

Ending Violence, Abuse, Neglect & Exploitation of People with Disability

Fixing the NDIS, preventing discrimination and ensuring equal participation

In 2020-21 alone, at least 161,000 of the over 644,000 intensive services¹ provided by Legal Aid Commissions were provided to people who self-identified as persons with disability.² Through this work, we see the various – and often devastating – impacts multiple systems and barriers can have at every stage of life.

Our more than 70 recommendations to the Disability Royal Commission call for an overhaul of our systems to promote respect, dignity and equality. To find out more about our recommendations, read the full [submission](#) to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.

Culturally safe supports for First Nations people

National Legal Aid (NLA) acknowledges the impact of structural racism and colonisation on First Nations people with disability.

- Ensure there are **culturally safe, trauma-informed health care, treatment and disability supports** in the community
- **Reduce the harms of imprisonment for First Nations people with disability** with tailored health programs and services in partnership with First Nations organisations.

Upholding dignity and human rights

NLA recognises the diversity of experiences and backgrounds of people with disability. Implementing frameworks, laws and systems that promote inclusion and human rights for people with disability is critical, acknowledging we all have specific needs, priorities and perspectives based on age, gender, sexual orientation, race and cultural and linguistic diversity.

- Embed disability lived experience **leadership and self-advocacy** into all decisions, reforms, policy, service design and delivery
- Adopt a **Charter of Human Rights** and **streamline discrimination laws**
- Promote human rights in mental health systems, **make compulsory treatment a true last resort**
- Introduce a **robust national framework** for the regulation and oversight of the use of seclusion and restraint safeguarded with effective enforcement mechanisms and with the aim to eliminate all restrictive practices

Support with legal problems

Access to justice for people with disability can be challenging, particularly in terms of receiving specialist advice and representation.

- Invest in a **National Specialist Disability Legal Service** and increase funding to legal aid commissions to **provide legal advice to NDIS applicants and legal representation at the Administrative Appeals Tribunal**
- Resource specialist legal assistance within the **family law, family violence and child protection systems**
- Boost funding to legal aid commissions to assist with **parole applications** for people with disability.
- Equip police, courts, legal and non-legal practitioners to remove **any deficit-focused view** of people with disability.

¹ [National Legal Aid Statistics Reports](#). CLE and information/referral data are estimates - data obtained from legal aid commission annual reports where available. Where the data was not available in the 2020-21 annual report it is based on the 2019-20 data for those legal aid commissions.

² NLA, *Legal Aid Commissions' Disability and Intersectional Service Data 2018-19 to 2020-21* (15 October 2021). The data is an underrepresentation due to limitations in data collection and reliance on self-reporting.

NDIS: a true safety net

People with disability are falling through the gaps in the NDIS and mainstream service system.

- Enable straight-forward access to **adequate, timely NDIS and other disability supports**, wherever people live (including regional, rural and remote areas)
- Make all **NDIA communications clear and efficient**, outlining effective NDIS resolution pathways
- **Improve oversight of the NDIS market** and mechanisms to address gaps between the NDIS and mainstream services
- Include a service safety net for cases where market failure places people with complex support needs **at risk of detention or systemic or long-term harm**.

'I was so distraught because of the delays by the government, feeling like I was not believed and would never get any help. I felt worthless.' – Gary

Early start, better outcomes

Children with disability must be supported as early as possible so they can participate equally.

- Provide **support to attend school**
- Improve **early access to NDIS** and other disability supports
- Stop **criminal charges for children in residential care** if there are viable alternatives
- Prevent the criminalisation of kids with disability, including **raising the minimum age of responsibility to 14 years**.
- Improve **NDIS supports for parents with disability** to help families remain together as a family unit.

'My son was given an aide, personalised transition to a mainstream high school, additional support from the school welfare officer ... my son became a very happy young man.' – Veronique

Secure housing, financial security for everybody

Financial independence and secure housing will give people the best opportunity in life.

- Expand **Disability Support Pension eligibility and improve impairment tables**
- Increase availability to **affordable and accessible housing**
- Strengthen **protections against unfair and discriminatory evictions**.

Strengthening family violence services

We must improve understanding of the intersection between disability, mental health and the dynamics of family violence by mainstream services.

- Introduce specialist support and **holistic, trauma-informed responses** to protect people with disability from systemic harm

Reducing overcriminalisation...

Reorient the criminal justice system to use individualised and rehabilitative approaches for children and adults with disability.

- **Abolish mandatory sentencing laws** or at a minimum amend to include exceptions for people with disability
- Improve law enforcement responses through **screening and needs assessments**, reducing the frequency of arrest and detention and increasing the use of discretion to grant cautions and other diversionary options

'This has been the way things are for me for many years now.' – Belle on her fear of police

- Develop specialised supports for people with disabilities, including **funding bail accommodation and support services**, court liaison services, specialist courts and programs and services to assist people with drug or alcohol issues
- Increase the use of tailored and supported community-based sentences, using relevant diagnostic reports, addressing underlying causes of offending and understanding individual therapeutic and support needs.
- Increase access to **alternative pathways** for people with disability or cognitive impairment who have charges before summary courts

... improving supports in custody

- Simplify access to **culturally safe, trauma-informed health care, treatment and disability support** while in youth and adult custody
- Improve assistance for people with disability **transition from custody to the community**, including identification of people with disability who remain in custodial, forensic or mental health settings **due to a failure to secure disability services**
- Support **release planning and access to NDIS supports prior to release** with a nationally consistent policy of **no exits from prisons or inpatient units into homelessness**.

'I didn't want to become just another black death in custody.' – Koa on being denied access to insulin or blood glucose testing in prison

... and for forensic patients

- Uphold the non-punitive goals for people unfit to be tried so forensic orders have a **fixed term and are subject to review** at regular intervals
- Increase funding to adequate levels for **forensic mental health and disability facilities**