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Friday 19 January 2024

The Hon Amanda Rishworth MP  
Minister for Families and Social Services  
PO Box 6022  
Parliament House  
Canberra ACT 2600

**RE: The Department of Social Services' (DSS') Consultation on the Australian Government's Disability Royal Commission Response**

Dear Minister

Thank you for the opportunity to provide a submission to inform the Australian Government's official assessment of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (DRC) recommendations as invited on the *DSS Engage* website<sup>1</sup>. What follows are Physical Disability Australia's (PDA's) thoughts on the mechanisms DSS has employed to gather information on which of the DRC's recommendations are most important to the community, and our reasoned selection of these for priority adoption and implementation by the Australian Government.

**The DRC Response Questionnaire**

To begin with, PDA is quite disappointed that DSS has decided to gather information about community consideration of the DRC's large number of recommendations through a poorly designed online questionnaire.

As noted in your 19 October 2023 Statement to the House of Representatives, the DRC completed a four-and-a-half-year investigation into the lived experiences of violence, abuse, neglect, and exploitation of nearly 10,000 people with disability in late September 2023<sup>2</sup>. This resulted in a *Final Report*<sup>3</sup> comprising 12 volumes encompassing 6,788 pages on which were printed over 3,000,000 words all focussed on promoting a 'vision of an inclusive Australia' that might be come to pass if the Australian Government accepts and implements most of, if not all the 222 individual recommendations grouped into 100 strategies across 10 national and state / territory policy reform domains.

For anyone to read all this material and from it understand how the six Commissioners arrived at their 10 policy reform domains and 100 strategy-aligned recommendations groups (let alone the individual recommendations) would be a significant undertaking most likely to take some months of dedicated effort. Even reading and understanding the *Final Report's* Executive Summary<sup>4</sup> (401 pages / 110,335) is more than most community members can countenance.

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<sup>1</sup> <https://engage.dss.gov.au/drcausgovresponse/>

<sup>2</sup> [https://www.aph.gov.au/Parliamentary\\_Business/Hansard/Hansard\\_Display?bid=chamber/hansardr/27173/&sid=0009](https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansardr/27173/&sid=0009)

<sup>3</sup> <https://disability.royalcommission.gov.au/publications/final-report>

<sup>4</sup> <https://disability.royalcommission.gov.au/publications/final-report-executive-summary-our-vision-inclusive-australia-and-recommendations>

The most the Australian Government can reasonably expect of interested community members is that they might have read the 19 page *A brief guide to the Final Report*<sup>5</sup>, the Executive Summary's concluding list of 222 recommendations and thought a little about whether or not their acceptance and implementation by the Australian government would realise the DRC's 'vision for an inclusive Australia'.

PDA does not feel the DRC Response Questionnaire's commissioners and designers have taken this into consideration in their quest to get some idea of the community's DRC recommendation preferences, nor the effort respondents need to go to in order to provide reasonably considered responses to its poorly framed questions.

Instead, the Questionnaire's preamble suggests potential respondents:

*...use the list (of questionnaire recommendation groupings) to find the volume and theme of the recommendations you want to pick. You may include a specific recommendation number in the free text box if you wish.*

*For example, if you wanted to choose Recommendation 4.1 – Establish a Disability Rights Act, you would first find the relevant volume: Volume 4, Realising the human rights of people with disability; and then choose the sub theme underneath: An Australian law to recognise the human rights of people with disability (Recs 4.1 to 4.4).*

This is disappointing as it implies respondents should choose recommendation groups according to their feelings first, and then look at the supporting documentation rather than, for example, look first at the *Brief Guide to the Final Report* to get an idea of how the recommendations were arrived at, and *then* choose the recommendation grouping best suited to addressing the most compelling systemic disadvantages faced by people with disability from their perspective... or better still, provide excerpts or paraphrases of the brochure at the head of each policy reform domain's recommendation groupings. As it stands, the straight list of recommendation group names that confronts respondents is opaquely off-putting.

PDA is also concerned about the scheduling of the DRC Response Questionnaire – 28 November 2023 to 19 January 2024 (a period during which many potential respondents are focused on end of year work commitments and making arrangements for the holiday season) – and the lack of official encouragement for community members to submit considered responses.

We would have rather seen DSS widely promote a better designed survey to the whole community after the holiday period than that which this submission addresses. As this is not the case, PDA has little faith that a representative sample of the community will bother providing responses to the DRC Response Questionnaire and, as a result, that the data it provides will be of much value.

## **PDA's DRC Response Preferences**

The DRC's 222 recommendations are divided between the Commissioners' conclusion that the Australian, state and territorial governments, and relevant corporations need to make significant policy and program reforms across 10 life domains where people with disability have been, and continue to be exposed to violence, abuse, neglect, and exploitation.

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<sup>5</sup> <https://disability.royalcommission.gov.au/publications/brief-guide-final-report-brochure>

As delineated in the *Final Report's* volumes 4 to 12, the DRC recommends that responsible government and corporate entities:

1. Realise the human rights of people with disability;
2. Enable autonomy and access for people with disability in all aspects of community life;
3. Ensure people with disability have equitable access to -
  - a. Education;
  - b. Employment; and
  - c. Housing;
4. Ensure people with disability are not mistreated by criminal justice systems;
5. Improve the experiences of First Nation's people with disability
6. Improve the quality and appropriateness of disability services
7. Improve the independent oversight and complaint mechanisms available to people with disability; and
8. Sustain universal commitment towards the protection of people with disability from violence, abuse, neglect and exploitation.

PDA's DRC response priorities are those that best align with the interests of our primary stakeholders; people with disability with predominantly physical impairments that affect their capacity to navigate the built and natural environments and perform self-care and other manual activities.

As such, we would like to see the Australian Government accept and prioritise recommendation groupings in policy reform domains 3b, 3c and 6 above.

### **3b Equitable Access to Employment**

Many people with physical disability have the qualifications and skills asked-for in a broad range of public and corporate industries. However, historic and continuing underappreciation of the capacity of these jobseekers to meet all genuine work role requirements has, and continues to, deny them equitable access to employment.

Of the six recommendation groups in this policy reform domain, PDA would like to see the Australian government demonstrate a commitment to employment equity by

- ***Increasing public sector employment for people with disability.***

While Australian, state, territorial and local governments frequently set employment targets for women, First Nations, Culturally and Linguistical Diverse employee counts, they have mostly avoided setting one for people with disability, and this policy setting is copied by corporate employers. PDA feels the Australian Government needs to lead by example here by accepting, prioritising, and implementing DRC recommendations 7.18 – 7.21 so that Australian Government entities set and meet escalating employees with disability targets, and facilitate their initial employment and ongoing public service careers through appropriate and portable workplace adjustment provisions.

### **3c Equitable Access to Housing**

Many people with physical disability are forced to live in unchosen dwellings (such as family homes well into adulthood) because there is an ongoing lack of physically accessible housing stock in their existing and preferred locations. In addition to this lack of pre-existing accessible premises, National Disability Insurance Scheme (NDIS) Participants with physical disability find it difficult to get reasonable and necessary home modifications funded and implemented by policy settings that require home ownership and/or unrealistic price limits.

Of the eight recommendation groupings in this policy reform domain, PDA would like to see the Australian Government demonstrate a commitment equitable access to housing by ensuring people with disability have

- **Access to alternative housing options.**

Commitments to prioritise people with disability in Commonwealth – State/Territory housing agreements will have little impact in providing people with disability equitable access to housing if they don't result in an increased stock of accessible dwellings for home-seekers with disability to choose from.

Recommendation 7.42 is the only one that requires the National Disability Insurance Agency to commit significant funding towards developing and making available innovative housing solutions so that participants can choose from a wide range of accommodation scenarios.

## **6 Access to higher quality and more appropriate disability services**

Many people with physical disability are heavily reliant on close personal support to undertake essential self-care activities such as toileting, bathing, dressing, food preparation and eating. For those in this vulnerable situation, it is vital that an appropriate human rights-based framework undergird all agreements and regulations pertaining to the delivery of disability supports, regardless of the funding source(s).

Of the five recommendation groupings in the Disability Service Providers section of this policy reform domain, PDA would like to see the Australian Government demonstrate a commitment to providing **all** people with disability access to higher quality and more appropriate disability services by

- **Embedding human rights in the design and delivery of disability services.**

Recommendation 10.1 falls a little short of what PDA would like as it only commits the NDIS Quality and Safeguards Commission to “**support** disability service providers to embed human rights in the design and delivery of their services” rather than **require** them to (emphasis added). However, this recommendation's embrace of codesign, grounding in the UN Convention on the Rights of Persons with Disability and extension to state and territory funded (non-NDIS) services is welcomed.

## **PDA's DRC Response Indifferences**

After asking respondents to nominate their top 3 recommendation groups they would like to see the Australian Government accept and implement (with optional reasoning), it asks them to nominate one recommendation group they **don't** support.

PDA is disappointed by the lack of awareness of the DRC's significance to people with disability that this question suggests. **All** the DRC's recommendations spring from the lived experience of people with disability who were at some point exposed to violence, abuse, neglect, and/or exploitation, and **nobody** should be encouraged to nominate any recommendation for rejection by the Australian Government.

PDA's nomination the above recommendation groups for swift acceptance and implementation are informed by the lived experiences of our members, their peers, families, and supporters; – one of many cohorts in the 'people with disability diaspora. We do not, and DSS should not, identify any recommendation for rejection before a thorough examination of the implications of such a decision.

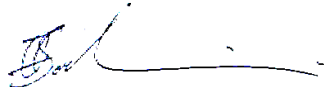
That being said, PDA is in two minds about the utility of the DRC's *Volume 4: Realising the Human Rights of People with Disability*<sup>6</sup> recommendations proposing an Australian *Disability Rights Act* (DRA) and a National Disability Commission (NDC) to administer it.

We have long believed Australia's current human rights laws (into which a DRA and NDC would need to fit) are fundamentally ineffective at guaranteeing respect for any at-risk group of Australian citizens including people with disability, and we have no confidence that adding a DRA and NDC will have any significant impact on the levels of violence, abuse, neglect and exploitation experienced by people with disability.

The legislative threats of the proposed DRA to those who might abuse the rights of people with disability are civil, not criminal, and rely on victims of rights abuse to make and prosecute complaints before any NDC investigations take place. This system has not worked well for people with disability whose rights were abused in the past and we see little reason for confidence that a DRA and yet another Commonwealth Commission will do any better going forwards.

That being said, PDA does not nominate any of these recommendation groups for rejection by the Australian Government as we are certain that many people with disability and their representative organisations will want a DRA and NDC. We just don't believe it would in any way deliver and sustain the DRC's (and our) 'vision for an inclusive Australia'.

Your sincerely



Andrew Fairbairn  
President and Director (WA)  
Physical Disability Australia



Simon Burchill  
Executive Officer  
Physical Disability Australia

C.c. The Hon Bill Shorten MP, Minister for the NDIS and Government Services  
The Hon Michael Sukkar MP, Shadow Minister for Social Services, the NDIS,  
and Housing and Homelessness.

### **About Us:**

Physical Disability Australia (PDA) is a national peak membership-based representative organisation run by people with physical disability for people with physical disability. PDA was founded in 1995 and have over 1,200 members from all Australian States and Territories. Our purpose is to:

- Remove barriers through systematic advocacy to all levels of government to enable every Australian living with a physical disability opportunities to realise their full potential;
- Proactively embrace and promote difference and diversity for an inclusive society; and
- Actively promote of the rights, responsibilities, issues and participation of Australians with physical disability.

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<sup>6</sup> <https://disability.royalcommission.gov.au/publications/final-report-volume-4-realising-human-rights-people-disability>