

A NEW NATIONAL HUMAN RIGHTS ACTION PLAN FOR AUSTRALIA
COMMENTS ON BACKGROUND PAPER

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Children with Disability Australia

Children with Disability Australia (CDA) is the national peak body that represents children and young people with disability and their families. The organisation is primarily funded through the Department of Families, Housing, Communities and Indigenous Affairs (FaHCSIA) and is a not for profit, community based organisation.

The organisation represents children and young people aged 0-25 as an advocacy body with the mandate of building respect, recognition and inclusion for 'kids' with disability. CDA works alongside families of children and young people with disability and has a membership of approximately 5000¹ members nationally.

VISION

To provide children and young people with disability the opportunity to live meaningful and fulfilling lives within safe, supportive and appropriate environments. CDA achieves this vision by:

1. **Educating** national public policy-makers and the broader community about the needs of children and young people with disability and their families.
2. **Advocating** on behalf of children and young people with disability to ensure individual choices and the best possible support and services are available to them from government and the community.
3. **Informing** families about the rights and entitlements of the child and young person with disability to services and support.
4. **Celebrating** the successes and achievements of children and young people with disability.

CDA acknowledges the critical role that families play in providing the necessary care and support to children and young people with disability and recognises their need to be supported in this role.

¹ 70% families and 30% organisational

GUIDING PRINCIPLES

Children the priority: that the safety and well-being of children and young people with disability is paramount and consistent with Australia's obligations under the Convention on the Rights of the Child and the Convention of the Rights of Persons with Disabilities.

Respect: for the views and interests of children and young people with disability and their families.

Recognition: for contributions made by families to ensure the safety and well being of children and young people with disability.

Inclusion: to ensure that children and young people with all types of disability, from all cultural and religious backgrounds and different family structures are supported by the work of CDA.

Responsiveness: to ensure that full advantage is taken of strategic opportunities that arise from the political and social policy environment that benefit children and young people with disability.

Collaboration: with relevant non-government, government and private sector partners to promote the interests of children and young people with disability.

Transparency: within CDA's governance structures, decision-making processes, financial expenditure and reporting activities.

CDA strongly supports the establishment of a New National Human Rights Action Plan for Australia.

It is imperative that the baseline study conducted to inform the Action Plan incorporates the lived experiences of children and young people with disability. Many in our community assume human rights of children are well recognised and promoted within Australia. Australia is a country which values the contribution of children and acknowledges the need to afford specific rights and protection. Australia, by being a party to the Convention of the Rights of the Child and Convention of the Rights of Persons with Disabilities, acknowledges its commitment and obligations to children, including children with disability.

The reality for many children and young people with disability however is that their rights are not fully recognised in Australia. Children and young people with disability and their families too frequently cite experiences in Australia where their human rights are simply not recognised and at times blatantly violated.

There remains a significant failure to transfer rights of children and young people with disability which are contained in relevant United Nations Conventions to 'every day experiences'. This issue is identified in the Shut Out Report (2009) and the associated Draft National Disability Strategy (2010), CDA's submission (2009) to the National Human Rights Consultation stated that it is "essential that a comprehensive promotion and implementation strategy ... be developed. Such a strategy must not only involve educating all sectors of the community but must ensure laws and policies ...translate into the every day experiences of all Australians, including children with a disability."

All too often families of children with disability have to engage in robust advocacy or take legal action to ensure that their child is afforded the same rights and opportunities as other children.

Equally CDA has observed that families of children with a disability are often either unaware of their children's' rights or are under the mistaken impression that to have a child with disability means accepting inadequate solutions that compromise their child's quality of life and undermine their human rights. It is just seen as 'part of the deal'.

Some families tire from their ongoing battle to have their children's rights recognised. Families are often faced with having to continually advocate for their children's rights to access services, resources and opportunities. It is a time consuming and exhausting process. As a consequence, families are often forced to prioritise their issues of concern and acquiesce in some situations thereby forfeiting recognition of their children's rights.

Education is one of the most significant issues of concern for children with disability and their families. The United Nations Convention of the Rights of Persons with Disability and the Rights of the Child, clearly state the rights of the child with disability to receive a quality, free and inclusive education. Despite Australia being a Party to these conventions, and the existence of State and Commonwealth discrimination legislation, at best families of children with disability believe that their children have limited opportunities to be enriched and extended through education and that the present system is awash with low expectations and standards for students. At worst, parents are concerned about treatment that could arguably breach the Convention Against Torture. Reports of children being locked in 'time out' rooms come uncomfortably close to false imprisonment. Reports of physical restraint and manhandling approach assault, and do not seem to be supported by departmental policy.

CDA believes that significant action needs to be taken to ensure that the significant rights afforded to children & young people with disability in Australia becomes a greater practical reality. It is envisaged that the National Action Plan will articulate how greater education regarding human rights will be provided to all levels of the community which will result in greater enjoyment of human rights in Australia. It is also imperative that an Action Plan will enable the implementation of structures for proper recording and measuring how human rights are afforded in Australia.

Thank you for the opportunity to provide comments on the Background Paper on 'A new National Human Rights Action Plan for Australia'.

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References

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