

Discussion Paper

Victorian State Disability Plan 2017-2020

**Children and Young People with Disability Australia
Submission - July 2016**

INTRODUCTION

Children and Young People with Disability Australia (CYDA) welcomes the opportunity to provide feedback regarding the development of the *Victorian State Disability Plan 2017-2020* (the Plan). It is the view of CYDA that the values and overarching framework articulated in the discussion paper provide a strong basis for addressing the breadth of disadvantage and discrimination that confronts children and young people with disability in Victoria.

The Plan aims to ensure mainstream services and systems are inclusive and can meet the needs of people with disability.¹ This reflects a rights based approach and the purpose of the National Disability Strategy. Importantly there is recognition within the discussion paper that the aim of the National Disability Insurance Scheme (NDIS) to support social and economic participation of people with disability can only be realised with corresponding reform of mainstream sectors.

There has been positive reform in recent decades towards community based and mainstream services, emphasising and reflecting the rights of people with disability to inclusion and participation. However, the legacy of the historical context of segregated services and exclusion continues to influence areas of service delivery and limit participation and opportunities for many children and young people with disability in the community.

Further, mainstream sectors, services, government departments and the community more broadly often do not consider inclusion for children and young people with disability. An example is a playground that is developed without consideration of accessibility and inclusion for children with disability.

The Plan will therefore be critical in shifting understanding and attitudes and in progressing action within mainstream sectors and the broader community with regards to the inclusion of children and young people with disability. This requires consideration of not only engagement with services by people with disability, but also how people live and participate in the community.

Many of the activities and opportunities which most would view as typically part of the active citizenship and participation of a child or young person are frequently denied to children and young people with disability. It is therefore critical that the Plan and its four themes include a specific focus on children and young people. This submission discusses issues of key relevance to children and young people with disability.

CHILDREN AND YOUNG PEOPLE WITH DISABILITY AUSTRALIA

CYDA is the national representative organisation for children and young people with disability, aged 0 to 25 years. The organisation is primarily funded through the Department of Social Services and is a not for profit organisation. CYDA has a national membership of 5500.

CYDA provides a link between the direct experiences of children and young people with disability to federal government and other key stakeholders. This link is essential for the creation of a true appreciation of the experiences and challenges faced by children and young people with disability.

¹ Department of Health and Human Services 2016, *Help Shape Victoria's Next State Disability Plan*, State of Victoria, Melbourne, viewed 20 July 2016, <http://goo.gl/4YdO6y>.

CYDA's vision is that children and young people with disability living in Australia are afforded every opportunity to thrive, achieve their potential and that their rights and interests as individuals, members of a family and their community are met.

CYDA's purpose is to advocate systemically at the national level for the rights and interests of all children and young people with disability living in Australia and it undertakes the following to achieve its purpose:

- **Listen and respond** to the voices and experiences of children and young people with disability;
- **Advocate** for children and young people with disability for equal opportunities, participation and inclusion in the Australian community;
- **Educate** national public policy makers and the broader community about the experiences of children and young people with disability;
- **Inform** children and young people with disability, their families and care givers about their citizenship rights and entitlements; and
- **Celebrate** the successes and achievements of children and young people with disability.

THEME ONE: ACTIVE CITIZENSHIP

This theme focuses on supporting the civic, social and cultural participation of people with disability. The Plan needs to recognise the developmental and protective context of children and young people which informs what 'active citizenship' will look like in practice and as a lived reality. Children and young people with disability typically encounter specific challenges with regards to active citizenship. Key areas for consideration are outlined below.

Cross Sector Role

Increasing opportunities for participation and active citizenship of children and young people with disability will require actions across a range of life areas and portfolios. It is therefore recommended that the Plan has an inbuilt expectation of cross sector involvement for implementation. This should ensure that all State portfolios and departments, including the key areas of education, health, housing and justice, have disability as a core consideration which is embedded in all areas of their work. Also needed are clearly articulated responsibilities for delivering the aims and outcomes of the Plan. It is envisaged that this will require implementing specific policies, actions, data collection, monitoring and evaluation.

Further, it is critical to ensure mainstream organisations, services, businesses and other bodies reflect the principles of the Plan in their service delivery and undertake specific policies and actions to ensure accessibility and inclusion of children and young people with disability. It is the view of CYDA that the Victorian Government should increase oversight to ensure that progress is made.

Recommendation 1: The *Victorian State Disability Plan 2017-2020* include provisions requiring all State Government portfolios and departments to ensure disability is a core consideration embedded in all areas of their work and have articulated responsibilities for delivering the aims and outcomes of the Plan.

Recommendation 2: The *Victorian State Disability Plan 2017-2020* include criteria to assess actions taken by organisations and service providers to ensure their services are inclusive through an auditing process. Government funding should be contingent on compliance with an established inclusion standard.

Play and recreation

Accessing play opportunities in the community is an important aspect of being an active citizen as a child. The right of children to play, leisure and to participate in cultural life are recognised as rights in the United Nations *Convention on the Rights of the Child*.² However, children with disability are routinely excluded from opportunities for play and activities typically afforded to children without disability. It is frequently reported to CYDA that children with disability are excluded from: playgrounds; social opportunities; play in educational settings; extracurricular opportunities; and sport and recreational activities.

The present limited number of inclusive playgrounds in Victoria prevents play and social opportunities for many children with disability. *Touched by Olivia*,³ a national organisation dedicated to the development of inclusive playspaces has been involved in the development of three inclusive playgrounds in Victoria to date, with one scheduled to be opened later in 2016. These playgrounds are developed through community partnerships which CYDA regards as an excellent model which should be used to develop more inclusive playspaces in the State.

Recommendation 3: The *Victorian State Disability Plan 2017-2020* include actions to promote the development of inclusive playspaces, as informed by the *National Inclusive Playground Design Guidelines*, in all Victorian communities, through a grant initiative.

Playgroups refer to formal or informal opportunities for families and children to meet to facilitate children's play and participate in a range of activities. It is the view of CYDA that encouragement and support of inclusive playgroups should be considered in the Plan. This could occur through development of specific information and resources for playgroup coordinators or through the appointment of a specific consultant with the Department of Health and Human Services. This role would provide information, support and expertise to formal and informal playgroups on inclusion, with a specific focus on disability.

Recommendation 4: The *Victorian State Disability Plan 2017-2020* include actions to support children and family playgroups to be inclusive through development of specific information and resources or through the appointment of a specific consultant with relevant expertise to work with playgroup coordinators.

Another critical area is extracurricular and community activities. These cover a diverse range of areas including sport, dance, swimming, scouts and music. These activities are facilitated by a broad range of community groups and organisations, including schools. It is frequently reported to CYDA that children and families with disability experience barriers to accessing these community activities. This was reflected in CYDA's 2015 national education survey, in which 39% of respondents reported exclusion from school events or activities on the basis of disability.

Recommendation 5: The *Victorian State Disability Plan 2017-2020* include specific focus on progressing the development of inclusive cultures for children with disability within organisations and providers of extracurricular and community activities.

² United Nations General Assembly 1989, *Convention on the Rights of the Child*, article 31.

³ Further information about the work of Touched by Olivia is available at <http://touchedbyolivia.com.au/>.

Education

Children and young people with disability typically experience immense disadvantage in accessing a quality and inclusive early childhood and school education in Victoria. A typical education experience for students with disability involves discrimination, limited or no funding for support, inadequately trained staff, a systemic culture of low expectations, exclusion and bullying. CYDA is also receiving increasing reports of incidents of restraint and seclusion in Victorian schools.

CYDA has done extensive work in the area of education. CYDA's submission to the Senate Inquiry into *Current Levels of Access and Attainment for Students with Disability in the School System, and the Impact on Students and Families Associated with Inadequate Levels of Support*⁴ clearly and comprehensively outlines the direct experience, concerns and recommendations regarding students with disability and education.

Research evidence overwhelmingly supports inclusive education as best practice in education provision, in both improving outcomes and supporting the diverse needs of all students. It entails full participation and full membership of all students and families within a school community and ensures all students, including students with disability, are valued as contributors and learners.

CYDA acknowledges that in Victoria, education reform is occurring under key initiatives, including: the *Schools Funding Review*; review of the *Program for Students with Disabilities*; and the *Special Needs Plan for Victorian Schools*. This focus on education provision for students with disability is welcome. However, there is much work that needs to occur to ensure that these initiatives deliver the comprehensive reform required and indeed result in inclusive education being available to all students with disability.

CYDA strongly recommends that the Plan include provisions to ensure that reform in early childhood and school education is informed by evidence around inclusive education. This should include considerations around funding, availability of appropriate expertise to meet the diverse learning needs of students, school culture and attitudes and more. Further, it is paramount that all reform is informed by the direct experiences of children and young people with disability and their families.

Further, in order to ensure all Victorian students are afforded their right to access inclusive education, consideration needs to be given as to how inclusion can be operationalised and measured. CYDA supports the development of an 'inclusion index,' which defines and measures key features and characteristics of inclusive education settings.⁵

Recommendation 6: The *Victorian State Disability Plan 2017-2020* include articulation of requirements to ensure reform to early childhood and school education is developed and implemented with a firm basis in available research evidence regarding inclusive education.

Recommendation 7: The *Victorian State Disability Plan 2017-2020* include the development of mechanisms to ensure input of the direct experiences of children and young people with disability and families into all reform regarding early childhood and school education.

⁴ Available at <http://www.cda.org.au/cdasubmissions>.

⁵ T Booth, M Ainscow 2002, *Index for Inclusion: Developing Learning and Participation in Schools*, Centre for Studies on Inclusive Education, United Kingdom; T Loreman et al. 2014, 'Conceptualising and Measuring Inclusive Education,' in C Forlin, T Loreman (eds.), *Measuring Inclusive Education*, Emerald Group Publishing Limited, United Kingdom.

Recommendation 8: The *Victorian State Disability Plan 2017-2020* establish a process for the establishment and use of a publically available inclusion index in relation to disability for each Victorian school.

Meaningful Participation of Children and Young People with Disability in Advocacy

Children and young people with disability have valuable contributions to make to shape policy and practice. CYDA believes the Plan should include a focus on strengthening participation of children and young people with disability in decision making and advocacy. This can occur in a range of ways, such as formal involvement in an organisation, participating in consultations and sharing direct experiences or by creating new platforms to promote change.

Barriers typically encountered by children and young people with disability in participating in advocacy include: a culture of low expectations due to both age and disability; lack of opportunities; inaccessible venues, processes and materials; and a lack of information.⁶ Addressing these barriers could occur through existing mechanisms that work to support and progress the voice and participation of young people, notably the *Commission for Children and Young People*. In addition, it is important to recognise that supporting meaningful participation of children and young people with disability requires appropriate resourcing.

Recommendation 9: The *Victorian State Disability Plan 2017-2020* articulates actions to strengthen participation of children and young people with disability in advocacy and change making through the appointment of a dedicated commissioner within the *Commission for Children and Young People*.

THEME TWO: RIGHTS AND EQUALITY

CYDA is frequently informed of children and young people with disability being denied their rights and experiencing inequality in a range of areas. These include: access to a quality education; experiences of abuse, violence and bullying; access to services and supports; access to justice; accessibility of physical spaces, activities and information; and access to health care.

Information and Support

CYDA often receives feedback from constituents around the lack of accessible information around the rights of children and young people with disability and how to locate assistance. Frequently, children and young people with disability and families only access information about rights when a situation occurs where they want to pursue a complaint and/or something has gone wrong. In other cases, people are provided with an information sheet when services are first accessed but rights not subsequently mentioned.

It is critical that all services, organisations and other settings accessed by children and young people with disability clearly articulate information about rights in an ongoing way and that this embedded throughout all areas of accessing and participating in a service. This could be incorporated into the previously discussed provisions to ensure organisations demonstrate measures undertaken ensure inclusive services are delivered. For example, rights should be raised informally by staff as well as through written communication.

A critical consideration around safeguarding the rights of children and young people with disability is advocacy. Individual advocacy is an important source of support and advice for many children and young people with disability and their families. People are often unaware of the rights of children

⁶ Available at <http://www.cda.org.au/strengthening-participation>.

and young people with disability, relevant legislation and protections and require support in accessing fragmented and incoherent service systems or resolving a specific issue.

Access to **independent** advocacy is particularly critical during the current period of transition to the NDIS and other areas of reform. There is presently significant uncertainty around how advocacy will be provided in the context of the new funding and regulatory environment associated with the NDIS. Further, it is unclear how the advocacy which is frequently required for issues outside of the NDIS will be provided and resourced.

Young people with disability and families of children with disability in Victoria frequently contact CYDA seeking individual advocacy, most often due to concerns regarding education. CYDA's experience is that funding for individual advocacy around this issue is currently limited. Despite the acknowledged work of existing advocacy organisations, there is presently extremely high demand, there often appears to be limited support available and often organisations are time and task limited. Families are constantly needing support to attend meetings regarding education provision yet many frequently contact CYDA exasperated because they are unable to access and receive the advocacy their children require.

Recommendation 10: The *Victorian State Disability Plan 2017-2020* includes a specific focus on ensuring improved access to independent advocacy for children and young people with disability.

Oversight

At present there are significant gaps in regulatory and legislative oversight, which leave children and young people with disability and families vulnerable to rights violations and with minimal recourse when concerns arise.

A key gap in oversight exists in relation to education. Presently, there is no timely, independent mechanism for students and families to pursue complaints regarding education experiences. Families frequently report that schools and education authorities become highly defensive and litigious in response to complaints, further escalating any tension. Often, families must undertake legal action through the courts as a result. This is an extremely expensive and time consuming pathway that is often not an option for many students and families.

Further, there is a lack of oversight and accountability regarding experiences of abuse of students with disability in Victorian schools. Education sits outside the available complaints mechanisms for disability services such as the *Office of the Disability Services Commissioner*. Education settings are also typically outside the jurisdiction of policy and oversight relating to restrictive practices. For example, the 2013 *National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector* does not include schools. Further, the Senior Practitioner (now in the Office of Professional Practice) does not cover education, meaning families do not have any recourse through this authority for restraint and seclusion experienced in schools in contrast to disability service settings.

CYDA notes that the *Special Needs Plan for Victorian Schools* included the creation of a new position, the Principal Practice Leader (Education), who reports to the Senior Practitioner. However, CYDA is concerned that a single position is simply not sufficient to address the breadth of reform and cultural change required in schools to prevent this form of abuse from occurring. Further, there continues to be a lack of mandated and enforceable policies and guidelines that aim to eliminate the use of restraint and seclusion on students with disability.

Recommendation 11: The *Victorian State Disability Plan 2017-2020* to include a focus on accountability and oversight regarding the rights of children and young people with disability in education settings. Key components should include:

- a. Establishment of an independent mechanism for complaints regarding all Victorian education settings, which allows disputes to be resolved in a timely manner;
- b. Development of policy and/or legislation mandating the development and implementation of Positive Behaviour Support plans, ensuring that adequate training has been undertaken by those developing and implementing plans, including educational staff;
- c. Development of policy mandating notification of families within an identified acceptable time period if their child is subjected to restraint and seclusion at school.

Recommendation 12: The *Victorian State Disability Plan 2017-2020* include actions to ensure the establishment of an oversight body, or the inclusion of schools within existing statutory authorities such as the Office of Professional Practice, for the use of restraint and seclusion in schools that must authorise the use of restrictive practices beyond a first unplanned emergency. This body should also record data on the use of restraint and seclusion regardless of setting. Schools would therefore be required to collect data on all incidents where restraint or seclusion occurs.

Policy Frameworks and Programs

The legacy of historical siloing of services for people with disability continues to result in the exclusion of considerations for people with disability in mainstream policy frameworks and programs. Frequently, considerations around children and young people with disability in policy and practice are minimal or non-existent. Examples include the *National Framework for Protecting Australia's Children*, the *Safe Schools Framework* and other anti-bullying initiatives and the *National Plan to Reduce Violence against Women and their Children* and other family violence prevention policies. This exclusion leaves children and young people with disability vulnerable to rights violations.

Recommendation 13: The *Victorian State Disability Plan 2017-2020* include mechanisms to ensure children and young people with disability are actively considered in all Victorian Government policy frameworks and programs, including but not limited to child protection and wellbeing, anti-bullying and family violence frameworks and initiatives.

THEME THREE: ECONOMIC PARTICIPATION

The discussion paper correctly acknowledges that improving employment outcomes of people with disability cannot be achieved without also improving education provision for students with disability. In addition, it is critical to note the importance of post school transition in supporting young people to access employment.

Young people with disability report highly variable post school transition experiences, with many informing of poor experiences. Post school transition refers the period in which young people informally or formally consider and prepare for post school life. It is an important time to support and guide young people to think about their post school plans and interests and assist the development of skills and knowledge to pursue these plans. Effective post school transition is critical to supporting economic participation of young people with disability and should therefore be a key focus of the Plan.

In 2015 CYDA released a report entitled *Post School Transition: The Experiences of Students with Disability*.⁷⁷ The report provides a comprehensive discussion of the current state of play in post school transition for students with disability in Australia. The report makes a range of recommendations to improve post school outcomes for students with disability. These focus on coordinating efforts from all relevant stakeholders including state, territory and federal governments, education systems, employers and employment services and post school transition programs, to address post school transition. The report also calls for improved information provision for students and families, better collection of data on post school outcomes of students with disability and improved training and professional development for staff working with students with disability.

Further, the Australian Government Department of Social Services is currently developing a new *Disability Employment Framework*, which is due to be released in 2016. Consideration should therefore be given to how efforts at the national level can be coordinated through actions and targets in Victoria.

Recommendation 14: The *Victorian State Disability Plan 2017-2020* include a strong focus on improving post school transition provision for students with disability. Core requirements of post school transition must include:

- a. Transition planning to begin early, by Year 9;
- b. Planning to be person-centred;
- c. High expectations to be embedded throughout the process;
- d. Work experience opportunities and the facilitation of part time work — connections with local businesses and employers will be essential for this;
- e. Foundational skills to be addressed;
- f. Career development planning to take place; and
- g. Follow up with young people post school.

THEME FOUR: MAKING THE MOST OF THE NDIS

To date the work around the NDIS interface with a range of other areas, such as health, education or children and family services, is not well advanced with a complex web of considerations across multiple jurisdictions. Addressing interface issues will involve defining clear roles and lines of responsibility, funding arrangements, present gaps in service provision and ensuring effective collaboration occurs. As the NDIS proceeds to full implementation, it is important that formal work defining interfaces with mainstream sectors in Victoria occurs.

Another important issue is the development of appropriate regulatory oversight and safeguards for people accessing the NDIS. This will involve coordination between the states and territories, the Commonwealth and the National Disability Insurance Agency. For example, there will be a need to consider the role of Victorian institutions such as the *Office of the Disability Services Commissioner* and the *Victorian Equal Opportunity and Human Rights Commission* in the new regulatory system to ensure the rights of people accessing the Scheme are protected.

Currently there is work occurring around defining the *NDIS Quality and Safeguarding Framework*. This work is highly important given the vulnerability of children and young people with disability to

⁷⁷ Available at <http://www.cda.org.au/post-school-transition>.

experiencing violence, abuse and neglect.⁸ CYDA notes that Victoria has been a leader around the development of child safe standards and practice. In the context of the transition occurring regarding disability services and supports, it is critical that the Victorian Government strongly advocates that safeguards under the NDIS align with these principles. For example, CYDA has recommended that all services funded by the NDIS providing supports to children should be required to achieve child safe accreditation.

Further, it is important to note that many children and young people with disability will not be eligible for an Individual Funding Package (IFP) through the NDIS. It is therefore critical to consider how services and supports will be provided to children and young people who are not eligible for an IFP. This is particularly important given the Information, Linkages and Capacity Building (ILC) component of the Scheme will be delivered with limited funding of \$132 million nationally for 2019/2020, excluding funding for Local Area Coordinators.⁹ Further, the focus of ILC on capacity building within mainstream services is not likely to capture the support needs of all people who are ineligible for an IFP.

Recommendation 15: A clear articulation of how services and supports for people who cannot access individual NDIS funding will be provided and accessed in Victoria.

CONCLUSION

There is significant work to be done to ensure that children and young people with disability in Victoria are afforded equal opportunities, rights and participation. This work must occur across sectors, departments and life areas. It is absolutely paramount that this process is informed by an understanding of inclusion that is backed by research evidence and a human rights framework. The overarching principles for the next *Victorian State Disability Plan* described in the discussion paper reflect these principles. It is also critical that these translate into concrete measurable actions.

⁸ P Sullivan et al. 2000, 'Maltreatment and Disabilities: A Population-Based Epidemiological Study,' *Child abuse and Neglect*, Vol. 24, No. 10, p. 1257, Children and Young People with Disability Australia 2012, *Enabling and Protecting: Proactive Approaches to Addressing the Abuse and Neglect of Children and Young People with Disability*, Melbourne.

⁹ National Disability Insurance Agency 2015, *Information, Linkages and Capacity Building Commissioning Framework – Consultation Draft*, Geelong, p. 7.

SUMMARY OF RECOMMENDATIONS

Recommendation 1: The *Victorian State Disability Plan 2017-2020* include provisions requiring all State Government portfolios and departments to ensure disability is a core consideration embedded in all areas of their work and have articulated responsibilities for delivering the aims and outcomes of the Plan.

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Recommendation 11: The *Victorian State Disability Plan 2017-2020* to include a focus on accountability and oversight regarding the rights of children and young people with disability in education settings. Key components should include:

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- b. Development of policy and/or legislation mandating the development and implementation of Positive Behaviour Support plans, ensuring that adequate training has been undertaken by those developing and implementing plans, including educational staff;
- c. Development of policy mandating notification of families within an identified acceptable time period if their child is subjected to restraint and seclusion at school.

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- g. Follow up with young people post school.

Recommendation 15: A clear articulation of how services and supports for people who cannot access individual NDIS funding will be provided and accessed in Victoria.

CONTACT

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