

Submission

THIS SUBMISSION WAS PREPARED BY THE FEDERATION OF COMMUNITY LEGAL CENTRES (VICTORIA) INC, IN CONSULTATION WITH MEMBER CENTRES

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Draft Victorian State Disability Plan 2013-2016

Response to Department of Human Services Consultation



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Acknowledgements

This submission was written on behalf of the Federation of Community Legal Centres (Victoria) by our member centre Disability Discrimination Legal Service Inc.

About the Federation of Community Legal Centres (Victoria) Inc

The Federation is the peak body for 49 community legal centres across Victoria. A full list of our members is available at <http://www.communitylaw.org.au>.

The Federation leads and supports community legal centres to pursue social equity and to challenge injustice.

The Federation:

- provides information and referrals to people seeking legal assistance
- initiates and resources law reform to develop a fairer legal system that better responds to the needs of the disadvantaged
- works to build a stronger and more effective community legal sector
- provides services and support to community legal centres
- represents community legal centres with stakeholders

The Federation assists its diverse membership to collaborate for justice. Workers and volunteers throughout Victoria come together through working groups and other networks to exchange ideas and develop strategies to improve the effectiveness of their work.

About community legal centres

Community legal centres are independent community organisations which provide free legal services to the public. Community legal centres provide free legal advice, information and representation to more than 100,000 Victorians each year.

Generalist community legal centres provide services on a range of legal issues to people in their local geographic area. There are generalist community legal centres in metropolitan Melbourne and in rural and regional Victoria.

Specialist community legal centres focus on groups of people with special needs or particular areas of law (eg mental health, disability, consumer law, environment etc).

Community legal centres receive funds and resources from a variety of sources including state, federal and local government, philanthropic foundations, pro bono contributions and donations. Centres also harness the energy and expertise of hundreds of volunteers across Victoria.

Community legal centres provide effective and creative solutions to legal problems based on their experience within their community. It is our community relationship that distinguishes us from other legal providers and enables us to respond effectively to the needs of our communities as they arise and change.

Community legal centres integrate assistance for individual clients with community legal education, community development and law reform projects that are based on client need and that are preventative in outcome.

Community legal centres are committed to collaboration with government, legal aid, the private legal profession and community partners to ensure the best outcomes for our clients and the justice system in Australia.

Overview

The vision set out on page 19 of the Draft Victorian State Disability Plan ('the Plan') is one that is familiar and has previously been used in various Victorian government documents. That being the case, the actioning of the Plan is of great importance if it is to be any different from other disability plans that have gone before it.

Need for resourcing

There is certainly very little in the Plan that disability advocates would find objectionable. However, in relation to the six principles, one of the most important elements of the Plan is resourcing, and in order that the principles, policy directions and outcomes of the Plan are achieved, we recommend that "Resourcing" be the seventh principle.

Unless there is a commitment to resourcing, this Plan will be at risk of replicating other plans which have lofty ideals but few real outcomes for people with disabilities.

Lack of clarity

We note that under the heading 'Putting the Plan into Action' (p38), it is stated that 'The draft plan contains some of the things that we will do to achieve the outcomes we are looking for. Biennial implementation plans (2013–14 and 2015–16) will be developed and will contain specific actions for each priority.'

It is therefore unclear how many more actions are planned to ensure that the listed outcomes are attained. It is also unclear whether there will be any more priority areas added under each objective. As stated in the draft Plan, the implementation plans will specify the actions to each priority, however there would be a significant difference in our response if we understood that the priorities were limited to those in the Plan. Without knowing this information, it is difficult to gain an idea of the likelihood of the stated outcomes being met. It is also unclear as to whether people with disabilities and others will have input into the implementation plans, which are far more important than the Plan itself.

Lack of completeness in Priorities for Action

Currently, some of the priority areas for action seem incomplete. The first example is the first policy direction outcome, which is 'Access to and outcomes in education, jobs and health that enable people with a disability to lead full and rewarding lives.'

There is a list of actions under 1.1 of 'What Are Our Priorities?' in relation to education. It is not clear how it has been decided that one of the priorities is to implement the 'Abilities Based Learning and Education Support' (ABLES) resource across the Victorian school system. This is a new assessment tool, named in such a way that it is immediately confused with the empirically based Assessment of Basic Language and Learning Skills (ABLLS). It is unclear as to whether the 'Abilities Based Learning and Education Support' resource is an evidence-based and peer reviewed tool. There is little point in ensuring a new assessment tool is used across the Victorian school system if once the assessment is made, there are not the resources or expertise to address any academic and social gaps.

On the other hand, there is no mention of some of the more urgent requirements for children with disabilities in schools such as:

- a decision by the State Government to use evidence based learning programs for students with disabilities;

- ensuring that every child with a disability is assessed for their ability to read and write at markers throughout their education, and the appropriate supports to be provided to them in order that they are achieve literacy if they cannot;
- ensuring that the Program for Students with Disabilities covers all moderate to severe disabilities, not simply the disabilities that the State Government has chosen;
- measuring academic outcomes for all students with disabilities;
- the cessation of physical restraint and solitary confinement as a way to 'manage' challenging behaviours.

These are examples of priorities which we believe address the widely held and well-documented concerns about the many problems facing children with disabilities in the public school system, but they are not included in the Plan.

The education of children with disabilities is of the utmost importance due to education being the doorway to employment, independence, socialisation and quality of life. The limited nature of the priority actions in this area are therefore of concern.

A second example concerns the second outcome 'A community that promotes and protects the rights of people with a disability and actively supports their participation and engagement.' Under 2.1 of 'What are our priorities', which is 'strengthen and protect access to rights and justice', there are four priorities, two of which include improving access to voting, and Consumer Affairs information.

While these aims are helpful, there are more urgent actions that would assist to protect the rights of people with a disability, such as:

- create the role of Commissioner for Children to address the abuse and discrimination of children with disabilities;
- address the problem of the fact that the responsibility for ensuring compliance with the *Equal Opportunity Act 2010* lies with people with a disability;
- until the second point is addressed, ensure that there is funding for various legal costs associated with making disability discrimination complaints.

Again, the priorities immediately above would have far greater impact on the lives of people with disabilities than those listed currently in the Plan.

Further critiques of priorities in the draft Plan

The third outcome is 'Planning and design of the physical environment and transport system that enables people with a disability to live, work and move around.' Under the heading 'What Are We Doing?', the draft Plan states that the Victorian Government:

'is making the transport system more useable for people with a disability through staged upgrades to transport infrastructure, such as upgraded and new railway stations and new tram platform stops, and the introduction of low-floor buses and trams.'

As the Victorian Government is aware, it is currently in breach of the Disability Standards for Public Transport, and has been for quite some time. The priority should be to meet Government obligations as set out in the Standards, however, no such priority is written into the Plan.

The fourth outcome is 'Disability Supports that provide choice, control and opportunity, and that complement the mainstream and facilitate the social and economic participation of people with a disability, families and carers.' In relation to priorities in giving people with a disability increased choice and control over the supports, priorities include:

- Build the skills and capacity of people with a disability, families and carers to independently plan, organise and manage their disability supports;

- Develop a market-based approach to give people with a disability a choice of providers (and in this context examine the role of government as a service provider).

The Federation believes that consultations and reports already reflect the fact that it is not a matter of planning and choosing providers, as much as the inadequate resources given to people with disabilities, and the regulation and quality of the service providers available.

Essential elements of any effective Plan

There has been an enormous amount of valuable consumer feedback given in reports such as *Shut Out* and the various reports by the Auditor General, Ombudsman and Office of the Public Advocate concerning the human rights of people with disabilities. There are also domestic and international human rights laws which must be adhered to as part of the Plan.

It is inappropriate for all those recommendations to be repeated in our response to this Plan, suffice to say that there is no need to reinvent the wheel when it comes to action planning in order that the Plan's vision is achieved.

We suggest the following as the three most important things that the government should do to improve the lives of people with disability:

- That previous independent reports spanning the last 10 years should be revisited and concrete recommendations be adopted from these reports - recommendations that are clear, measurable and that have already been endorsed by people with disabilities, advocacy groups and their carers; and
- That there is a commitment to using best practice and evidence based programs, tools and teaching strategies in relation to the education of children with disabilities; and
- That the government commit to properly resourcing the implementation of the state plan.

We also wish to draw the Department's attention to the submission on the draft Plan from Women with Disabilities Victoria, which we endorse.