

24 August 2018

National Disability Agreement Review
Productivity Commission
Locked Bag 2, Collins Street
EAST MELBOURNE VIC 8003

Dear Commissioner

About FPDN

The First Peoples Disability Network Australia is a national organisation of and for Australia's First Peoples with disability, their families and communities. Its purpose is to promote respect for human rights, secure social justice, and empower First Peoples with disability to participate in Australian society on an equal basis with others. We are the custodians of the narratives of First Peoples with disability, their families and communities and we recognise this important responsibility.

Introduction

By any measure Aboriginal and Torres Strait Islander people with disabilities are amongst some of most disadvantaged of all Australians. This is because they often face multiple barriers to their meaningful participation within their own communities and the wider community. Indeed, at the First Peoples Disability Network (Australia) (FPDN) we say that it is difficult to think of any more disadvantaged Australians than Aboriginal and Torres Strait Islander people with disabilities and their families. As a result, we say meeting the needs of Aboriginal and Torres Strait Islander people with disabilities is one of most urgent and critical social justice issues in Australia today.

There are very high rates of disability amongst the Aboriginal and Torres Strait Islander people with disabilities. Anecdotally the prevalence of disability has always been believed to be at least twice that of the rest of the Australian population. Recent research by Scott Avery in his ground-breaking book entitled *Culture is Inclusion* has quantified that at least 60,000 Aboriginal and Torres Strait Islander people with disability are eligible for the National Disability Insurance Scheme. This data has been derived through a partnership with the Australian Bureau of Statistics. This research has exposed the lack of understanding or regrettably the sometimes disregard or tokenism that has been applied by

a range of government agencies including the National Disability Insurance Agency to meeting the needs of Aboriginal and Torres Strait Islander people with disabilities.

FPDN as the national representative organisation of and for Aboriginal and Torres Strait Islander people with disabilities and the thought leaders on disability in our communities continues to be frustrated by the lack of a coherent approach to addressing the very serious human rights needs of Aboriginal and Torres Strait Islander people with disabilities and their families. This is despite a range of well-articulated and prescriptive advice that FPDN has provided over more than a decade for how to address the unmet needs of Aboriginal and Torres Strait Islander people with disabilities and their families.

As a result, FPDN can only conclude that there has been a serious lack of political will or as is often experienced by FPDN and its members that meeting the needs of Aboriginal and Torres Strait Islander disability are view as being in the 'too hard basket'. Regrettably as an Aboriginal organisation this short of experience is all too familiar. So, to address this FPDN takes a very prescriptive view of what is required to meet the needs of our people with disabilities. An example of this is the *Ten Point Plan for the Successful Implementation of the NDIS in Aboriginal and Torres Strait Islander communities* that FPDN consciously developed knowing sadly that government would continue to either lack the general 'corporate knowledge' to understand the needs of Aboriginal and Torres Strait Islander people with disabilities or regrettably would continue to only superficially seek the address the needs of Aboriginal and Torres Strait Islander people with disability.

Main Recommendation: A National Strategy to Address the Unmet Needs of Aboriginal and Torres Strait Islander people with disabilities

Therefore, the headline recommendation that FPDN calls for is the development of a comprehensive *National Strategy to Address the Unmet Needs of Aboriginal and Torres Strait Islander People with Disabilities and their Families*. This must be done utilising co-design principles so that it can be a genuine partnership between the community of Aboriginal and Torres Strait Islander people with disabilities and the Commonwealth and State and Territory governments. FPDN believes that this may take some time to development as it is critical that this national strategy not be done as a reactionary endeavour but done as a genuine partnership. This national strategy could utilise the existing priority areas identified in the *National Disability Strategy* as its framework.

FPDN recognises and acknowledges that the Commonwealth government has developed an *Australian Government Plan to Improve Outcomes for Aboriginal and Torres Strait Islander people with disabilities*. However, the plan is not a partnership plan between the Australian government and the Aboriginal and Torres Strait Islander community, it is as the title suggest a government plan. It is critical that Aboriginal and Torres Strait Islander people with disabilities have an equal voice with government when developing our proposed new *National Strategy*. The need for a comprehensive national strategy is because of the following reasons:

1. There is no evidence that any jurisdiction has developed a comprehensive way of addressing the very serious human rights needs of Aboriginal and Torres Strait

Islander people with disabilities other than the aforementioned *Australian Government Plan*. In the more than decade long experience of FPDN the needs of Aboriginal and Torres Strait Islander people with disability have been addressed in a reactionary way usually through trialling short term initiatives without a clear long-term focus on improving outcomes.

2. Governments around the country are not well informed about the very serious degree of unmet need. It is not an exaggeration for some Aboriginal and Torres Strait Islander people with disabilities particularly but not exclusively in remote communities to be starving or to be homeless or to be 'sleeping rough'. Indeed, the vast majority of Aboriginal and Torres Strait Islander people with disabilities remain at the periphery of the disability support system. It has been the long experience of FPDN that very few bureaucrats around the country have actually seen first-hand the degree of poverty many Aboriginal and Torres Strait Islander people with disability experience.
3. Within bureaucracies around the country it is FPDN's experience that there are no Aboriginal and Torres Strait Islander people in positions within disability bureaucracies with authority, so the question remains where do such bureaucracies get their advice?
4. There remains a prevailing view amongst governments that essentially amounts to a mainstreaming of Aboriginal and Torres Strait Islander people with disabilities in practical terms this is particularly the case in relation to the National Disability Insurance Agency. FPDN asks why such an approach is persisted with when there is no evidence that such an approach has worked in any comprehensive way for Aboriginal and Torres Strait Islander people with disabilities in the past.

Recommendations

1. Investment in a National Aboriginal and Torres Strait Islander Local Area Coordinator Program for Equitable Access to the NDIS

Since the inception of the National Disability Insurance Scheme FPDN has been calling for the rollout of an Aboriginal owned and operated *Aboriginal and Torres Strait Islander National Local Area Coordination Program*. The necessity for this approach as FPDN predicted is because mainstreaming of Local Area Coordination under the NDIS has largely failed Aboriginal and Torres Strait Islander people with disabilities.

Furthermore, FPDN is seriously concerned that a number of sometimes high profile and often religious based organisations with some having seriously adverse relations with some Aboriginal and Torres Strait Islander communities are being directly allocated a range of NDIS functions. This is inconsistent with the stated procurement philosophies of an increasing number of jurisdictions who have developed Indigenous procurement policies. Furthermore, evidence shows that the previous state-based disability systems did not effectively meet the needs of Aboriginal and Torres Strait Islander people with disabilities so why is there be a continuation of what had been a broken system. The premise of the NDIS is based upon the need to reform the disability system therefore logically the same should apply to reforming

the approach to meeting the needs of Aboriginal and Torres Strait Islander people with disabilities.

The proposed *National Aboriginal and Torres Strait Islander Local Area Coordination Program* must prioritise the so called *Hard to Reach and Complex Individuals* which will require intensive support that can only be culturally appropriately provided by Aboriginal and Torres Strait Islander staff located within the Aboriginal and Torres Strait Islander community sector.

2. Local/Regional Investment in a *Whole of Community Response to Disability in Aboriginal and Torres Strait Islander communities*

FPDN has long articulated a *Whole of Community Response to Disability in Aboriginal and Torres Strait Islander communities* as a meaningful approach to addressing the needs of Aboriginal and Torres Strait Islander people with disability in their communities in which they live. The *Whole of Community Response* draws upon a well-established approach to meeting the needs of people disability that has been in existence in income poor settings for more than 30 years which is known as *Community Based Rehabilitation (CBR)*. CBR has never been effectively delivered or trialled in Australia despite the very obvious correlation between the lived experience of many Aboriginal and Torres Strait Islander people with disabilities to those of people with disability living in income poor settings.

The FPDN version of CBR we refer to as the *Whole of Community Response to Disability*. CBR is defined by the World Health Organisation as an effort to enhance the quality of life for people with disabilities and their families; meet their basic needs; and ensure their inclusion and participation. While initially a strategy to increase access to rehabilitation services in resource-constrained settings, CBR is now a multisectoral approach working to improve the equalization of opportunities and social inclusion of people with disabilities while combating the perpetual cycle of poverty and disability. CBR is implemented through the combined efforts of people with disabilities, their families and communities, and relevant government and non-government health, education, vocational, social and other services.

3. Addressing the Over Representation of Aboriginal and Torres Strait Islander people with disabilities in the criminal justice system

One of the most critical human rights issues facing Aboriginal and Torres Strait Islander people with disabilities and the country more generally is the serious over-incarceration of Aboriginal and Torres Strait Islander people with disabilities in prisons across the country. New research is emerging that is exposing the gravity of this situation including the extraordinary situation of the Aboriginal people with disability being indefinitely detained in some Australian prisons. FPDN has long articulated an effective way of immediately addressing this critical human rights abuse is by investing in co-locating disability advocates within Aboriginal Legal Services as a matter of urgency. There is also a need clearly for major law reform as recommended by a recent report by the Law Council of Australia.

4. Investment in an Aboriginal and Torres Strait Islander owned and operated disability research agenda

FPDN has recently completed a major ground-breaking research project that culminated in the production of a book entitled *Culture is Inclusion*. The historical significance of this research is that it is owned by the Aboriginal and Torres Strait disability community. Historically there has been little meaningful research undertaken focused upon disability in Aboriginal and Torres Strait Islander communities. It is vital however that a research agenda going forward be led by Aboriginal and Torres Strait Islander people as this is the only way to better understand and address the social exclusion and inequality that is experienced by Aboriginal and Torres Strait Islander people with disabilities.

5. Adherence to the principles of the United Nations Convention on the Rights of Persons with Disabilities and the United Nations Declaration on the Rights of Indigenous Peoples

FPDN is concerned that the National Disability Agreement be informed by the articles and principles of the *UN Convention on the Rights of Persons with Disabilities* and the *UN Declaration on the Rights of Indigenous Peoples* in their totality.

6. Addressing intersectional discrimination through law reform of anti-discrimination laws

Historically and still today anti-discrimination provisions are not sophisticated enough to appropriately address issues of intersectional discrimination. This is often exacerbated by a siloed approach that is taken by government to address social issues. This means that for many Aboriginal and Torres Strait Islander people with disabilities they walk in multiple worlds being the Aboriginal and Torres Strait Islander world, the disability community and the rest of the community yet there is no meaningful way for their intersectional rights to be upheld.

7. Investment in a national rollout of training with broad range of stakeholders about disability in Aboriginal communities and also investment in a Human Rights Training Program for Aboriginal and Torres Strait Islander people with disabilities

There is a critical need to invest in a national rollout of training about disability from an Aboriginal and Torres Strait Islander perspective. This is one immediate way to address the myriad of barriers this brief submission articulates. This is an urgent need. In addition to this training that has already been developed by FPDN there is an urgent need to deliver nationally the already submitted *Human Rights Training for Aboriginal and Torres Strait Islander people with disabilities*.