



CALL ON THE NSW GOVERNMENT TO ACT ON THE REPORT OF THE DISABILITY ROYAL COMMISSION

December 2023

The Disability Royal Commission (DRC) called on the Australian and State/Territory Governments to respond to its recommendations by March 2024, including with an action plan.

Here is the response of the Council for Intellectual Disability (CID) to recommendations of the DRC that are directed at the NSW Government and most relevant to people with intellectual disability.

We call on the NSW Government to act comprehensively on the DRC report. We have also identified Key Asks – specific commitments we seek from the Government in its March response.

We also emphasise the importance of all government action squarely considering and responding to the needs of First Nations people with intellectual disability.

A Disability Rights Act in NSW

The DRC has recommended that the Australian and State/Territory governments each pass a Disability Rights Act to give effect to the UN Convention on the Rights of Persons with Disabilities.

CID agrees with the DRC recommendations and emphasises that a Disability Rights Act needs strong enforcement provisions.

CID's key ask – By 2025, the NSW Government should pass a robust Disability Rights Act.

Accessible communications

The DRC has recommended that the Australian and State/Territory governments develop a joint national plan to improve accessibility of information and communications for people with disability.

This recommendation is consistent with CID's Everyday for Everyone campaign and presents an opportunity to build on the NSW Government's commitment to relevant information being in Easy Read by 2025

CID's key ask – The NSW Government should support a national plan including provision for information relevant to people with intellectual disability being in Easy Read, easy to find and easy to use.

Supported decision making

The DRC has recommended that States/Territories promote supported decision making and overhaul their guardianship legislation. Representative decision makers should only be appointed as a last resort and should follow the will and preferences of the person with disability, unless that could potentially lead to serious harm.

The DRC's stance is consistent with the 2018 Review of the Guardianship Act by the NSW Law Reform Commission, and with CID's My Rights Matter project. Following CID's pre-election campaign, the NSW Government now has a working party to advise the Attorney-General on guardianship reform.

CID's key ask – In 2024, the NSW Government should replace the Guardianship Act with an Assisted Decision Making Act complemented by a comprehensive supported decision making framework.

Health

The DRC has made a wide range of recommendations to improve health care for people with disability. Key recommendations for the NSW Government are:

- Publish a list of adaptations and supports frequently needed by people with disability and review hospital and primary care funding models to ensure adaptations and supports can be implemented in all relevant settings.
- By 2026, develop specialised health services for people with cognitive disability, including in local health services and statewide.
- Establish a network of disability health navigators to support people with cognitive disability and complex needs accessing health care.
- Establish a disability deaths review scheme.

For people with intellectual disability, the DRC's stance is consistent with CID's advocacy over the last 20 years and would build on the intellectual disability health teams that operate in six of the fifteen Local Health Districts in NSW and the two statewide hubs focused on intellectual disability mental health. These services back up mainstream health services by providing assessments of people with complex health needs and training to mainstream services. CID welcomes the DRC's recommendations. We acknowledge the health disadvantage faced by all people with disability and support robust action to meet that disadvantage. However, CID argues that the particular and often complex health needs of people with intellectual disability call for retention and statewide rollout of intellectual disability health teams.

CID's key ask – By 2026, the NSW Government should expand its network of intellectual disability health teams to provide statewide coverage and include a focus

on periodic review of people with very complex health needs.

Employment

The DRC has recommended that State Governments implement targets for disability employment in the public sector including a specific focus on people with cognitive disabilities. Government contracting policies should also favour businesses that employ people with intellectual and other disabilities.

These recommendations are consistent with CID's advocacy in the Everyday for Everyone campaign. The NSW Government has committed to 5.6% of the public sector workforce being people with disability. At present the percentage is only 2.5% and, alarmingly, that includes very few people with intellectual disability.

CID's key ask – The NSW Government should implement a strategy so that, by 2026, 1% of jobs in the public sector and in government contractors are held by people with intellectual disability.

Housing

The DRC has recommended prioritising people with disability in government housing and homelessness initiatives, increasing the supply of accessible housing, improving social housing policies and processes, improving tenancy rights, and moving away from reliance on group homes towards more individualised housing models.

The DRC recommendations are consistent with CID advocacy initiatives for social housing reform, residents' rights and for people to be able to choose where they live and who with. The NSW Government should develop a plan for the future use of group homes that it currently owns but leases to disability providers, so that the accommodation or its proceeds are used for flexible housing options.

CID's key ask – The NSW Government should increase the supply of social housing for people with intellectual disability and ensure that the processes of the new Homes NSW are accessible for people with intellectual disability, in particular in relation to applying for and maintaining tenancies. New housing should be fully accessible based on a universal design approach.

Criminal justice

The DRC has recommended major improvements in identification of people with disability in the justice system and in the treatment of people by the police, courts and youth and adult detention systems. Indefinite detention should be abolished. The interface between the responsibilities of the NDIS and detention systems should be improved. States should have culturally appropriate local court diversion programs to link people to the NDIS and other services. Governments should act on violence against women and children with disability.

The DRC recommendations are consistent with CID advocacy initiatives including the Justice Matters campaign which led to new funding for the Justice Advocacy Service at the Intellectual Disability Rights Services. As well as statewide support for people with cognitive disability in police interviews and court, JAS provides a diversion program in six of the busiest local courts in NSW. However, that leaves 149 courts without a diversion program.

CID key ask – By 2026, the NSW Government should extend statewide the diversion program operated by the Justice Advocacy Service.

Education

The DRC has recommended that States fundamentally reform education for students with disability. This includes legislative and policy changes, improved procedures and support services, and changes to culture, capability and practice in classrooms and schools.

CID endorses the DRC focus on the legal right for students with disability to attend a local mainstream school and be involved in the decisions concerning their educational programs and adjustments. This is consistent with CID's work to ensure all people with intellectual disability are valued in their community and receive the support and adjustments they want and need.

CID wants to see immediate action on inclusive education.

CID's key ask – In 2024, develop and implement a five year strategy to achieve a marked increase in the number of students with intellectual disability learning alongside their peers without disability. The strategy should be developed with students with intellectual disability, their families, and representative organisations.

Restrictive practices

The DRC has recommended that States put in place legal frameworks to minimise the use of restrictive practices in disability, health, education and justice settings.

CID endorses the DRC focus on regulating and minimising restrictive practices and first using alternatives such as supported decision making.

CID's key ask – By 2025, the NSW Government should legislate to minimise the use of restrictive practices in all settings. The Government should consider issues of authorisation and consent to restrictive practices in the current review of the Guardianship Act.