practice.

Model policies and procedures for NDIS providers (Recommendation 10.14)

Recommendation 10.14 Developing model policies and procedures

The NDIS Quality and Safeguards Commission should develop model procedures for National Disability Insurance Scheme (NDIS) providers, including:

- a) for frontline workers about recognising and reporting incidents, with clear definitions around what incidents must be reported and when
- b) for incident management incorporating guidance on undertaking causal reviews of incidents and preventive action, as well as implementing wider system improvements
- 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
- 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.

Response to Recommendation 10.14

Responsibility: **Australian Government**

Response: **Accept in principle**

The NDIS Commission will work with people with disability, their representatives, and NDIS service providers to identify practical applications of this recommendation. The NDIS Commission's approach to regulation is proportionate and as outlined in the NDIS Practice Standards and Indicators for Incident Management: 'An incident management system is maintained that is relevant and proportionate to the scope and complexity of supports delivered and the size and scale of the organisation.'

The NDIS Practice Standards create an important benchmark for providers to assess their performance, and to demonstrate how they provide high quality and safe supports and services to NDIS participants.

Extensive legal consideration will be required in relation to the redress element of this recommendation. The NDIS Commission will investigate feasibility and legal implications associated with this recommendation.

Complaint handling and investigative practice guideline (Recommendation 10.15)

Recommendation 10.15 Complaint handling and investigative practice guideline

- 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:
 - 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.
- b) The Minister for the NDIS should, in consultation with states and territories, amend the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018* (Cth) and *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018* (Cth) to include recognition of, and a requirement for compliance with, the guideline.

Response to Recommendation 10.15

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

The NDIS 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.

Requirement to consider redress (Recommendation 10.16)

Recommendation 10.16 Requirement to consider redress

- a) The Minister for the National Disability Insurance Scheme (NDIS) should, in consultation with states and territories, amend the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018* (Cth) and *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018* (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
- b) The NDIS Commission should:
- 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

Response to Recommendation 10.16

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

Australian Government — additional information

The Australian Government notes individual providers are accountable for civil liabilities. In response to this recommendation, the Australian Government will not provide financial assistance to providers for the purposes of redress where a provider bears responsibility for violence, abuse, neglect or exploitation experienced by an NDIS participant. The Australian Government will not be establishing a Redress Scheme for NDIS Participants.

Access to safeguarding indicators and expertise (Recommendation 10.17)

Recommendation 10.17 Access to safeguarding indicators and expertise

In developing and publishing guidance about best practice governance models for National Disability Insurance Scheme (NDIS) providers, the NDIS Quality and Safeguards Commission should:

- a) include safeguarding indicators for use by NDIS providers based on the sample indicators outlined in Table 10.8.3
- b) provide guidance encouraging governing bodies of NDIS providers to have regular access to specialist safeguarding advice in considering issues arising from complaints and incidents.

Response to Recommendation 10.17

Responsibility: **Australian Government**

Response: **Accept in principle**

The NDIS Commission will work with people with disability, their representatives, and NDIS service providers to identify opportunities to implement this recommendation in line with proportionality, a key feature of the NDIS Commission's regulatory model.

Improved complaint handling procedures and responses (Recommendation 10.18)

Recommendation 10.18 Improved complaint handling procedures and responses

The NDIS Quality and Safeguards Commission should:

- 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

Response to Recommendation 10.18

Responsibility: **Australian Government**

Response: **Accept in principle**

Following a significant review of its complaints function, on 20 February 2023 the NDIS Commission implemented a national complaints model that incorporates a nationally consistent triage and assessment process.

This work includes the establishment of the National Intake and Early Resolution team to focus on consistent management of complaints and early resolution of less complex matters that can be resolved quickly between participants and providers. A dedicated Safeguarding Team is also focused on responding quickly to complaints that identify an immediate risk to participants and ensuring that providers and other agencies on the ground are taking rapid action to address risk.

Revised complaints processes based on a risk proportionate approach continue to be developed and embedded. These are key foundations for delivering this recommendation.

Requirement to consider certain complaints (Recommendation 10.19)

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 *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018* (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.

Response to Recommendation 10.19

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

Making complaint processes accessible (Recommendation 10.20)

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:

- a) making information simple and easy to navigate
- b) adopting a 'no wrong door' approach
- c) accommodating people's preferred means of communication and making other adjustments as needed
- d) assisting people to secure advocacy and other supports
- e) identifying people at risk of abuse
- f) implementing a strategy for 'hard to reach' groups
- g) ensuring complainants are involved in complaint processes and when this is not possible, recording the reasons for their non-involvement
- h) examining whether providers are supporting people with disability to access advocates when they make a complaint and where providers conduct investigations.

Response to Recommendation 10.20

Responsibility: **Australian Government**

Response: **Accept**

The Australian Government is committed to ensuring NDIS Commission and NDIA complaint handling processes are fully accessible.

In February 2023, the NDIS Commission introduced a new national complaint handling model to improve accessibility and responsiveness of its complaint handling processes. The NDIS Commission is also reviewing its website and resources to ensure they are accessible for NDIS participants, families, carers, workers and providers.

The NDIS Commission has implemented a national triage process for all complaints. This includes a 'no wrong door' approach through the NDIS Commission's call centre and a process for identifying high risk matters for referral to the NDIS Commission's Safeguarding Unit, which is a specialist unit established to respond to situations where people with disability may be identified as at risk of immediate harm and ensure that providers and other agencies on the ground are taking rapid action to address risk. The NDIS Commission will continue to work with its Consultative Committee comprising participants, disability representative organisations, and industry groups to identify improvements to communicating with people with disability through all of its regulatory activity, including complaints.

The NDIA is also committed to working closely with the NDIS Commission to ensure all NDIS participants have access to quality and accessible complaint processes. This means genuinely listening to participants, providers and everyone who makes a complaint, and harnessing complaint feedback to drive a culture of continuous improvement. A program of work is underway to uplift the quality of the NDIA's complaint services. The NDIA recently revised its Complaints Management Framework in February 2024, and introduced a new Enquiries, Feedback and Complaints policy, which is available on the NDIA's website: www.ndis.gov.au/contact/feedback-and-complaints.

Registration and audit process (Recommendation 10.21)

Recommendation 10.21 Registration and audit process

- a) To enhance the registration process, the NDIS Quality and Safeguards Commission (NDIS Commission) should:
- develop and implement a framework for sharing relevant information with quality auditors
 - conduct a comprehensive review of the provider registration process focused on:
 - 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
 - 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.
- b) The Minister for the National Disability Insurance Scheme should, in consultation with states and territories, amend the *National Disability Insurance Scheme (Protection and Disclosure of Information – Commissioner) Rules 2018* (Cth) to clarify the NDIS Commission is able to share relevant information with quality auditors.

Response to Recommendation 10.21

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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 provide a report with advice and recommendations to Government in mid-2024.

All governments also support appropriate changes to clarify that the NDIS is able to share relevant information with quality auditors and will consider appropriate rule or guideline changes following receipt of the Taskforce's report.

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 and workers, and to strengthen the regulatory response to long-standing and emerging quality and safeguards issues.

Strengthened regulatory requirements (Recommendation 10.22)

Recommendation 10.22 Strengthened regulatory requirements

- a) The Minister for the National Disability Insurance Scheme should, in consultation with states and territories, amend the Core Module of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018* (Cth) to issue further standards that address complaint handling and incident management.
- b) The NDIS Quality and Safeguards Commissioner should amend the Core Module of the *National Disability Insurance Scheme (Quality Indicators for NDIS Practice Standards) Guidelines 2018* (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).

Response to Recommendation 10.22

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

The Australian Government and state and territory governments support strengthening complaint handling and incident management requirements to better protect people with disability.

The NDIS Commission will commence a review of the NDIS Practice Standards, which form part of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*, 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.

Publishing data about the unregistered provider market (Recommendation 10.23)

Recommendation 10.23 Publishing data about the unregistered provider market

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:

- the number of complaints received involving unregistered providers
- 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

Response to Recommendation 10.23

Responsibility: **Australian Government**

Response: **Accept**

The NDIS Commission currently collects and publishes a series of data relating to unregistered providers and a range of data related to NDIS Commission regulatory activity, for example:

- Unregistered providers and compliance activity outcomes from July 2022 to December 2023 (including banning orders, banning order variations, compliance notices, corrective action requests, education, other registration decisions, warning letters issued) (NDIS Commission Quarterly Reports).
- Unregistered providers and workers seeking NDIS worker screening check clearances.

The NDIS Commission's Data and Regulatory Transformation project, announced as part of the 2024–25 Budget, will support the NDIS Commission's capacity to collect and report on a broader range of items.

The NDIS Provider and Worker Registration Taskforce will provide a report with advice and recommendations to Government in mid-2024. The outcomes of Government consideration of this advice may change the unregistered provider market which in turn will impact the information collected and published by the NDIS Commission.

Access to behaviour support practitioners (Recommendation 10.24)

Recommendation 10.24 Improved access to behaviour support practitioners

The NDIS Quality and Safeguards Commission should, by December 2024, improve access to behaviour support practitioners by:

- 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
- 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
- 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
- d) creating a publicly accessible list of all individual behaviour support practitioners

Response to Recommendation 10.24

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government is committed to improving access to behaviour support practitioners. The NDIS Commission has an existing Provider Finder through which individual Behaviour Support Practitioners can be identified here www.ndiscommission.gov.au/find-ndis-behaviour-support-practitioner. The search tool will help identify whether a behaviour support practitioner is considered suitable. Only behaviour support practitioners who have consented to publish their details are included in the search results. A number of provisionally suitable behaviour support practitioners awaiting an outcome on their application will not appear until their application is approved and they have been considered suitable.

The NDIS Commission will explore potential approaches and feasibility of the options outlined in this recommendation to improve access to behaviour support practitioners. Ongoing work beyond the 2024 timeframe will be required, particularly in respect of access to behaviour support practitioners in rural and remote locations.

Strengthened NDIS Commission monitoring, compliance and enforcement (Recommendation 10.25)

Recommendation 10.25 Strengthened monitoring, compliance and enforcement

The NDIS Quality and Safeguards Commission should review its compliance and enforcement policy and in doing so have regard to:

- a) where appropriate, transitioning its primary compliance approach from educational and capacity building strategies to stronger compliance and enforcement activities
- 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
- c) increasing the use of its enforcement powers and monitoring tools in relation to NDIS providers that:
 - 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
- d) the availability of enforceable undertakings and compliance notices to address non-compliance by NDIS providers.

Response to Recommendation 10.25

Responsibility: **Australian Government**

Response: **Accept in principle**

The NDIS Commission continues to strengthen monitoring, compliance and enforcement, including through the establishment of an inter-departmental Fraud Fusion team and teams focused on litigation and dispute resolution, place-based compliance activity, high intensity responses and risk, intelligence and delivery. The NDIS Commission also sits on the Fair Pricing Taskforce with the National Disability Insurance Agency and the Australian Competition and

Consumer Commission to collaborate on delivering strengthened approaches to upholding NDIS participant consumer rights.

The NDIS Commission's compliance priorities are developed on an annual basis, are evidence based, and risk informed (noting historical constraints in the NDIS Commission's ability to gather intelligence). The NDIS Commission undertakes a range of enforcement and compliance campaigns which involve specific areas of focus where regulatory issues have been identified by the NDIS Commission. For example, a recent campaign has targeted unregistered providers implementing unauthorised restrictive practices.

While the NDIS Commission coordinates its response in accordance with its priorities, it will pursue any safeguarding matter that presents a serious risk to participants (even if that matter may fall outside one of the priorities).

Expand NDIS Commission data and reporting publication (Recommendation 10.26)

Recommendation 10.26 Expanded data reporting and publication

- a) In addition to data currently published, the NDIS Quality and Safeguards Commission should publish in quarterly activity reports and annual reports:
- 'disaggregated data' relating to complaints, reportable incidents and behaviour support, having regard to suggested data in Table 10.13.1
 - 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.
- b) The Minister for the NDIS should, in consultation with states and territories, amend the reporting requirements in the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018* (Cth) to enable provider investigation outcome data to be collected on a routine basis from NDIS providers

Response to Recommendation 10.26

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

The NDIS Commission will work with people with disability, their 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.

NDIS Commission intelligence capacity (Recommendation 10.27)

Recommendation 10.27 Strengthened intelligence capacity

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.

Response to Recommendation 10.27

Responsibility: **Australian Government**

Response: **Accept in principle**

In 2023, the NDIS Commission established the Risk, Intelligence and Delivery team within the Regulatory Operations Division. This team supports the NDIS Commission's capacity to collect intelligence and to support the identification of and response to higher risk participants. It works with other Regulatory Operations Teams to support the taking of action relating to providers where necessary and the identification of systemic issues in a proactive and timely way.

Information sharing between prescribed bodies (Recommendation 10.28)

Recommendation 10.28 Information sharing between prescribed bodies

- a) The Minister for the National Disability Insurance Scheme (NDIS) should, in consultation with states and territories, amend the *National Disability Insurance Scheme (Protection and Disclosure of Information — Commissioner) Rules 2018* (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 *National Disability Insurance Scheme Act 2013* (Cth).
- 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 of NDIS participants who may be at risk of experiencing violence, abuse, neglect or exploitation.

Response to Recommendation 10.28

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

NDIS Commission First Nations Unit (Recommendation 10.29)

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.

Response to Recommendation 10.29

Responsibility: **Australian Government**

Response: **Accept in principle**

In 2023, the NDIS Commission established an Indigenous and Remote Operations team to support active engagement with First Nations communities on country. The NDIS Commission has taken active steps to increase engagement with First Nations people with disability and their representatives to encourage and improve their interactions with the NDIS Commission and their experiences of NDIS services and supports more broadly. The NDIS Commission has commenced visits and engagements with First Nations people through its place-based campaigns process, including engagement in remote areas (for example, the Barkly Tablelands in the Northern Territory).

The NDIS Commission continues to work closely with First Nations people and their representatives through a range of strategies including the representation of the First Peoples Disability Network on the NDIS Commission's consultative committee.

NDIS Commission engagement and capacity building with providers (Recommendation 10.30)

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:

- 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.

Response to Recommendation 10.30

Responsibility: **Australian Government**

Response: **Accept in principle**

The NDIS Quality and Safeguards Commissioner has a legislated role in education for people with disability and providers under the *National Disability Insurance Scheme Act 2013*.

The NDIS Commission currently shares data and insights with people with disability, NDIS providers, and the broader community through quarterly activity reports. New systems and improved data capability will support the NDIS Commission in providing more nuanced and detailed data to drive quality and safety in the provision of NDIS services and supports.

The NDIS Commission currently delivers presentations, information resources in different formats, and webinars to the sector. Training and information offerings are available on the NDIS Commission website for NDIS providers and workforce and NDIS participants. The NDIS Commission continues to work with people with disability, their representatives, and NDIS service providers to identify practical applications for industry forums and communities of practice.

Worker screening (Recommendations 10.31–10.33)

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 clearance, and sharing information with state and territory worker screening units.

Recommendation 10.32 Operational framework to guide worker screening

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. 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:

- 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).

Recommendation 10.33 Reviewing information sharing arrangements

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:

- a) the ability of worker screening units to obtain relevant risk-related information from bodies outside of their operating jurisdiction to inform their assessments
- 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

Response to Recommendations 10.31–10.33

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

The Australian Government and state and territory governments are committed to protecting the safety of people with disability, including through strong workforce screening processes.

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.

The National Disability Insurance Scheme Act 2013 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.

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.

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.

Volume 11: Independent oversight and complaint mechanisms

Volume 11 proposes strengthened independent oversight and complaint mechanisms and pathways across six areas: adult safeguarding functions; independent complaint reporting, referral and support mechanisms; the Optional Protocol to the Convention Against Torture (OPCAT); disability death review schemes; and reportable conduct schemes. It includes 18 recommendations, 12 of which are within the Australian Government's primary or shared responsibility.

Adult safeguarding (Recommendations 11.1–11.2)

Recommendation 11.1 Nationally consistent adult safeguarding functions

States and territories should each:

- a) introduce legislation to establish nationally consistent adult safeguarding functions, including:
 - 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.
- b) ensure adult safeguarding functions are operated by adequately resourced independent statutory bodies
- c) develop a National Adult Safeguarding Framework led by the appointed adult safeguarding bodies
- 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).

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.

Response to Recommendations 11.1 to 11.2

Responsibility: **Australian, state and territory governments**

Joint Response: **Subject to further consideration**

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.

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.

Australian Government — additional information

As part of its initial response to the Disability Royal Commission, the Australian Government has committed \$15.6 million to establish a Disability Support Quality and Safeguarding Framework and Disability Support Ecosystem Safeguarding Strategy to unify disability quality and safeguarding arrangements for people with disability across Australia.

Complaints pathways (Recommendation 11.4)

Recommendation 11.4 Creating accessible complaint pathways

The Australian Government should work with states and territories to establish a national 1800 number, website and other accessible reporting tools to direct people to the independent complaint and referral mechanism in their state or territory.

Response to Recommendation 11.4

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

The Australian Government and state and territory governments are committed to working together to embed more accessible and integrated complaints reporting pathways.

All governments will work together through the Disability Reform Ministerial Council to consider a coordinated approach to this reform.

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.

Australian Government — additional information

At the 2024–25 Budget, the Australian Government committed an additional \$2.6 million for the continued delivery of the National Disability Abuse and Neglect Hotline and the Complaints Resolution and Referral Service.

The National Disability Abuse and Neglect Hotline and the Complaints Resolution and Referral Service provide a channel through which people across Australia can confidentially report abuse and neglect of people with disability and raise concerns or make complaints about Australian Government funded disability services outside the NDIS.

The additional funding will help ensure service continuity, allowing people with disability to access fair, impartial and independent advice and to voice their concerns regarding the delivery of supports.

The Government continues to support the valued work of the Hotline and Complaints Resolution and Referral Service and its commitment to a 'no-wrong-door' approach, meaning people with disability can access help when they need it most.

Complaint handling (Recommendation 11.5)

Recommendation 11.5 Complaint handling and investigative practice guidelines

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:

- 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
- using complaints data to drive continuous improvement in service provision and complaint handling.

Response to Recommendation 11.5

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

Governments will work together to consider appropriate approaches and timeframes to implementing this recommendation and the related recommendations 10.15 and 10.16.

Australian Government — additional information

The Commonwealth Ombudsman has agreed to lead consideration of how recommendation 11.5 could be implemented and will work with relevant stakeholders including the NDIS Commission to consider possible approaches and timeframes.

Enshrining key provisions of OPCAT in legislation (Recommendation 11.6)

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 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) and facilitate the national coordination of Australia's OPCAT response.

Response to Recommendation 11.6

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government is committed to working with states and territories towards full implementation of the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT), and is supportive of reviewing legislative provisions to ensure the consistent implementation of OPCAT across Australia. The Attorney-General's Department will continue to facilitate the national coordination of OPCAT implementation in Australia, including working with states and territories to ensure that all parts of the Australian National Preventative Mechanisms have appropriate legislative authority and clarity to fulfil their mandate.

In 2019, the Australian Government legislated for the Office of the Commonwealth Ombudsman to be Australia's National Preventive Mechanism coordinator. In this role, the Office coordinates Australia's National Preventive Mechanism network, comprising the Commonwealth, state and territory oversight bodies nominated by their governments as National Preventive Mechanisms.

OPCAT resourcing and wider definition of place of detention (Recommendation 11.7)

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 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*'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.

Response to Recommendation 11.7

Responsibility: **Australian, state and territory governments**

Commonwealth, ACT, NT, TAS: **Accept in principle**

NSW, QLD, SA, VIC, WA: **Subject to further consideration**

The following response is provided by the Commonwealth, ACT, NT, SA, TAS and WA.

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.

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 *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT), noting Northern Territory legislation has not yet commenced, and with legislation introduced in the ACT on 16 May 2024.

The following response is provided by NSW, QLD and VIC

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.

Australian Government — additional information

The Australian Government accepts in principle the objective of this recommendation, noting it is also directed at states and territories. Although responsibility for places of detention rests with each jurisdiction, the Commonwealth made one-off funding offers to jurisdictions to assist with start-up costs to implement OPCAT obligations. To date, the ACT and Tasmania have accepted these offers.

The Australian Government is committed to the full implementation of OPCAT to ensure National Preventive Mechanism coverage of all places of detention under its jurisdiction and control. The Commonwealth National Preventive Mechanism has a legislative function to be able to visit any place where a person is deprived of their liberty that is under the control of the Commonwealth.

Improved consistency and coordination on OPCAT (Recommendation 11.10)

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:
 - 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.

Response to Recommendation 11.10

Responsibility: **Australian government**

Response: **Accept in principle**

The Australian Government is committed to the full implementation of *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) and ensuring National Preventive Mechanisms have the capability to discharge their functions.

The Commonwealth Ombudsman, as an independent statutory authority, has the function of National Preventive Mechanism Coordinator, to coordinate (but not direct) the Commonwealth, state and territory oversight bodies nominated by their governments as National Preventive Mechanisms.

The Commonwealth Ombudsman established the civil society OPCAT Advisory Group to provide the Ombudsman with expert advice and guidance about the implementation of OPCAT.

The Commonwealth Ombudsman invites each of the members of the OPCAT Advisory Group for their respective experience and expertise. The OPCAT Advisory Group includes representation from people with expertise in disability. The Commonwealth Ombudsman is actively considering whether additional mechanisms are required to effectively engage with civil society in its role as National Preventive Mechanism.

Disability inclusive approach to implementing OPCAT (Recommendation 11.11)

Recommendation 11.11 Disability inclusive approach to implementing OPCAT

National Preventive Mechanism (NPM) bodies in all Australian jurisdictions should implement their functions in a disability-inclusive way by:

- 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 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 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

Response to Recommendation 11.11

Responsibility: **Australian, state and territory governments**

Commonwealth, ACT, NT, TAS: **Accept in principle**

NSW, QLD, SA, VIC, WA: **Subject to further consideration**

The following response is provided by the Commonwealth, ACT, NT, SA, TAS and WA

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.

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 *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) symposium, open to all people including nominated National Preventive Mechanisms, comprehensively considered a disability inclusive approach to implementing OPCAT.

The following response is provided by NSW, QLD and VIC

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.

Australian Government — additional information

The Australian Government accepts in principle this recommendation, noting it is also directed at states and territories.

The Australian Government is committed to the full implementation of OPCAT and supporting National Preventive Mechanisms to discharge their functions in a disability inclusive way.

The Australian Government recognises the OPCAT framework's role in preventing harm through early detection and remediation of issues, leading to better outcomes for people in places of detention, including those that may experience additional risks such as people with disability.

Community Visitor Schemes (Recommendations 11.12–11.13)

Recommendation 11.12 Consistent community visitor schemes

States and territories should:

- a) urgently implement community visitor schemes (CVS) for people with disability, if they have not done so already
- b) ensure CVS are resourced to conduct frequent visits to individuals who may be at elevated risk of abuse or harm
- c) agree to make CVS nationally consistent regarding people with disability, including in relation to:
 - 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
- d) as a priority, define the scope of CVS with reference to:
 - ‘visitable services’
 - mechanisms for identifying factors that may place a person with disability at increased risk of violence, abuse, neglect or exploitation
- e) ensure CVS legislation enables relevant information to be shared between CVS, the NDIS Quality and Safeguards Commission and the National Disability Insurance Agency

Recommendation 11.13 Integration of community visitor schemes with the NDIS

- a) The Commonwealth should amend the *National Disability Insurance Scheme Act 2013* (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.
- b) The Australian Government should:
 - enter into a national agreement with states and territories that commits CVS and the NDIS Commission to:
 - 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.

Response to Recommendations 11.12–11.13

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

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.

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.

Australian Government — additional information

Community visitors are statutorily appointed members of the community with powers to visit, inspect, and report on the experiences of people living in congregate disability settings. This includes specialist disability accommodation, supported independent living, mental health facilities, and registered boarding houses. Community visitors determine if residents' needs and human rights are being met.

The Australian Government is committing \$4.4 million to drive a nationally consistent approach to state and territory operated disability community visitor schemes to ensure people with disability have equitable and consistent access to community visitors as a safeguarding mechanism. This will help prevent and better respond to instances of violence, abuse, neglect and exploitation in congregate disability settings and influence the provision of high quality and accountable disability support and service delivery.

Disability death reviews (Recommendation 11.16)

Recommendation 11.16 National agreement on disability death reviews

The Australian Government and state and territory governments should enter into a national agreement that:

- a) reflects the functions, powers and definitions outlined in recommendations 11.14 and 11.15
- 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
- c) articulates the relationship between the functions of the disability death review schemes and the NDIS Commission and ensures the appropriate operational processes are in place to facilitate this
- d) provides for information sharing between the death review schemes and the NDIS Commission
- 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.

Response to Recommendation 11.16

Responsibility: **Australian, state and territory governments**

Joint Response: **Subject to further consideration**

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.

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 death review schemes consistent with recommendations 11.14 and 11.15 of the Disability Royal Commission.

Reportable Incidents (Recommendation 11.18)

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:

- 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.

Response to Recommendation 11.18

Responsibility: **Australian, state and territory governments**

Joint Response: **Accept in principle**

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.

All governments will work together with the NDIS Commission to develop consistent processes that support the efficient and effective handling of reportable incidents.

Volume 12: Beyond the Royal Commission

Volume 12 considers monitoring and reporting on action in response to the Disability Royal Commission’s recommendations, and disability data improvements. It includes 8 recommendations, all of which are within the Australian Government’s primary or shared responsibility.

Australian, state and territory responses to the Disability Royal Commission’s Final Report (Recommendation 12.1)

Recommendation 12.1 Government responses to the Final Report

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.

Response to Recommendation 12.1

Responsibility: **Australian, state and territory governments**

Joint response: **Accept in principle**

The Australian Government and state and territory governments support the transparent publication of responses to Disability Royal Commission recommendations.

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. A joint response has been released, fulfilling this commitment.

Australian Government — additional information

The Australian Government's Responses to the Disability Royal Commission webpage will house and link to all government responses to the Disability Royal Commission to provide simple and transparent access from one centralised location.

Implementation of the Disability Royal Commission's recommendations (Recommendation 12.2)

Recommendation 12.2 Implementation of the Final report recommendations

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.

Response to Recommendation 12.2

Responsibility: **Australian, state and territory governments**

Joint response: **Accept in principle**

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.

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.

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.

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.

Disability Ministers have also agreed to a reporting and monitoring framework to support ongoing and transparent updates on progress of implementation of recommendations.

Progress reporting on implementation of Disability Royal Commission recommendations (Recommendation 12.3)

Recommendation 12.3 Progress reporting on implementation of recommendations

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.)

Response to Recommendation 12.3

Responsibility: **Australian, state and territory governments**

Joint response: **Accept in principle**

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.

Evaluation of effectiveness in improving outcomes (Recommendation 12.4)

Recommendation 12.4 Evaluation of effectiveness in improving outcomes

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.

Response to Recommendation 12.4

Responsibility: **Australian Government**

Response: **Accept in principle**

The Australian Government supports a culture of evaluation and learning from experience to underpin evidence-based policy and delivery. The Government will consider appropriate arrangements for independent evaluations of the implementation of the Disability Royal Commission's recommendations, with a focus on evaluating the impact of the Disability Royal Commission itself, and government responses and reform, in improving outcomes for people with disability. This will build on monitoring and reporting arrangements detailed in response to Recommendations 12.2 and 12.3. Arrangements will be finalised by 2025 to enable formal independent evaluations to be conducted in 2028 and 2033, consistent with this recommendation.

Data improvements (recommendations 12.5–12.7)

Recommendation 12.5 A nationally consistent approach to data collection

The Australian Government and state and territory governments, through the Disability Reform Ministerial Council, should address the lack of consistent disability data by developing a nationally consistent approach to collecting disability information.

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.

Recommendation 12.6 Disability flags in data collection for mainstream services

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.

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.

Recommendation 12.7 Improving disability data collection

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:

- 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.

This strategy should form part of the Australia's Disability Strategy 2021–2031 Data Improvement Plan.

Response to Recommendations 12.5–12.7

Responsibility: **Australian, state and territory governments**

Joint response: **Accept in principle**

The Australian Government and state and territory governments acknowledge the importance of data collection and publication and its 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.

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.

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.

Australian Government — additional information

All levels of government are committed to collecting and sharing data to better monitor and report outcomes for people with disability under *Australia's Disability Strategy 2021–2031* in order to drive change.

The Outcomes Framework is a key part of *Australia's Disability Strategy 2021–2031*. It tracks, reports and measures the outcomes for people with disability across all 7 Outcome Areas. Progress made under the Outcomes Framework is reported quarterly and via annual reports on the [Outcomes Framework webpages](#), since its launch in December 2022.

As part of *Australia's Disability Strategy 2021–2031*, governments also agreed to work collaboratively to develop a comprehensive [Data Improvement Plan](#). The initial Data Improvement Plan was endorsed by Disability Reform Ministers in December 2022, and published on Australia's Disability Strategy Hub in January 2023. It sets out how to improve the data needed to track progress against *Australia's Disability Strategy 2021–2031* Outcomes Framework, with a focus on collecting data for future measures. As part of the broader Australia's Disability Strategy Review work, the Government will produce and publish a revised Data Improvement Plan in December 2024. It will provide a progress update on the data gaps that are being addressed and outlines areas for ongoing data development, collection and reporting.

National Disability Data Asset (Recommendation 12.8)

Recommendation 12.8 Long-term support for the National Disability Data Asset

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:

- 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:
 - 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:
 - 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.

Response to Recommendation 12.8

Responsibility: **Australian, state and territory governments**

Joint response: **Accept in principle**

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.

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.

Implementation, monitoring and reporting



Implementation, monitoring and reporting

Robust governance and accountability are critical to delivering meaningful reform towards a safe, accessible, and inclusive Australia for people with disability. Without appropriate implementation coordination and oversight, there is a risk reforms across governments and portfolios in response to the Disability Royal Commission will be inconsistent, incompatible, or incomplete.

Effective implementation, including monitoring and reporting on progress, will drive meaningful and lasting change to make Australia safe, accessible, and inclusive for all people with disability.

The staged response to the Disability Royal Commission will commence with the measures announced in the 2024–25 Budget and in the Australian Government Response. These measures provide upfront investment to address the most consequential and urgent recommendations first, and resourcing to commence design work and consultation on longer-term reform.

The Australian Government will play an important ongoing role in leading robust governance and accountability over successive stages of reforms to ensure coherent implementation of the recommendations, for all jurisdictions and relevant Commonwealth agencies.

All jurisdictions have agreed to the National Disability Royal Commission Monitoring and Reporting Framework (the Framework). The Framework outlines arrangements for governance and the ongoing monitoring of implementation progress of all reforms in response to the Royal Commission recommendations and directly responds to Recommendation 12.2 *Implementation of the Final Report recommendations*.

Consistent with the recommendation, updates on implementation of recommendations will be reported twice a year to the Disability Reform Ministerial Council (DRMC).

A web page dedicated to reporting on the implementation of the Disability Royal Commission recommendations will be developed and managed by the Department of Social Services to enable public reporting of progress against recommendations. Information available on the website will include:

- Response to recommendations within the shared responsibility of Australian, state and territory governments
- Individual government responses as and when they are released
- A dashboard for implementation tracking with action and progress against each recommendation as reported via the Monitoring and Reporting Framework
- Any Communiqués or Joint Statements released by DRMC on the progress of Royal Commission-related reforms.

Appendices



Appendix A: Summary tables — Australian Government positions

Volume 4: Realising the human rights of people with disability

Recommendation title	Australian Government response
4.1–4.22: Establishment of a Disability Rights Act	Subject to further consideration
4.23–4.34: Reform the Disability Discrimination Act	Accept in principle

Volume 5: Governing for inclusion

Recommendation title	Australian Government response
5.1: Develop a National Disability Agreement	Subject to further consideration
5.2: Review and update Australia's Disability Strategy	Accept
5.4: Review national agreements, strategies and plans	Accept in principle
5.5: Establishment of a National Disability Commission	Subject to further consideration
5.6: New governance arrangements for disability	Note
5.7: Focal points across jurisdictions to implement the CRPD	Accept in principle

Volume 6: Enabling autonomy and access

Recommendation title	Australian Government response
6.1: National accessible communications plan	Accept in principle
6.2: Increase the number of Auslan interpreters	Accept in principle
6.3: Access to skilled and qualified interpreters	Accept in principle
6.6: Supported decision-making principles	Accept in principle
6.19: Data collection on support and representation arrangements	Accept in principle
6.20: Interpretative declaration	Subject to further consideration
6.21–6.23: Advocacy	Accept in principle
6.24–6.25: Health system capability regarding cognitive disability	Accept in principle
6.26: Expand the role of the Health Ministers Meeting to monitor health workforce capability development	Accept in principle
6.27: Establish regular progress reporting by accreditation authorities	6.27 (a) and (b): Accept in principle 6.27 (c): Accept
6.28: Improve access to clinical placements in disability health services	Accept in principle
6.29: Improve specialist training and continuing professional development in cognitive disability health care	Accept in principle
6.30: Expand the scope of the National Centre of Excellence in Intellectual Disability Health	Note
6.31: Embed the right to equitable access to health services in key policy instruments	6.31 (a): Accept 6.31 (b): Accept in principle

Recommendation title	Australian Government response
6.32: Increase capacity to provide supports and adaptations through improved guidance, funding and accessible information	Accept in principle
6.34: Introduce disability health navigators to support navigation of health care for people with disability	Accept in principle
6.37: Data collection and public reporting on psychotropic medication	Accept
6.38: Strengthening the evidence base on reducing and eliminating restrictive practices	Accept in principle
6.39–6.40: Restrictive Practices	Accept in principle
6.41: Legislative prohibition of non-therapeutic sterilisation	Subject to further consideration

Volume 7: Inclusive education, employment and housing

Recommendation title	Australian Government response
7.2, 7.3, 7.6, 7.13: Inclusive education	Accept in principle
7.8, 7.10: Education workforce capability and complaints management	Accept in principle
7.9, 7.12: Education data, evidence, and funding	Accept in principle
7.14–7.15: Phasing out of non-mainstream or segregated education	Note
7.16: Priorities for inclusion in the new Disability Employment Services model	Accept
7.17: Develop education and training resources for Disability Employment Services staff	Accept
7.18–7.23: Disability employment in the public sector	Accept in principle

Recommendation title	Australian Government response
7.24: Convene a Disability Employment Rights Council	Note
7.25: Amend the <i>Fair Work Act 2009</i> (Cth)	Accept in principle
7.26: Amend the <i>Disability Discrimination Act 1992</i> (Cth)	Accept in principle
7.27: Enable a Fair Work Ombudsman referral mechanism	Accept
7.28: Improve information about wages and the Disability Support Pension	Accept
7.29: Embed an 'open employment first' approach in the NDIS Participant Employment Strategy	Accept
7.30: Support the transition to inclusive employment	Accept in principle
7.31: Raise subminimum wages	Subject to further consideration
7.32: End segregated employment by 2034	Subject to further consideration
7.33: Prioritise people with disability in key national housing and homelessness approaches	Accept in principle
7.34: Include homelessness in Australia's Disability Strategy	Accept
7.39: Preventing homelessness when people with disability transition from service or institutional settings	Accept in principle
7.40: Address homelessness for people with disability in the National Housing and Homelessness Plan	Subject to further consideration
7.41: Group home reform	Accept in principle
7.42: Improve access to alternative housing options	Accept in principle
7.43–7.44: Group homes reform	Subject to further consideration

Volume 8: Criminal justice and people with disability

Recommendation title	Australian Government response
8.2: Disability awareness in OPCAT monitoring	Accept in principle
8.11: Information for courts and legal practitioners	Accept in principle
8.12: Implementation of the National Principles	Accept in principle
8.13: Data about people detained in forensic systems	Accept in principle
8.17: NDIS Applied Principles and Tables of Support concerning the justice system	Subject to further consideration
8.18: Timing of NDIA-funded transition supports	Accept
8.19: Amendment of the Disability Discrimination Act 1992 (Cth) to cover police provision of 'services'	Accept in principle
8.20: Improving police responses to people with disability	Accept in principle
8.23: Action plan to end violence against women and children with disability	Accept in principle
8.24: Disability-inclusive definition of family and domestic violence	Accept in principle

Volume 9: First Nations people with disability

Recommendation title	Australian Government response
9.4: Expand community connector programs	Accept
9.5: Block funding the community-controlled sector	Accept in principle
9.6: National Disability Insurance Agency Board	Accept in principle
9.7: Participation in cultural life	Accept in principle
9.8–9.9: NDIS return to country and family supports policies and funding	Accept in principle
9.10: First Nations Disability Forum	Accept in principle
9.11: Building on the Disability Sector Strengthening Plan	Accept in principle
9.12: Disability-inclusive cultural safety standards	Accept in principle
9.13: Remote workforce development	Accept in principle

Volume 10: Disability services

Recommendation title	Australian Government response
10.1: Embedding human rights	Accept in principle
10.2: Independent support coordination	Accept in principle
10.3: Adequate support coordination	Accept
10.4: Quality of support coordination	Accept in principle
10.5: Advocacy	Accept in principle
10.6–10.7: Supported decision-making in disability services	Accept in principle
10.8: A national disability support worker registration scheme	Subject to further consideration

Recommendation title	Australian Government response
10.9: The Social, Community, Home Care and Disability Services Industry Award	Note
10.10: Provider of last resort	Accept in principle
10.11: Internal procedures for monitoring reportable incidents.	Accept in principle
10.12: Introduction of class or kind determinations	Accept in principle
10.13: Creating an independent investigators panel	Accept in principle
10.14: Developing model policies and procedures	Accept in principle
10.15: Complaint handling and investigative practice guideline	Accept in principle
10.16: Requirement to consider redress	Accept in principle
10.17: Access to safeguarding indicators and expertise	Accept in principle
10.18: Improved complaint handling procedures and responses	Accept in principle
10.19: Requirement to investigate certain complaints	Accept in principle
10.20: Making complaint processes accessible	Accept
10.21: Registration and audit process	Accept in principle
10.22: Strengthened regulatory requirements	Accept in principle
10.23: Publishing data about the unregistered provider market	Accept
10.24: Improved access to behaviour support practitioners	Accept in principle
10.25: Strengthened monitoring, compliance and enforcement	Accept in principle

Recommendation title	Australian Government response
10.26: Expanded data reporting and publication	Accept in principle
10.27: Strengthened intelligence capacity	Accept in principle
10.28: Information sharing between prescribed bodies	Accept in principle
10.29: Establishing a First Nations Unit	Accept in principle
10.30: Engagement and capacity building activities	Accept in principle
10.31–10.33: Worker screening	Accept in principle

Volume 11: Independent oversight and complaint mechanisms

Recommendation title	Australian Government response
11.1–11.2: Adult safeguarding	Subject to further consideration
11.4: Creating accessible complaint pathways	Accept in principle
11.5: Complaint handling and investigative practice guidelines	Accept in principle
11.6: Enshrining key provisions of OPCAT in legislation	Accept in principle
11.7: Resourcing and wider definition of places of detention	Accept in principle
11.10: Improved consistency and coordination	Accept in principle
11.11: Disability inclusive approach to implementing OPCAT	Accept in principle
11.12–11.13: Community Visitor Schemes	Accept in principle
11.16: National agreement on disability death reviews	Subject to further consideration
11.18: Dual oversight of reportable conduct and incidents	Accept in principle

Volume 12: Beyond the Royal Commission

Recommendation title	Australian Government response
12.1: Government responses to the Final report	Accept in principle
12.2: Implementation of the Final report recommendations	Accept in principle
12.3: Progress reporting on implementation of recommendations	Accept in principle
12.4: Evaluation of effectiveness in improving outcomes	Accept in principle
12.5: A nationally consistent approach to data collection	Accept in principle
12.6: Disability flags in data collection for mainstream services	Accept in principle
12.7: Improving disability data collection	Accept in principle
12.8: Long-term support for the National Disability Data Asset	Accept in principle

Appendix B: State and territory recommendations

The table below includes the 50 Disability Royal Commission recommendations within the sole responsibility of state and territory governments.

State and territory recommendations
5.3: Review and update of disability strategies and plans
6.4: Terms and definitions in guardianship and administration legislation
6.5: Objects of guardianship and administration legislation
6.7: Decision-making ability
6.8: Formal supporters
6.9: Representatives as a last resort
6.10: Decision-making process
6.11: Guidelines on maximising participation
6.12: Public disclosure and confidentiality restrictions
6.13: Information and education on supported decision-making
6.14: Systemic advocacy to promote supported decision-making
6.15: Updating the national standards for public advocates, public guardians, and public trustees
6.16: Financial skills development programs
6.17: Transparency of public trustee fees and charges
6.18: Review of public trustees' fees and charges
6.33: Develop specialised health and mental health services for people with cognitive disability
6.35: Legal frameworks for the authorisation, review and oversight of restrictive practices

State and territory recommendations

- 6.36: Immediate action to provide that certain restrictive practices must not be used
-
- 7.1: Provide equal access to mainstream education and enrolment
-
- 7.4: Participation in school communities
-
- 7.5: Careers guidance and transition support services
-
- 7.7: Inclusive education units and First Nations expertise
-
- 7.11: Stronger oversight and enforcement of school duties
-
- 7.35: Increase the availability and supply of accessible and adaptive housing for people with disability through the National Construction Code
-
- 7.36: Improve social housing operational policy and processes
-
- 7.37: Increase tenancy and occupancy protections for people with disability
-
- 7.38: Minimum service standards and monitoring and oversight of supported residential services and their equivalents
-
- 8.1: Conditions in custody for people with disability
-
- 8.3: Prohibiting solitary confinement in youth detention
-
- 8.4: Screening and assessment for disability in youth detention
-
- 8.5: Disability training for staff in youth detention
-
- 8.6: Western Australia youth detention staff retention
-
- 8.7: Western Australia youth detention operating philosophy
-
- 8.8: *Inspector of Custodial Services Act 2003 (WA)*
-
- 8.9: Use of seclusion in New South Wales Justice Health and Forensic Mental Health Network
-
- 8.10: Transition from custodial supervision in the Northern Territory
-
- 8.14: National practice guidelines for screening in custody
-

State and territory recommendations

8.15: Policies and practices on screening, identifying and diagnosing disability in custody

8.16: Support by First Nations organisations to people in custody

8.21: Diversion of people with cognitive disability from criminal proceedings

8.22: Age of criminal responsibility

9.1: Culturally appropriate parenting capacity assessments

9.2: Ages and Stages Questionnaire-Talking about Raising Aboriginal Kids (ASQ-TRAK)

9.3: Cultural safety of First Nations people in criminal justice settings

11.3: 'One-stop shop' complaint reporting, referral and support

11.8: Legislating National Preventive Mechanisms

11.9: Designating National Preventive Mechanism bodies

11.14: Establishing disability death review schemes

11.15: Disability death review scheme requirements

11.17: Nationally consistent reportable conduct schemes

Appendix C: Key terms

ableism

Ableism refers to attitudes and behaviours that label people with disability as different, less than or inferior to people without disability, incapable of exercising choice and control and a burden on society.

Aboriginal Community Controlled Health Organisations

A primary health care service that is operated by a local Aboriginal community to deliver holistic, comprehensive and culturally appropriate health care to the community that controls it, through a locally elected board of management.

Aboriginal Community Controlled Organisations

An incorporated Aboriginal or Torres Strait Islander organisation that is initiated by, based in, and governed by a local First Nations community to deliver holistic, culturally appropriate services to the community that controls it.

abuse

Acts or omissions causing or likely to cause direct or indirect harm to a person or group of people with disability. Abuse can occur as a single incident or repeated incidents or a pattern of behaviour over a period of time.

accessible

Environments, facilities, services, products and information that people are able to use and interact with in a way that suits their needs.

adjustments

Necessary and appropriate individualised adaptations, modifications or supports to remove or minimise barriers to or enable a person with disability's participation and inclusion in society. See also 'reasonable adjustment'.

advocacy

Disability advocacy refers to acting, speaking or writing to promote, protect and defend the rights and interests of people with disability, including human rights.

augmented and alternative communication

Methods of communication personalised to enable the participation of a person who may experience barriers to spoken communication. They include unaided forms, such as eye contact, gestures, facial expression, vocalisations and sign language, and aided forms that use devices, such as a speech generating device, to communicate.

Auslan

The name for Australian Sign Language and the main language of Australia's Deaf community.

Australian Disability Enterprise (ADE)

Generally, a not-for-profit organisation that provides employment for people with moderate to high support needs who need significant support to work.

Australia's Disability Strategy 2021–2031

Australia's Disability Strategy 2021–2031 is Australia's overarching disability policy framework that provides national leadership towards greater inclusion of people with disability. The vision of *Australia's Disability Strategy 2021–2031* is for an inclusive Australian society that ensures people with disability can fulfill their potential, as equal members of the community.

Australian Institute for Teaching and School Leadership (AITSL)

A Commonwealth-owned corporation. Its role is to lead national education reform and to promote excellence in teaching, initial teacher education and school leadership. It works with the education communities in all states and territories, systems and sectors in building, enhancing and sustaining effective teaching and leadership, and supporting the professional education community to make evidence-based decisions.

autonomy

A person's right and freedom to make decisions, control their life and exercise choice.

block funding

Funding that is provided through a contract between governments and disability service providers. It is generally fixed-term funding given to organisations to deliver an agreed amount or type of service for specific cohorts or in specific geographical areas.

braille

A tactile alphabet for people who are blind, d/Deafblind or who have low vision. It uses raised dots that are interpreted through touch.

capacity building supports

Supports and services that help NDIS participants build independence. They may relate to social, community and civic participation, employment, relationships, health and wellbeing, choice and control, lifelong learning and daily activity. They may also include support coordination services.

capital supports

Higher-cost pieces of assistive technology, equipment, or home or vehicle modifications for which NDIS participants can receive funding.

captioning

The act of converting audio content into text. This can be used in a range of environments, such as for television/streaming broadcast, live event or webcast. While subtitles only contain dialogue, captions identify music, sound effects, background sounds and non-verbal content, such as whether a speaker has an accent.

care and support workforce

A collective term for the paid workers who provide a range of essential services across Australia's aged care, disability support and veteran care systems.

carer

Someone who provides supports to a person with disability on an unpaid basis, often a family member. Some legislation refers to 'carers' and some people with disability prefer the term over 'support person'.

cognitive disability

Cognitive disability arises from the interaction between a person with cognitive impairment and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others. 'Cognitive impairment' is an umbrella term encompassing actual or perceived differences in cognition, including concentration, processing, remembering, or communicating information, learning, awareness, and/or decision-making. People with cognitive disability may include, but are not limited to, people with intellectual disability, learning disability, dementia or acquired brain injuries, and some people with autism.

community settings

Places or surroundings that are not associated with organisations or service providers. Examples include private homes and public spaces.

community visitor schemes

Community visitors (also known as 'Official Community Visitors', 'Official Visitors' or 'Official Visitors Disability' (depending on the jurisdiction) are appointed individuals who visit people living in prescribed accommodation to independently monitor the services and facilities provided and assist with resolving issues or complaints. All states and territories except Western Australia and Tasmania have a community visitor scheme (CVS) for people with disability.

complaint

Disclosure, concern, grievance, information or allegation about violence against, or abuse, neglect or exploitation of, a person with disability. A complaint may give rise to a report of unlawful conduct (see 'report').

complaint body

An agency that has a function to receive, handle, investigate and resolve complaints.

complaint mechanism

The system used by an organisation to respond to a complaint. A complaint mechanism can be internal to an organisation or may also involve complaints to external authorities, such as referrals to police and notifications to regulatory bodies responsible for overseeing and monitoring complaints involving reportable incidents or reportable conduct.

co-design

A design process where stakeholders are equal partners and take leadership roles in the design of products, services, systems, policies, laws and research.

criminal justice system

In Australia, there are nine separate sources of criminal law: Commonwealth legislation and the legislation of six states and two territories. Each jurisdiction has its own courts. For ease of reference in this volume, we use 'the criminal justice system' to refer collectively to the criminal justice systems of the Commonwealth, the states, and the territories.

cultural safety

An outcome that respects, supports and empowers the cultural rights, identity, values, beliefs and expectations of First Nations peoples while providing quality services that meet their needs.

culturally and linguistically diverse

This broad term describes communities with diverse languages, ethnic backgrounds, nationalities, traditions, societal structures, and religions. This includes people with a different heritage or linguistic background than dominant Australian culture and language, people with dual heritage, and people who are migrants and refugees. Some members of the Deaf community and other Auslan users also identify as members of a cultural minority.

Deaf

'Deaf' (with a capital 'D') is used to describe people who use sign language such as Auslan to communicate, and who identify culturally as members of the signing Deaf community.

deaf

The word 'deaf' (with a lower case 'd') is a broader term than Deaf (with a capital 'D'). It is used to describe the physical condition of not hearing, and also to describe people who are physically deaf but do not identify as members of the signing Deaf community. See also 'hard of hearing / hearing impaired'.

d/Deafblind

The term 'd/Deafblind' refers to people who have some hearing and vision and people who are totally deaf and blind. The most common forms of communication used by people who are d/Deafblind in Australia are:

- speech, oral and aural communication
- sign language including a variety of ways of receiving sign language such as close range, visual frame and tactile, hand-over hand signing
- d/Deafblind fingerspelling.

decision-making ability

The ability of a person to make a particular decision with the provision of relevant and appropriate support at a time when a decision needs to be made.

digital platforms

Businesses that provide online services, including connecting support workers with participants in the National Disability Insurance Scheme (NDIS). They are also referred to as 'platform providers'.

dignity of risk

Affording a person the right and dignity to take risks.

disability

An evolving concept that results from the interaction between a person with impairment(s) and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others.

disability advocacy organisation

An organisation that provides disability advocacy to people with disability in order to promote, protect and ensure their full and equal enjoyment of all human rights. This includes organisations funded under the Australian Government's National Disability Advocacy Program.

disability representative organisation

A peak organisation providing systemic advocacy and representation for people with disability.

disability sector

Collective term to describe disability service providers and workers, disability peak and advocacy bodies, disabled people's organisations, disability representative organisations and others involved in or affected by how disability services are designed and delivered.

disability services

Services that people with disability use because of their disability. Disability services are not offered or provided to the general public.

disability service provider

Individuals and government and non-government (including for profit and not-for-profit) organisations that provide disability services.

disability support workforce

A collective term for paid workers who provide direct and indirect support to people with disability, including for daily living. They may be employees, contractors or self-employed.

Easy Read

Easy Read format is a way of presenting written information to make it easier to understand. It typically uses simple words, short sentences, accessible fonts and layouts, and images or photos to assist in illustrating the information.

Education Ministers Meeting (formerly the Education Council)

A ministerial forum for national collaboration and decision-making on educational matters including school education.

exclusionary discipline

Actions by an educational authority or educational institution that results in the withdrawal of education or training from students with disability, including suspensions and expulsions.

exploitation

Taking or attempting to take improper advantage of a person or group of people with disability for benefit, advantage or gratification, including taking physical, sexual, financial or economic advantage.

family and domestic violence

Family and domestic violence is violence, abuse, neglect and exploitation that takes place in intimate relationships, in families, or in other domestic relationships such as with workers, carers, co-residents or housemates. Family violence is the preferred term in First Nations communities, and includes the extended kinship networks in which violence can occur. Women are more likely to experience family and domestic violence, and it can be characterised by coercive control, which is repeated behaviour that isolates, and denies someone their autonomy and independence.

First Nations peoples

First Nations people, also sometimes referred to as Aboriginal and/or Torres Strait Islander people or Indigenous Australians, are a diverse group of hundreds of nations (or cultural groups), who have lived in Australia and other islands off the continent since before colonisation. First Nations people today have distinct cultures, beliefs, and languages, and make up approximately 3.3 percent of the total Australian population.

full minimum wage

The minimum adult wage payable under an award or agreement to employees in classifications covered by that award or agreement, or the national minimum wage for employees who are not covered by an award or agreement.

gatekeeping

Formally or informally preventing or discouraging, other than for a lawful and proper reason, a child or young person from applying to, or enrolling in, an educational institution.

group home

A house that accommodates a number of people with disability as their residential home. The term 'group home' may also refer collectively to both the physical accommodation and provision of specialist disability supports to residents in the home.

guardian

Someone who is appointed under a guardianship order to make decisions about another person's health care, finances, accommodation, services, relationships, or some other personal matters.

hard of hearing / hearing impaired

The terms 'hard of hearing' and 'hearing impaired' describe people who are unable to hear, have some hearing or become deaf later in life, and whose communication mode is usually speech. The choice between these two terms usually depends on personal preference. People who are hearing impaired or hard of hearing may rely on hearing assistance devices (such as hearing aids or cochlear implants), lip reading and captions, and some may learn Auslan as a second language later. See 'Deaf', 'deaf'.

Individualised Living Options (ILO) funding

ILO funding is a category of funding provided by the National Disability Insurance Scheme (NDIS) to people who need either informal or formal support for at least six hours each day, but do not require regular overnight support or 24-hour rostered support. ILO funding is designed to enable people with disability to explore, plan for and move into a home of their choosing with the appropriate supports.

impairment

An impairment is a condition or attribute of a person, for example a condition that means a person cannot see. An impairment, in interaction with attitudinal, environmental, and social barriers, may result in a disability. See 'disability'.

indefinite detention

The detention of an individual without a specific release date.

informal supports

The social support networks that provide protection for people with disability by increasing connections, relationships and visibility in the wider community.

intergovernmental

Relating to different governments. In the national context in Australia, intergovernmental relations often refer to processes involving the Australian Government and state and territory governments, but can also include process that include local governments.

intergovernmental agreement

An agreement made between different governments. In the national context in Australia, an intergovernmental agreement is made between the Australian Government and state and territory governments.

intersectionality

A person or group of people can be exposed to multi-layered or 'intersecting' forms of discrimination or disadvantage, due to characteristics such as age, disability, First Nations status, race, gender, gender identity or sexual orientation.

investigation

A fact-finding process that commences after a complaint has been received. Information is gathered, assessed and weighed up in order to establish the facts and make findings. An investigation may be conducted internally by the organisation or service provider that has received the complaint, or by an external investigator appointed to do so on their behalf. An investigation may also be conducted by a regulatory or oversight body. Police may conduct an investigation if a complaint or report raises criminal allegations.

legal capacity

A person's decisions and actions being recognised and respected by the law. It refers to both legal standing (the ability to hold rights and duties, and to be recognised as a legal person) and legal agency (the ability to exercise these rights and duties and to perform acts with legal effects).

letters patent

An official document issued to establish a royal commission. The letters patent contain terms of reference that define the scope of the inquiry.

local area coordinators (LACs)

Local organisations working in partnership with the National Disability Insurance Agency to help people with disability and their families and carers access and navigate the National Disability Insurance Scheme (NDIS).

LGBTIQA+

An internationally recognised acronym used to describe lesbian, gay, bisexual, trans and gender diverse, intersex, queer, questioning, and asexual people and communities.

mainstream services

Services provided to the Australian public whether or not they have a disability, for example, health care and education.

mobility aids

Tools and technologies that can assist people with disability to be more mobile and independent. Mobility aids include wheelchairs, scooters, walkers, canes (including white canes), guide dogs, crutches and prosthetic devices.

National Disability Data Asset (NDDA)

The National Disability Data Asset (NDDA) comprises linked, de-identified data about all Australians from multiple Australian Government and state and territory government services and agencies over time. It is being developed to better use data to understand the experiences of people with disability.

National Disability Insurance Agency (NDIA)

The statutory agency responsible for implementing and managing the National Disability Insurance Scheme (NDIS).

National Disability Insurance Scheme (NDIS)

Scheme established by the *National Disability Insurance Scheme Act 2013* (Cth) to provide funding directly to eligible people with disability for supports and services.

Nationally Consistent Collection of Data on School Students with Disability (NCCD)

An annual collection of information about Australian school students with disability. The Australian Education Regulation 2013 (Cth) requires all schools to report the data collected for the NCCD to the Australian Government on an annual basis.

National School Reform Agreement

An intergovernmental agreement between the Australian Government and state and territory governments, currently in force until December 2024. The agreement aims to improve academic achievement, enhance student engagement in school and ensure students gain the skills needed for post-school life. It operates for the benefit of all students, including priority equity cohorts, which are defined to include students with disability.

NDIS participant

A person with disability who meets the access criteria set out in the *National Disability Insurance Scheme Act 2013* (Cth) to become a participant in the National Disability Insurance Scheme (NDIS).

NDIS plan

A written plan that sets out a NDIS participant's goals and the supports needed to achieve those goals. The plan is based on a participant's disability support needs and includes information about NDIS funding and how it can be used.

NDIS provider

A person or entity who provides supports or services to NDIS participants. We use this term in accordance with the meaning set out in section 9 of the *National Disability Insurance Scheme Act 2013* (Cth).

NDIS Quality and Safeguards Commission (NDIS Commission)

The statutory agency established to oversee and monitor the quality and safety of NDIS supports and services pursuant to the *National Disability Insurance Scheme Act 2013* (Cth).

neglect

The failure to provide for the physical, emotional, social and cultural wellbeing and development of a person or group of people with disability.

open employment

'Open' or 'mainstream' employment settings refer to work settings where people with and without disability are employed.

oversight body

An independent agency that has a statutory responsibility to 'watch over' a particular group of organisations and hold them to account in relation to specific functions, such as handling complaints or responding to reportable allegations or incidents.

physical disability

Physical disability arises from the interaction between a person with physical impairment and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others. A physical impairment is an impairment that affects a person's mobility, dexterity or speech.

psychosocial disability

Psychosocial disability arises from the interaction between a person with a long-term mental health condition (that may be episodic) and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others.

public place

Real and virtual spaces in the community where people spend their time. They include destinations (such as parks, playgrounds, shops, and entertainment venues), pathways (such as streets, shopping centres, public transport, and transport hubs) and online platforms (including blogs, dating sites, video-sharing platforms, social media and messaging services).

reasonable accommodation

Article 2 of the Convention on the Rights of Persons with Disabilities defines reasonable accommodation as 'necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms'.

reasonable adjustment

The *Disability Discrimination Act 1992* (Cth) s 4(1) defines an adjustment to be made by a person as a reasonable adjustment 'unless making the adjustment would impose an unjustifiable hardship on the person'.

redress

The actions taken to remedy or rectify a wrong. Redress may be provided to an affected person after a complaint is substantiated. Types of redress may include an apology, counselling or medical treatment, financial compensation (for example, an ex-gratia payment or damages awarded by a court) or a change to a system, policy, or process.

registered provider

A person or provider of supports registered as a provider with the NDIS Quality and Safeguards Commission.

regulator / regulatory body

An agency that has a legislative function to regulate a particular group of organisations with respect to the delivery of particular services or programs. For example, the NSW Office of the Children's Guardian regulates the provision of out-of-home care, and the NDIS Quality and Safeguards Commission regulates NDIS service providers.

report

A formal notification of violence against, or abuse, neglect or exploitation of, a person with disability. An internal report may be made by a person working for an organisation (for example, an incident report), or by a service recipient of an organisation or a person acting on their behalf. An external report may be made by an individual or a service provider to a statutory authority (for example, police or the NDIS Quality and Safeguards Commission).

reportable conduct

Conduct towards, against or in the presence of a child including sexual abuse, sexual misconduct, physical abuse, neglect, ill-treatment and psychological harm. The definition of reportable conduct is included in the operating legislation for the reportable conduct scheme in each state or territory.

reportable conduct schemes

Schemes that require the heads of relevant organisations to notify an independent oversight body of allegations of reportable conduct involving their employees. The organisations must investigate the allegation, make a finding and report the outcome to the oversight body. Most states and territories now have a reportable conduct scheme.

response

A formal reaction from an organisation to a complaint. At a minimum, it consists of advice to the complainant about the outcome of the action taken, if any, in response to a complaint. A response may include conducting an investigation (see 'investigation') and/or providing redress (see 'redress').

restrictive practice

Any action, approach or intervention that has the effect of limiting the rights or freedom of movement of a person. Restrictive practices include physical restraints, chemical restraints, mechanical restraints, environmental restraints and seclusion.

safeguarding

Taking action to protect a person with disability from violence, abuse, neglect or exploitation. The term encompasses both a preventative and reactive response. The term is not intended to imply any element of coercion or to undermine the autonomy of a person with disability.

segregation

Circumstances where people with disability live, learn, work, or socialise in environments designed specifically to cater for people with disability, separate from people without disability. Segregation occurs when people with disability are separated and excluded from the places where the community lives, works, socialises, or learns because of the person's disability. Segregation does not occur in spaces where people with disability choose to come together, share culture and values, seek support for their individual needs, or are encouraged and supported to engage with the broader community. These are the same choices available to people without disability.

sensory disability

Sensory disability arises from the interaction between a person with sensory impairment and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others. A sensory impairment affects a person's ability to see, hear, touch, smell, have spatial awareness or otherwise be aware of and perceive the world around them.

Specialist Disability Accommodation (SDA)

A type of National Disability Insurance Scheme (NDIS) funding in a participant's plan for specialist housing. SDA funding is paid directly to SDA providers to cover building and maintenance costs.

subminimum wage / supported wage

A wage paid to a person with disability that is below the national minimum wage and is determined by a wage assessment tool or by reference to the special national minimum wage.

substitute decision-making

A range of processes and regimes that involve a person making decisions on another person's behalf. Substitute decision-making includes appointments of guardians, administrators and financial managers to make certain decisions on another person's behalf.

support

Actions, practices, strategies or resources that promote the participation and inclusion of a person or people with disability in society. In this Government Response, the word 'support' is also used to describe whether a government or body is in favour of a recommendation, policy, change or action.

support coordination

An intermediary service designed to assist NDIS participants to make the best use of their NDIS funding. There are three levels of support coordination: support connection, coordination of supports, and specialist support coordination.

support person / support worker

Someone who provides supports to a person with disability. This may be a family member, friend, or a person contracted for paid or voluntary work. If a person is contracted as a paid or formal voluntary worker, we refer to them as a 'support worker'.

supported accommodation

A type of service that provides housing, care and support.

supported decision-making

Processes and approaches that assist people to make a decision, including by giving them the tools they need to make the decision for themselves. Supported decision-making does not mean deciding for or on behalf of another person.

supported employment

Ongoing assistance provided by support workers and managers for employees working in Australian Disability Enterprises (ADEs) or other settings to complete work tasks. Supports provided to people with disability in ADEs and other settings to help them work are called 'supported employment services', as defined in the Disability Services Act 1986 (Cth).

Supported Independent Living (SIL)

A type of National Disability Insurance Scheme (NDIS) funding for home and living supports. Supported Independent Living (SIL) is for people with higher support needs who need some level of help at home all the time.

terms of reference

The Royal Commission's terms of reference are the nature and scope of our inquiry, as set out in the letters patent. See 'letters patent'.

trauma

The lasting adverse impacts that may arise when a person has lived through an event, series of events, or set of circumstances that is experienced as physically or psychologically harmful or life threatening.

trauma-informed

Frameworks and strategies to ensure that the practices, policies and culture of an organisation and its staff understand, recognise and respond to the effects of trauma and minimise, as far as possible, the risk that people may be re-traumatised.

unregistered provider

A provider of disability services that is not registered with the NDIS Quality and Safeguards Commission. An unregistered provider can support plan-managed NDIS participants and self-managed NDIS participants. An unregistered provider can support plan-managed NDIS participants and self-managed NDIS participants.

violence

The use or threatened use of force or the unjust use of power that causes or is likely to cause harm or fear of harm to a person or group of people with disability.

will and preferences

'Will' means larger life goals, such as political perspectives, emotional and spiritual development, and gender and sexual identity. 'Preferences' means choices regarding day-to-day activities, aesthetic preferences, and similar.