The *Disability Inclusion Act 2018* – South Australia

Section 32 – Review of Act

Report

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Reviewer

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Contents

1 Preliminary 3
1.1 Introduction and terms of reference 3
1.2 Process 4
1.3 Overall operation of Act 5
1.4 List of recommendations 7
1.5 Key terms and acronyms used in this report 14
2 Legislative scheme 15
2.1 Scope, significance and contents 15
2.2 Key concepts, objects and principles 19
2.2.1 Definitions 19
2.2.2 Objects 20
2.2.3 Principles 21
2.2.4 Australia's Disability Strategy 24
3 Administration of legislation and reporting 25
3.1 Preliminary 25
3.2 Chief Executive and the Department 25
3.3 Collaboration across governments 26
3.4 Local government 29
3.5 Reporting 30
4 Collaboration with stakeholders and co-design 32
5 Disability access and inclusion plans 36
5.1 General discussion 36
5.2 Monitoring quality and outcomes 38
6 Screening 40
7 Advocacy, safeguarding and social connection 41
7.1 Preliminary 41

7.2 Advocacy 42
7.3 Community visitor scheme 42
7.4 Social connection 44
8 Additional strategies, initiatives and matters 46
8.1 Promoting disability inclusion 46
8.2 Collecting important information 48
8.3 Communication and websites 49
8.4 Children 50
8.5 Other initiatives 52
Appendix 1 – Formal consultation and submissions 54
Appendix 2 – Survey feedback 56

1 Preliminary

An inclusive community benefits from the participation and contribution of all its members, bringing a diversity of voices, ideas and perspectives into decision-making, activities and events, businesses and general community life. It is diversity that makes community life interesting and dynamic, to the benefit of all.[1]

1.1 Introduction and terms of reference

The *Disability Inclusion Act 2018* (the **Act**) forms part of South Australia's legislative scheme designed to promote the interests of people with disability in South Australia.

In particular, the Act underpins the rights of people with disability to participate as equal citizens in the South Australian community.

Section 32 of the Act provides that the Minister to whom the administration of the Act is vested must cause a review of the operation of the Act to be conducted and a report on the review to be prepared and submitted to the Minister before the fourth anniversary of the commencement of the Act. The Act commenced on 1 July 2018, and so the former Minister for Human Services initiated this review in order to fulfil the requirements of this section. The person appointed to conduct the review is Richard Dennis AM PSM[2] (the **reviewer**), and this is the report for the purposes of the review.

Section 32 of the Act provides that the review will be a review of "the operation of this Act". In establishing the review, the Minister for Human Services determined that in addition to broadly considering the overall operation of the Act, the review should consider the following:

(a) how well is the operation of the Act achieving or supporting the objects of the Act;

(b) the extent to which the principles set out in section 9 of the Act are being recognised and applied in the operation, administration and enforcement of the Act;

(c) initiatives that could be adopted to enhance the alignment of the Act with Australia's Disability Strategy;

(d) the work of the department in fulfilling various functions under section 10;

(e) consideration of how effective the State Disability Inclusion Plan, and the disability access and inclusion plans, have been to date in supporting the objects of the Act, recognising that there is a separate scheme for the review of these plans under sections 15 and 18 of the Act;

[1] An extract from the JFA Purple Orange submission for the review.

[2] Legal practitioner and former South Australian Parliamentary Counsel (2006 – 2015).

(f) any changes that should be considered for Part 5A of the Act.

The reviewer was also keen to receive specific comment or information about the extent to which the Act has assisted in promoting the following themes and priorities associated with disability inclusion in South Australia:

- Inclusive communities for all
- Leadership and collaboration
- Accessible communities
- Learning and employment.

1.2 Process

The review has principally been conducted by the reviewer –

(a) meeting with key people interested or involved in the operation or administration of the Act (and see Appendix 1 for a list of people or bodies who provided submissions, or who were specifically consulted, for the purposes of the review (and in some cases extensive discussions occurred with a range of staff in the various offices or organisations referred to in the appendix)); and

(b) seeking responses to an issues paper prepared by the reviewer; and

(c) seeking submissions, and the completion of a survey, via YourSAy, and promoting the review via social media and a webpage on the Inclusive SA website; and

(d) conducting two open forums for people to attend to discuss issues associated with disability inclusion and the operation of the Act;

(e) conducting his own research and analysis of the Act and other Acts and resources considered relevant to disability inclusion; and

(f) considering legislation in other jurisdictions.

The reviewer would like to express his sincere appreciation to each person who made time to meet with him and/or to make a submission for the purposes of the review, especially in response to the issues paper that was proposed for the purposes of the review or in response to the survey. There is no doubt that the Act is an exceptionally important piece of the legislation and there are some dedicated and wonderful people who have an interest in this Act and who were willing to participate in the review.

It is also recognised that many of the submissions received for the purposes of the review were developed after consultation with people living with disability.

The reviewer has given careful consideration to each idea, suggestion and recommendation presented to him during the course of the review. A number of changes to the legislation or steps are recommended as a result of these processes.

This report does not make reference to all matters that were raised with the reviewer (and some of them should be kept confidential), or to some of the recommendations or changes proposed during discussions or forums, via YourSAy and the survey, or in submissions. In general, a decision not to adopt a suggestion or recommendation has been based on an assessment that a particular change to the Act was not required, was not advisable in the circumstances, or would not be appropriate given the legislative scheme or the objects underpinning the Act. However, as indicated above, each suggestion or recommendation has been very much appreciated and the reviewer trusts that this report results in significant improvements in connection with this very important piece of legislation.

1.3 Overall operation of Act

Generally speaking, it appears from consultation undertaken for the purposes of the review that the Act is working reasonably well, especially in connection with the development and implementation of the State Disability Inclusion Plan, and the disability access and inclusion plans (**DAIPs**) that have been prepared by State authorities.[3]

It was said during the course of the review that the incorporation of the Act as part of the South Australian legislative scheme has been a positive.

However, it also appears that there are aspects of the Act where improvements could be made, whether by making amendments to the Act or by taking steps to enhance disability inclusion under the scheme established by the Act.[4]

In undertaking the review, it is also useful to note what might be considered to be the characteristics of an inclusive society as identified by the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (the **Royal Commission**). In particular, in the Royal Commission's report entitled "Overview of responses to the Promoting inclusion Issues Paper"[5], the Royal Commission refers to an inclusive society as one that:

- recognises and enforces human rights
- adopts meaningful practices of co-production and co-design
- embeds universal design to ensure full accessibility
- recognises the social model of disability, and

[3] A State authority is defined by the Act as being: an administrative unit under the *Public Sector Act 2009* (typically a government department); agencies and instrumentalities of the Crown specified by the Minister by notice in the Gazette; local councils; and other persons and bodies specified by the Minister by notice in the Gazette. See section 3 of the Act and regulation 4 of the *Disability Inclusion Regulations 2019.*

[4] So, for example, one response to a question in the survey conducted for the purposes of the review that sought information about the biggest challenges facing the disability community when participating in the community was: "The inconsistent attitudes and the defensive refusal to listen and act by local council and state government to assist us to participate in the community."

[5] October 2021.

- promotes a sense of belonging.

In undertaking this review, the reviewer has been aware of the need to recognise disability inclusion as a human right, to seek to reduce barriers to social inclusion for people with disability through principles of universal design and co-design, to promote the social model of disability, and to emphasise the need to promote a sense of belonging in our community for people who might otherwise feel excluded from one or more aspects of community life because of disability (as indicated by the Royal Commission).

However, it is also the case that the review, and the legislation itself, can only go so far. As indicated by a person consulted as part of the review, there is a limit to what legislation such as this can achieve and that the other components about inclusion are more about education, partnerships, modelling desired outcomes and recognising and rewarding examples of successful inclusion.

While this is the first review into the operation of the Act and aspects of the Act are still developing or maturing since its commencement, as also indicated by the Royal Commission it may be that increased rates of poverty, unemployment, health inequities, social isolation and discrimination across Australia drive social exclusion and prevent inclusion for people with disability.[6]

Furthermore, as indicated in one submission received for the purposes of the review, there are questions about the extent to which the implementation of initiatives under the Act since 2018 have made a widespread and significant impact on improving the lives of people with disability, especially when it comes to disability inclusion. For some people, issues associated with struggling to improve their inclusion in the community can be traced back to such things as a lack of opportunity to build skills and capacity. It was also said during the course of the review that it may well be that the biggest barrier for people living with disability is public perception.[7]

It therefore appears that an important outcome of the review, and an outcome that needs to be achieved in the next period of operation of the Act, is for steps to be taken to increase the extent to which issues relevant to people with disability, especially in relation to disability inclusion, are discussed more widely in the community, for work to be done to improve the extent to which people understand disability and inclusion, and for additional policies and programs to be put in place to increase the opportunities for people with disability to participate more fully in society.

As stated in one submission received for the purposes of the review, knowledge "of the spectrum of disability, understanding the potential impact of disability, and confidence in the

[6] See The Royal Commission's paper "Overview of responses to the Promoting inclusion Issues paper" (October 2021) at page 5.

[7] Furthermore, one response to a question in the survey conducted for the purposes of the review was that "things are improving but cultural, institutional and structural change takes time".

application of adjustments and strategies to reduce barriers are areas that require particular focus".[8]

1.4 List of recommendations

The following is a list of the recommendations that are being made as a result of the review. The recommendations are set out in the order in which they appear in this report.

1. **The opportunity should be taken by the Department, when it is developing a future communications strategy or community awareness campaign to promote disability inclusion, to include information about the range of State and Commonwealth legislation that is relevant to people with disability.**

2. **In order to enhance the status of the Act, the technical and detailed provisions in the Act (and the relevant regulations under the Act) relating to worker screening and restrictive practices should be incorporated into other pieces of legislation in due course (recognising that this may to occur in a staged fashion).**

3. **Part 8 of the Act should be repealed once it is clear that it is no longer required.**

4. **The following provisions currently appearing in the *Disability Inclusion Regulations 2019* should be enacted as provisions in the Act:**

    (a) regulation 5 (providing for additional matters that should be addressed by the State Disability Inclusion Plan);

    (b) regulation 8 (providing for additional matters to be included in disability access and inclusion plans);

    (c) any requirement to the effect that documents prepared for the purposes of consultation under section 13 or 16 of the Act, and any notice or other information associated with consultation under those sections, must be in a form that is accessible to people with disability.

5. **A definition of "barrier" along the following lines should be included in the Act:**

    ***barrier* – a barrier may include something that is:**

    (a) physical, architectural, technological or attitudinal; or

    (b) based on information or communications; or

    (c) **the result of a policy or practice.**

6. **Section 8 of the Act should be amended to include a new object as follows:**

    (f) without limiting a preceding paragraph, making significant gains towards achieving an inclusive community where the principles outlined in the

[8] An extract from the Autism SA submission.

United Nations Convention of the Rights of Persons with Disability **underpin the development and delivery of services, especially by removing barriers so that people with disability are able to access services and to participate in the community in the same way as other members of the community.**

7. **Section 8 of the Act should be amended to provide expressly that the Act applies to all people with disability regardless of age.**

8. **Section 9(1) of the Act should be amended to include a new paragraph as follows:**

   (ja) people with disability have the right to be safe, and to feel safe, through the provision of appropriate safeguards, information, services and support, and through appropriate and accessible reporting mechanisms in a case of neglect, abuse or exploitation;

9. **Section 9(1) of the Act should be amended to include a new paragraph as follows:**

   (p) people with disability, and their families and representatives as appropriate, have a right to participate in the design and delivery of inclusive policies and programs;

10. **Section 9(1) of the Act should be amended to include a new paragraph as follows:**

    (q) insofar as people with disability may not be able to find out about their rights, or may not be able to understand their rights, because of their disability, State and local government should take reasonable steps to assist them to learn about their rights and to develop ways in which they can, or their families or representatives can, report violations of those rights.

11. **Section 9 of the Act should be amended to include a new subsection as follows:**

    (5a) In addition to the principles set out in any other provision of this section, the following principles are to be acknowledged and addressed in the operation, administration and enforcement of this Act as it relates to people with significant intellectual disability or who have high levels of vulnerability due to disability:

    (a) people with significant intellectual disability or who have high levels of vulnerability due to disability have a right to feel safe, to enjoy dignity in their lives, and to participate in the community in a meaningful way;

    (b) people with significant intellectual disability or who have high levels of vulnerability due to disability may face major barriers which they may not be able to understand and so need support from others to advocate on their behalf when seeking to remove, or deal with, those barriers.

12. **The Act should be amended to require State authorities to report annually on how they are addressing the risks and principles insofar as they relate to the priority groups under section 9. This should occur in connection with provisions in the State Disability Inclusion Plan, and disability access and inclusion plans, that identify how State authorities are addressing the risks and principles that relate to these priority groups.**

13. **Section 10(1) of the Act should be amended to include a specific function of the Chief Executive as being to provide advice to the Minister on systemic or emerging accessibility and inclusion issues.**

14. **Section 10(1) of the Act should be amended to include the following additional functions as functions of the Chief Executive:**

    (fa) disseminating information to promote or support disability access and inclusion within the community;

    (fb) undertaking or commissioning research into matters associated with disability access and inclusion;

    (fc) compiling data relating to disability access and inclusion;

    (fd) keeping under review the special needs of the priority groups under section 9, and promoting ways in which those needs may be satisfied.

15. **The Department should develop some tools to assist government agencies, councils and businesses to see how they are going with disability access and inclusion. These would be "self-assessment" tools.**

16. **The State Government should strengthen collaboration with the Commonwealth Government to ensure coordinated effort in implementing their shared access and inclusion agenda, including by considering opportunities presented through initiatives like ILC grants.**

17. **The Department should continue to develop strategies, to be included in the State Disability Inclusion Plan after it is reviewed under section 15 of the Act, that encourage State government departments and agencies to be part of a community of practice approach for advancing the objects of the Act in relation to access and inclusion. This should also be used to assist people with disability who do not make contact with the correct government department or agency in connection with the provision of services or support.**

18. **The Department, the Local Government Association and individual councils should work together to explore additional grant opportunities and funding from State and Federal Governments to enable councils to support the implementation of the Act and the Australia's Disability Strategy 2021 – 31, and to deliver access and inclusion initiatives in local communities.**

19. The reporting requirements under the Act should be amended so that they provide as follows:

(1) Section 14: The annual report relating to the State Disability Inclusion Plan should relate to each calendar year and the report should be provided by the Chief Executive to the Minister by 30 June in the ensuing year.

(2) Section 17: The annual report relating to a DAIP should relate to each calendar year and the report should be provided by the State authority to the Chief Executive by 30 April in the ensuing year. A report summarising the reports received from the State authorities should be prepared by the Chief Executive by 30 June and provided to the Minister.

The change to calendar years for reporting would commence on 1 January 2024.

20. Section 18 of the Act should be amended so that each State authority must review its DAIP to the extent necessary to ensure that the DAIP is consistent with the State Disability Inclusion Plan when the State Disability Inclusion Plan is varied. The State authority would have 6 months to review its DAIP and publish its DAIP as varied. The Chief Executive would also have the ability to require a State authority to take into any requirement specified by the Chief Executive for the purposes of the review of its DAIP.

21. The Act should expressly require the Minister to have a reference group to provide advice in relation to the development of policies and initiatives under the Act and the preparation and review of the State Disability Inclusion Plan, taking into account the principles of co-design. The reference group should seek to provide a broad spectrum of membership, including members who represent priority groups referred to in section 9 of the Act.

22. The Act should expressly require each council to have a reference group to provide advice in relation to the development of policies and initiatives under the Act and the preparation and review of disability access and inclusion plans, taking into account the principles of co-design. The reference group should seek to provide a broad spectrum of membership, including members who represent priority groups referred to in section 9 of the Act. Two or more councils could have the same reference group, which may work well for regional or other groupings of councils and assist with efficiencies and the sharing of expertise and ideas.

23. From a general perspective, higher standards need to be developed and implemented in relation to disability access and inclusion plans. The current *Disability Access and Inclusion Plan Guidelines* need to be reviewed and revised by the Department to improve the quality of DAIPs and to promote community of practice across the entities that are required to prepare a DAIP. One change should be to place greater emphasis on the *inclusion* component of DAIPs.

24. **The guidelines should be strengthened to promote a greater understanding of the characteristics of an inclusive society and effective strategies for achieving this.**

25. **The guidelines should reiterate the principles of the *United Nations Convention on the Rights of Persons with Disabilities* and provide additional context to better support their translation into practical strategies by State authorities as part of their DAIPs.**

26. **The guidelines should outline the connection between disability inclusion and safeguarding, and require a State authority to report annually on the extent to which its DAIP has provided for safeguarding through its actions and outcomes.**

27. **Without limiting the steps taken to improve the quality of DAIPs, the following should be incorporated into the guidelines as requirements for DAIPs:**

    (a) **To recognise that access is not just about the physical environment**

    (b) **To use simple English**

    (c) **To avoid or clearly explain acronyms**

    (d) **To consider using definitions for "hard" words**

    (e) **To provide options for contact points (including for contact to be made by telephone)**

    (f) **To include a table of contents and consider including a guide to a reader on how to use the particular plan.**

28. **DAIPs should include specific measures against which performance and outcomes can be assessed.**

29. **The guidelines should indicate that actions outlined in a DAIP should avoid (so far as is reasonably practicable in the particular circumstances) actions that do not lead to definite and meaningful action.**

30. **The Department should develop and adopt a set of measurable benchmarks to report on the implementation and effectiveness of DAIPs. These benchmarks should form part of an outcomes framework, and individual actions contained in a DAIP should be linked back to this framework.**

31. **Provisions and reforms associated with worker screening should include screening under which the providers of services to people with disability other than under the NDIS can assess a comprehensive screening scheme for their staff, workers and volunteers. Consideration should be given to including a screening scheme relating to people working with people with disability in a broader scheme relating to people involved in providing care or support to vulnerable people. This issue may be appropriately considered and addressed in conjunction with reforms or initiatives developed in discussions or under agreements with the Commonwealth. Any screening scheme relating to people working with people with disability should be incorporated into another piece of legislation in due course.**

32. The State Government should ensure that adequate funding remains available to appropriate entities, organisations or groups in connection with disability inclusion advocacy and rights awareness. This funding may be sourced from the Commonwealth or the State, including under a national framework.

33. The review of the community visitor scheme is very timely and while its improvement and expansion should not be delayed, at an appropriate time the provisions for a community visitor scheme should be set out in the Act rather than in the regulations.

34. Steps should be taken to continue to review how people with disability are supported in finding and retaining employment and in participating in other activities in the community. This could include reporting on disability inclusion more widely within the community, supporting people with disability as they overcome barriers in the community, and assisting businesses in introducing or supporting disability inclusion.

35. Additional safeguards for people with disability can be achieved by increasing social connection. To do this, State government agencies and local councils should be encouraged to partner with, and to provide resources as reasonably available, to organisations and other bodies that are involved in creating inclusive and connected communities at the local level for people with disability.

36. In developing communications strategies to promote disability, it is important to include an emphasis that focuses on the abilities of people to contribute to a particular work situation or to the community.

37. The State Government should promote disability awareness programs and training, especially for small to medium sized businesses.

38. Businesses that participate in a disability awareness program and training should be encouraged to promote that they have done so.

39. More work should be done by the State government and local councils to create opportunities for people to realise the importance of disability inclusion, including the fact that it can result in economic advantages and business opportunities. The State and local government sectors should commit to an increased effort to help businesses to become more inclusive. The Department should provide advice to businesses about government funding that is available for workplace modifications and specific equipment and facilities to assist people living with disability to gain or retain employment.

40. In providing services or programs that may assist people living with disability, State authorities should take steps to collect and collate information on: (a) the number of people with different prescribed categories of disability engaging with the entity; (b) the changes or adjustments to services that were required to ensure that they could access relevant services; and (c) amounts spent on advocacy and specifically promoting the interests of people with disability. This information should be published by the State authority.

41. **State authorities should take steps to collect and collate information about complaints and feedback received by State authorities in relation to the operation of their DAIPs and the provision of services to people with disability. This information should be published by the State authority.**

42. **State government agencies and local councils should ensure that their DAIPs are accessible from the "front page" of their websites, and be in a form that is easy for people with disability to access.**

43. **Insofar as is reasonably practicable, Easy Read documents should be seen as standard requirements for all policies published by the State Government and local councils.**

44. **State government agencies and local councils should take reasonable steps to ensure that they have policies in place to assist people living with various disabilities to be able to understand documents and published information.**

45. **State government agencies and local councils should take reasonable steps to ensure that they have policies in place to assist people living with various disabilities to be able to understand documents and published information.**

46. **The Chief Executive should request the Education Department to include specific information in its annual report on the operation of its disability access and inclusion plan for the 2022/2023 financial year on the extent to which children living with disability are able to participate in mainstream learning and social experiences at school. It is requested that this information include: (a) an outline about how the success of initiatives, procedures and programs designed to assist children living with disability is measured, especially in relation to learning outcomes and wellbeing; and (b) recent results against those measures.**

47. **The Department should take steps to ensure that a "universal" identification card is made available for people with disability who do not hold a driver's licence.**

48. **Section 15 of the Act should be amended so that a report on the review of the State Disability Inclusion Plan submitted to the Minister under that section includes, or is accompanied by, information about any changes recommended to be made to the State Disability Inclusion Plan as a result of the review.**

49. **Section 18 of the Act should be amended so that a report on the review of a disability access and inclusion plan submitted to under that section includes, or is accompanied by, information about any changes made, or proposed to be made, to the DAIP as a result of the review. Consideration could also be given to amending section 18 so that the reports are initially provided to the Chief Executive, and a report summarising those reports is provided in turn to the Minister.**

50. **An overview of the Act should be published in an Easy Read format on the Department's website.**

51. **A copy of this report should be published in an Easy Read format on the Department's website, and made available by the Department, after the report has been tabled in Parliament.**

1.5 Key terms and acronyms used in this report

The following are key terms and acronyms used in this report:

Chief Executive is the Chief Executive of the Department.

Australia's Disability Strategy is *Australia's Disability Strategy 2021 – 2031.*

Convention is the United Nations Convention on the Rights of Persons with Disabilities.

DAIPs are the disability access and inclusion plans prepared by each State authority under the Act.

Department is the South Australian Department of Human Services (being the department that is responsible for assisting the Minister in the administration of the Act).

LGAIN means the Local Government Access and Inclusion Network.

LGDAG means the Local Government Disability Advisory Group.

Minister is the Minister for Human Services.

NDIS is the National Disability Insurance Scheme.

Royal Commission is the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.*

2 Legislative scheme

2.1 Scope, significance and contents

Preliminary

As indicated by a submission received for the purposes of the review, the Act has been established to "promote the full inclusion in the community of people with disability by establishing a framework to support a whole of government approach to improving inclusion in South Australia".[9]

The advantages of a distinct Act of Parliament

It is my clear view that the creation of a separate and distinct Act focusing on disability inclusion is one of the most important aspects of the Act. A piece of legislation devoted to one legislative topic in a case such as this sends a very strong message about the importance of disability inclusion in the South Australian community. While recognising that there are a number of legislative schemes or sets of provisions in various Act that may be relevant to people living with disability, and that people living with disability may face a variety of challenges relevant to their particular situation, the underlying philosophy of the Act is to emphasise the objective of full inclusion of people with disability in all aspects of society and community life.

Furthermore, as indicated by one submission, an inclusive community benefits from the participation and contributions of all its members. As so well said by JFA Purple Orange in their submission to the review, it is diversity that makes community life interesting and dynamic, to the benefit of all.

In essence, the Act is about the recognition of a set of human rights, and it should focus on and apply principles that recognise that, as far as practicable, people with disability should enjoy the same rights as everyone else and should be able to make connections with the community, and in the community, like anyone else. In other words, people with disability have a right not be excluded from any aspect of society because of disability.

This is underpinned by the principles of the Convention, which provide for the following:

(a) respect for human dignity;

(b) non-discrimination;

(c) full and effective participation and inclusion in society;

(d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;

(e) equality of opportunity;

[9] This was stated in the submission made by the Office of the Public Advocate.

(f) accessibility;

(g) equality between men and women;

(h) respect for the evolving capabilities of children with disabilities.

In undertaking the review, especially in the public forums, a number of people raised issues associated with the National Disability Insurance Scheme (**NDIS**) and gaps in services. While it is accepted that inclusion is difficult to achieve if people with disability cannot access basic or necessary services and support, a focus on issues and problems with services and service delivery is essentially outside the scope of the Act.

In relation to the NDIS, it is noted that the incoming Commonwealth Government has announced a review of the design, operation and sustainability of the NDIS.

The substantial focus on the NDIS and issues associated with such things as gaps in services has led to the Act being pushed back from the "foreground" to some extent, as discussed at one of the forums conducted for the purposes of the review. The focus should be on promoting the objects the Act and its purpose as the key legislative measure to promote and advance significant and meaningful disability inclusion in our community.

One submission received for the purposes of the review, supported by a petition, submitted that the Act should be significantly "reconstructed". The submission expressed concerns about serious breaches of disability law in South Australia and the extent to which acts of discrimination are not prevented and the extent to which anti-discrimination laws are not enforced. The submission indicated that there needs to be an overhaul of the current legislation that relates to discrimination in the State.

While not questioning the significance or extent of disability discrimination in our community, nor the impact that failures to comply with relevant legislation have on members of our community and their families, the reviewer does not consider that the Disability Inclusion Act is the appropriate legislative vehicle to provide for the broad enforcement of the laws that relate to disability discrimination and access. Rather, provisions for the enforcement of a particular piece of legislation should usually be included in that legislation. To the extent that provisions of an Act are not achieving what they were intended to achieve, those provisions should be reviewed and amended.

In connection with the Disability Inclusion Act, as stated above, the status of the Act as a distinct piece of legislation is important. While there are precedents (especially overseas) for attempting to include all provisions about a particular topic or matter in one piece of legislation, this is not necessarily the best approach.

For example, the State laws about the design of buildings, as they relate to access, are best found in the *Planning, Development and Infrastructure Act 2016* and enforced under that Act (and there is an extensive set of approval and enforcement measures under that Act). The laws relating to disability discrimination are, essentially, best found in the *Equal Opportunity Act 1984* and enforced under that Act. In the case of Commonwealth laws relating to disability, the enforcement of those laws is essentially a matter for the Commonwealth.

The approach that applies in South Australia in relation to the organisation of these laws is also consistent with the Convention. A key aim of the Convention is to promote respect for the inherent dignity of people with disability. Article 4.4 of the Convention confirms that nothing in the Convention will affect any provisions which are more conducive to the "realization" of the rights of persons with disabilities that may be contained in a law. Many aspects of the "realization" of the rights of persons with disability are contained in other laws and should not be folded into the *Disability Inclusion Act 2018.*

There are clearly concerns about the dominance of issues associated with the NDIS. Furthermore, given the importance of recognising rights that apply in relation to people with disability and disability inclusion, it certainly appears to the reviewer that there is an ongoing need for information to be produced and published about the Act and about how the Act supports and intersects with other legislation that is directly relevant to people with disability. There is certainly a need to do more to inform people about disability inclusion and the rights of people with disability.

The reviewer has been advised that the Department has prepared a community awareness campaign to seek to improve the community's perception and understanding about disability inclusion. This is noted and welcomed.

On the basis of submissions that were made for the purposes of the review, it would be good if the next campaign could publish information about the legislation that is relevant to people with disability.[10]

Recommendation:

The opportunity should be taken by the Department, when it is developing a future communications strategy or community awareness campaign to promote disability inclusion, to include information about the range of State and Commonwealth legislation that is relevant to people with disability.

The need to maintain the focus

In connection with the above, provisions that are not directly related to the underlying principle of promoting disability inclusion, such as the worker screening provisions and provisions about restrictive practices, should be transferred to other legislation at an appropriate time (and this will quite possibly be needed to be done on a staggered basis).

So, for example, work is underway to broaden the scope of screening checks for people working in this sector. At an appropriate time, it would be good to move Part 5A of the Act (Screening of NDIS workers) and Part 6 (Screening of persons working with people with disability) to another piece (or pieces) of legislation, with the new legislation incorporating any additional reforms

[10] This initiative would also be consistent with the State Disability Inclusion Plan, which says (at page 8), that it is "our aim that the contributions and rights of people living with disability are valued and understood by all South Australians and that their rights are promoted, upheld and protected". See also Priority 3 in the State Disability Inclusion Plan, which refers to promoting the rights of people living with disability.

that are to be adopted and implemented (once any necessary or appropriate policy work and decisions have been undertaken and made).

Another example is the new Part relating to restrictive practices (Part 6A). While appreciating that it is not the time to take action to remove this Part from the Act, which would delay its introduction and operation, it is expected that these provisions will be reviewed after they have been in operation for a reasonable period of time and then moved to other legislation with any appropriate revisions.

Recommendations:

(1) In order to enhance the status of the Act, the technical and detailed provisions in the Act (and the relevant regulations under the Act) relating to worker screening and restrictive practices should be incorporated into other pieces of legislation in due course (recognising that this may to occur in a staged fashion).

(2) Part 8 of the Act should be repealed once it is clear that it is no longer required.

Use of subordinate legislation

An issue was raised during the course of the review about the extent to which the Act allows and uses significant regulation-making power rather than including important provisions in the Act itself.

It is generally accepted that it is necessary and convenient for Parliament, in the nature of things, to give a variety of subsidiary powers and functions to the Governor (and/or other appropriate functionaries), and this is the theory behind regulations. It is generally accepted that regulations may be used for detailed technical matters, provisions that must be amended frequently or when flexibility is required, or administrative or procedural matters that are not of primary significance.

It is also the case that the extent to which regulations are used in a particular legislative scheme may depend on the extent to which policy may be settled or ready to be reflected by detailed provisions in the principal legislation at a particular time, and on the convenience that may come from being able to use regulations to implement a policy at a time in the future.

A decision to include provisions in the principal Act or in subordinate legislation may also be a drafting decision that is made during the preparation of the relevant legislation.

In the case of the *Disability Inclusion Act 2018* and the regulations under the Act, there would appear to be some provisions in the regulations that could be included in the Act as part of this review. Those provisions are identified in the following recommendation.[11]

[11] It is noted that while it is being recommended that certain provisions be included in the Act rather than the regulations, the provisions of the Act that still allow additional matters to be prescribed by regulation in a variety of places should remain. In other words, the issue is not the facility or flexibility that is provided by the relevant powers to make regulations, but whether certain provisions would more appropriately appear in the Act.

It is also the case that some matters that could be included in the regulations under the Act as it currently stands should instead be included in the principal legislation due to their significance in the legislative scheme. A good example in this regard is section 24 of the Act relating to a community visitor scheme (and as to community visitor schemes, see a later part of this report).

Recommendation:

The following provisions currently appearing in the *Disability Inclusion Regulations 2019* should be enacted as provisions in the Act:

(a) regulation 5 (providing for additional matters that should be addressed by the State Disability Inclusion Plan);

(b) regulation 8 (providing for additional matters to be included in disability access and inclusion plans);

(c) any requirement to the effect that documents prepared for the purposes of consultation under section 13 or 16 of the Act, and any notice or other information associated with consultation under those sections, must be in a form that is accessible to people with disability.

2.2 Key concepts, objects and principles

2.2.1 Definitions

It is widely recognised that the current definition of "disability" aligns with the social model of disability, which reflects a far more contemporary understanding of disability.[12] As noted in *Australia's Disability Strategy 2021 – 2031*, the social model of disability recognises that attitudes, practices and structures can be disabling and act as barriers preventing people from fulfilling their potential and exercising their rights as equal members of the community, and this is consistent with the United Nations Convention on the Rights of Persons with Disabilities (**UNCRPD**).[13] Indeed, as stated in a submission made for the purposes of the review by the South Australian Council on Intellectual Disability, a focus on the social model of disability "recognises that disability is a result of societal structures and attitudes rather than because of a person's impairments and therefore society needs to change, not the person with a disability".

It was suggested that the definition of "disability" should be amended in certain respects, including to refer to the fact that an impairment may be permanent, temporary or episodic in nature, may or may not be evident, and may exist or arise regardless of age. However, the current definition in the Act is very close to the description of people with disability, or the

[12] This may be contrasted with the medical model of disability (where the focus is on a person's condition or impairments rather than the person's needs).

[13] See Australia's Disability Strategy at page 5.

"definition" of disability, that appears in Australia's Disability Strategy, and on this basis the reviewer does not consider that it is necessary to recommend that the definition be amended.[14]

Some of the submissions and discussions also underscored the fact that the barriers that may hinder full and effective participation in society on an equal basis (see the definition of "disability" under the Act and page 5 of Australia's Disability Strategy) may extend beyond physical, architectural and technology barriers so as to include attitudes and policies that may hinder a person's ability to participate in society.

As recognised by the Australian Federation of Disability Organisations, the social model of disability helps us to recognise barriers that make life harder for people with disability. Removing these barriers creates equality and offers people with disability more independence, choice and control in their lives.[15] There are many kinds of barriers.

Given the significance of the concept of "barriers" in the definition of "disability" and within the wider issue of achieving greater inclusion, it would be good to emphasise the nature and scope of the barriers that may be relevant under the Act.[16]

Recommendation:

A definition of "barrier" along the following lines should be included in the Act:

***barrier* – a barrier may include something that is:**

(a) physical, architectural, technological or attitudinal; or

(b) based on information or communications; or

(c) the result of a policy or practice.

2.2.2 Objects

It would appear to be necessary and appropriate to amend the objects of the Act (as set out in section 8) to include a reference to the *United Nations Convention of the Rights of Persons with Disability* in view of its status and significance. It would also be advantageous to underscore the significance of the need to remove barriers in society that prevent access and inclusion.

Recommendation:

Section 8 of the Act should be amended to include a new object as follows:

[14] It is noted that the concept of people with disability in Australia's Disability Strategy is stated to include, but to not be restricted to, people with a list of impairments. The inclusion of the words "but are not restricted to" in the definition of "disability" under the Act would be inconsistent with drafting practices that apply in this State.

[15] See www.afdo.org.au

[16] The definition has been proposed after taking into account, in particular, the definition in the *Accessible Canada Act.*

(f) without limiting a preceding paragraph, making significant gains towards achieving an inclusive community where the principles outlined in the *United Nations Convention of the Rights of Persons with Disability* underpin the development and delivery of services, especially by removing barriers so that people with disability are able to access services and to participate in the community in the same way as other members of the community.

Reference was also made to the need to recognise that the Act applies to all people with disability regardless of age.

Recommendation:

Section 8 of the Act should be amended to provide expressly that the Act applies to all people with disability regardless of age.

2.2.3 Principles

Section 9 of the Act is important because it sets out a series of principles that are to be observed in the operation, administration and enforcement of the Act.

Recognising that each of the principles is important, it is worthwhile noting (and as indicated by a submission to the review) that the first two principles are particularly important as they essentially underpin human rights and are fundamental to breaking stigma and perceptions of disability, being:

(a) people with disability have the same fundamental human rights and responsibilities, and the same right to autonomy, as other members of the community;

(b) people with disability have an inherent right to respect for their worth and dignity as individuals.

The issue of the safeguarding of people with disability was raised during the course of the review. For example, the South Australian Council on Intellectual Disability reported that people with intellectual disability said that there are not enough services and supports in the community to keep people with disability safe. It is also a matter of ensuring that there is good information available to support people with disability to stay safe and to report instances of neglect, abuse or exploitation.

Recommendation:

Section 9(1) of the Act should be amended to include a new paragraph as follows:

(ja) people with disability have the right to be safe, and to feel safe, through the provision of appropriate safeguards, information, services and support, and through appropriate and accessible reporting mechanisms in a case of neglect, abuse or exploitation;

A number of the submissions proposed or supported greater recognition of the importance of co-design in relation to disability inclusion, and a later part of this report discusses collaboration

and co-design. As said in one submission, the Act should include a reference to the importance of hearing directly from people with disability, and where appropriate their families, in the design and delivery of inclusive policies and programs.[17] This is considered to be an appropriate addition to the principles.

Recommendation:

Section 9(1) of the Act should be amended to include a new paragraph as follows:

(p) people with disability, and their families and representatives as appropriate, have a right to participate in the design and delivery of inclusive policies and programs;

In relation to people with intellectual disability, the submission from the South Australian Council on Intellectual Disability said that it is their experience "that many people with intellectual disability are unaware of their rights and therefore unable to recognise when their rights have not been upheld". It was proposed that the Act should play a role in ensuring people with intellectual disability are educated about their rights and are able to report violations of their rights. It is considered that this point should be supported by an additional principle in section 9.

Recommendation:

Section 9(1) of the Act should be amended to include a new paragraph as follows:

(q) insofar as people with disability may not be able to find out about their rights, or may not be able to understand their rights, because of their disability, State and local government should take reasonable steps to assist them to learn about their rights and to develop ways in which they can, or their families or representatives can, report violations of those rights.

Section 9 of the Act also includes separate and important principles that apply to certain groups of people who may face additional barriers, inequities and other challenges associated with disability inclusion, which is also recognised by Australia's Disability Strategy (where it is noted that people with disability have specific needs, priorities and perspectives "based on their individual identities including their gender, age, sexuality, race and cultural background, and can face additional barriers and inequities")[18]. Greater priority needs to be given to these groups of people where their situation may compound various barriers to disability inclusion.

One of the submissions indicated that a group of people within our community with profound intellectual disability, or who have heightened vulnerability, need special recognition. This is particularly the case because this group may need to rely on others to advocate for them, may face additional barriers or be severely affected by barriers, or may need additional protections

[17] The submission referred to people with intellectual disability but it appears appropriate to apply the principle to all people living with disability.

[18] See Australia's Disability Strategy at page 5.

or assistance as they lead their lives. Accordingly, a specific set of principles under the Act relating to this group of people would provide greater recognition of their situation (noting that it would appear appropriate to refer to people with "significant" intellectual disability rather than "profound" intellectual disability).

Recommendation:

Section 9 of the Act should be amended to include a new subsection as follows:

(5a) In addition to the principles set out in any other provision of this section, the following principles are to be acknowledged and addressed in the operation, administration and enforcement of this Act as it relates to people with significant intellectual disability or who have high levels of vulnerability due to disability:

(a) people with significant intellectual disability or who have high levels of vulnerability due to disability have a right to feel safe, to enjoy dignity in their lives, and to participate in the community in a meaningful way;

(b) people with significant intellectual disability or who have high levels of vulnerability due to disability may face major barriers which they may not be able to understand and so need support from others to advocate on their behalf when seeking to remove, or deal with, those barriers.

Another submission proposed that, given the significance of disability inclusion to the priority groups specifically identified in section 9 of the Act, it would be appropriate for the State Government and State authorities to report annually on how they are addressing the principles and risks of these groups.[19] This is an excellent suggestion and should be adopted.

Recommendation:

The Act should be amended to require State authorities to report annually on how they are addressing the risks and principles insofar as they relate to the priority groups under section 9. This should occur in connection with provisions in the State Disability Inclusion Plan, and disability access and inclusion plans, that identify how State authorities are addressing the risks and principles that relate to these priority groups.

In summary, the recommendations in relation to section 9 of the Act (and other recommendations relating to priority groups) will enhance the recognition and operation of the principles set out in this section.

[19] For the State government, this is best done through requiring State authorities to report as State authorities under the Act include all government departments. This can also apply in relation to local government (and councils are also State authorities under the Act).

2.2.4 Australia's Disability Strategy

It is important to recognise Australia's Disability Strategy, especially to ensure that the State Disability Inclusion Plan takes into account its outcome areas and express initiatives. Advice receive by the reviewer is that the next version of the State Disability Inclusion Plan will be realigned with this national strategy and it is clear that the Department is taking significant action to ensure that relevant State based activities and policies are consistent with, and support, the strategy.

It is also important to keep in mind that Australia's Disability Strategy makes the point that governments, along with businesses, the community and the nongovernment sector, have a role to play in supporting people with disability to enjoy their human rights on an equal basis with others. It then says:

> The Strategy recognises that all levels of government continue to play a role in providing mainstream and targeted services, supports and infrastructure systems to people with disability. Governments have obligations to provide services to all citizens and are responsible for making reasonable adjustments to accommodate people with disability so they can access and use those systems and services.[20]

This is a key point that must continue to be taken into account in connection with the operation of the Act, the development of policies and initiatives by State and local governments across the board, and the provision of services in all aspects and respects.

[20] Australia's Disability Strategy at page 37.

3 Administration of legislation and reporting

3.1 Preliminary

The legislation creates opportunities for staff in public sector agencies and local government to understand the issues associated with disability inclusion, and to work together to make a difference towards improving disability inclusion in the community. In particular, it is possible to develop some excellent outcomes if staff in agencies and councils are willing to think and talk about disability inclusion and to collaborate to support the objects and purposes of the Act.

3.2 Chief Executive and the Department

Specific statutory functions

Section 10 of the Act sets out some specific statutory functions that are assigned to the Chief Executive (who is supported by the Department in the performance of her roles and responsibilities).

A number of functions relate to specific and important matters that are relevant to the administration and operation of the Act, and include providing reports to the Minister and monitoring the extent to which the objects and principles of the Act are being achieved.

However, given the importance of monitoring and acting in relation to issues that affect people with disability, especially in relation to disability inclusion, the role of the Chief Executive (and the Department) in monitoring, and reporting on, major issues associated with disability inclusion should be reflected in the Chief Executive's functions.

Recommendation:

Section 10(1) of the Act should be amended to include a specific function of the Chief Executive as being to provide advice to the Minister on systemic or emerging accessibility and inclusion issues.

A number of other functions that should be assigned to the Chief Executive, or should be recognised as being performed at the moment, have also been identified as being appropriately included under section 10 of the Act. These relate to such things as disseminating information to promote or support disability inclusion in the community, undertaking or commissioning appropriate research, compiling data and keeping a clear focus on the priority groups under section 9.

Recommendation:

Section 10(1) of the Act should be amended to include the following additional functions as functions of the Chief Executive:

(fa) disseminating information to promote or support disability access and inclusion within the community;

(fb) undertaking or commissioning research into matters associated with disability access and inclusion;

(fc) compiling data relating to disability access and inclusion;

(fd) keeping under review the special needs of the priority groups under section 9, and promoting ways in which those needs may be satisfied.

Assisting entities to measure outcomes

The measurement of outcomes, especially under DAIPs, is discussed in another part of this report. However, the point was made that it would be very helpful if the Department could develop some tools that would assist government agencies, local government councils, and businesses, to assess the extent to which they are acting to improve disability access and inclusion in the community. This would certainly enhance and promote the operation of the Act.

Recommendation:

The Department should develop some tools to assist government agencies, councils and businesses to see how they are going with disability access and inclusion. These would be "self-assessment" tools.

3.3 Collaboration across governments

Collaboration with the Commonwealth

The submission from the Office of the Public Advocate provided most helpful information about the development of the Act and how the Act's objects and principles closely aligned with Australia's Disability Strategy.

As explained by the Office of the Public Advocate, the Act was originally developed with the National Disability Strategy in mind and was always intended to be the vehicle to achieve South Australia's commitment under that strategy. Accordingly, collaboration with the Commonwealth is seen as being critical to meeting the objectives of the Act.

The submission then provides as follows:

> The Information Linkages and Capacity Building Grants (ILC) scheme, which was originally administered by the National Disability Insurance Agency, was moved to the Department of Social Services to ensure its alignment with broader national disabilities policies such as the ADS[21]. A raft of promising work/programs/projects and ideas have come out of these grants, but there is no way to capture the knowledge and information generated from these projects once complete. These are valuable resources that could be built upon for future projects and initiatives. There is a need to avoid disjointed projects by sharing learning and best practice for the benefit of all people with disability.

[21] This is Australia's Disability Strategy.

As a result of this advice, the following is recommended:

> **Recommendation:**
>
> **The State Government should strengthen collaboration with the Commonwealth Government to ensure coordinated effort in implementing their shared access and inclusion agenda, including by considering opportunities presented through initiatives like ILC grants.**

More generally, advice from the Department indicates that the State Government continues to seek opportunities to work with the Commonwealth Government to support the implementation of Australia's Disability Strategy and other important aspects of disability access and inclusion. Some of these activities include the following.

- South Australia participates in the Disability Reform Ministers Meeting (DRMM), which is chaired by the Commonwealth Minister for the National Disability Insurance Scheme. DRMM meets at least quarterly (with out of session papers to progress work outside of formal meetings) to discuss priorities under three key streams of work, with the Department acting as the lead agency in South Australia. The streams are:
    - **Australia's Disability Strategy** – which is responsible for the delivery of Australia's Disability Strategy and developing the new National Disability Advocacy Framework
    - **NDIS System Reform and Mainstream Interface** – which addresses key interface issues for people living with disability including health and hospital discharge, disability accommodation, and long-term transport policy
    - **NDIS Performance** – which is responsible for driving scheme access, innovation and sustainability, as well as addressing safeguarding measures such as reviewing the NDIS Quality and Safeguards Framework and reducing restrictive practices.
- The Department has representation on all of the national Tasking Groups established to undertake the work necessary to inform the decision-making of DRMM.
- South Australia is also a member of the Disability Sector Strengthening Plan Working Group, an initiative that forms part of *Closing the Gap* and contributes to the development of the Disability Sector Strengthening Sector Plan (DSSP). The development of the DSSP works to strengthen the disability community-controlled sector to enhance inclusivity and accessibility for First Nations people with a disability.
- The Department also co-chairs the Executive Steering Committee with the National Disability Insurance Agency (NDIA), and this is the decision-making committee for issues and actions relating to the operation of the NDIS across the State, with strong themes of disability inclusion.

Collaboration within the State

The State Disability Inclusion Plan is required to set out whole-of-government policies and measures for achieving the objects of the Act across the State, and to provide for collaboration and coordination among State authorities and other entities in relation to the provision of "mainstream" supports and services.

While this review is not the review of the State Disability Inclusion Plan under section 15 of the Act, reference was made during the review to the need to provide a whole-of-government approach to achieving access and inclusion in pursuing the objects of the Act. One suggestion was to adopt a "community of practice" approach across government to drive greater outcomes in this area.

A "community of practice" approach involves such things as acknowledging a common practice, encouraging support and engagement, adopting a willingness to learn from each other, the sharing of ideas and pooling knowledge, and seeking the best outcomes.

Inclusive SA adopts a community of practice approach to its work with government agencies, especially in connection with the implementation of the State Disability Inclusion Plan and State government DAIPs. One aspect of this could be to work towards adopting what the Royal Commission called a "no wrong door" approach, which was referred to by the Royal Commission in the context of complaints, reporting and responding but which could be extended to any situation where a person is seeking a service or support from a government agency.[22] In particular, service providers should not simply think that anyone with a disability should be referred to, or covered by, the NDIS went it comes to obtaining assistance or support.[23]

Recommendation:

The Department should continue to develop strategies, to be included in the State Disability Inclusion Plan after it is reviewed under section 15 of the Act, that encourage State government departments and agencies to be part of a community of practice approach for advancing the objects of the Act in relation to access and inclusion. This should also be used to assist people with disability who do not make contact with the correct government department or agency in connection with the provision of services or support.

[22] See Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Overview of responses to the Safeguards and quality Issues paper, August 2021 at page 19.

[23] To support improvements in this area, advice has been provided that 86% of all State government agencies and local councils are in the process of ensuring induction of new employees is inclusive of information about working with people with disability. Advice has also been provided that the Office of the Commissioner for Public Sector Employment is developing a report that identifies contemporary best practice principles and recommendations on how agencies can improve disability inclusion and awareness training. Ensuring the induction of new State authority employees includes information about working with people living with disability is also an action under Priority 3 of the State Disability Inclusion Plan.

3.4 Local government

During the course of the review the reviewer met with people interested in supporting disability inclusion through local government, including the *Local Government Disability Advisory Group* (LGDAG) and the *Local Government Access and Inclusion Network* (LGAIN).

As pointed out in a submission made by the LGA for the purposes of the review, the LGA policy manual includes the following:

> 3.4.5 Disability Inclusion Access Planning
>
> *Local government recognises the benefits of Disability Access and Inclusion Plans (DAIP) and ensuring adequate provisions for those with a disability are put in place. Local government shall continue to lobby for adequate resources to carry out the new statutory services contained in the Disability Inclusion Act 2018.*
>
> 3.4.6 Access and Inclusion
>
> *Local government recognises the imperative in ensuring all individuals can access community services and facilities to tackle issues contributing to social exclusion. Councils shall continue to explore and implement strategies through planning and community functions that promote access and inclusion for all individuals.*

In meeting with LGDAG and LGAIN as part of the review, it was evident that a significant amount of attention is being given to supporting and promoting more inclusive and accessible communities from a local government perspective. Special recognition was given to the importance of the contact and collaboration that is occurring between the local government sector and the Department in connection with the operation and administration of the Act. Initiatives associated with the development of programs, activities and events has led to an improvement in knowledge and awareness relating to access and inclusion within local government as well as in the broader community.

One area of particular interest to local councils relates to opportunities to assist in the local delivery of State Government programs and to effectively leverage State and Federal government funds. Indeed, during the course of the review information was provided about some great programs that have been developed and delivered through combined activities between State government agencies and local councils or through the delivery of funding to assist councils at the local level.

> **Recommendation:**
>
> **The Department, the Local Government Association and individual councils should work together to explore additional grant opportunities and funding from State and Federal Governments to enable councils to support the implementation of the Act and the Australia's Disability Strategy 2021 – 31, and to deliver access and inclusion initiatives in local communities.**

This builds on an earlier recommendation in this report.

3.5 Reporting

Reports and reporting requirements

The Act contains reporting requirements in relation to the operation of the State Disability Inclusion Plan and DAIPs.

In particular, the Chief Executive is responsible for providing an annual report to the Minister on the operation of the State Disability Inclusion Plan, with the report relating to each financial year and required to be provided to the Minister by 31 December of each year.[24]

In relation to DAIPs, each State authority is responsible for providing an annual report to the Chief Executive on the operation of its DAIP, with the report relating to each financial year and required to be provided to the Chief Executive by 31 October in each year. The Chief Executive must then provide a report to the Minister summarising the reports received from State authorities, with the report required to be provided by 31 December in each year.[25]

The State Disability Inclusion Plan and each DAIP must be reviewed at least once in every four years. In the case of the State Disability Inclusion Plan, the review is initiated by the Minister and a report on the review is submitted to the Minister.[26] In the case of a DAIP, the review is initiated by the State authority and a report on the review is submitted to the State authority and then the State authority provides a copy to the Minister.[27]

In order to have the benefit of the annual reports for the purposes of a review of the State Disability Inclusion Plan, it has been suggested by the Department that each annual report should relate to a calendar year rather than a financial year. The periodic reviews under section 15 or 18 (as the case may be) would remain the same. This would allow the annual reports that have been recently prepared to be taken into account in connection with a review of the State Disability Inclusion Plan.

This change would also align the reporting timeframes to the calendar year timeframe of the State Disability Inclusion Plan. Currently, at the end of the State Disability Inclusion Plan four-year period (2023), there will be a need to produce a six-month report to complete the actions, while also enacting reporting requirements for the next iteration of the plan. This will also streamline reporting against Australia's Disability Strategy.

Recommendation:

The reporting requirements under the Act should be amended so that they provide as follows:

[24] See section 14 of the Act.

[25] See section 17 of the Act.

[26] See section 15 of the Act.

[27] See section 18 of the Act.

(3) Section 14: The annual report relating to the State Disability Inclusion Plan should relate to each calendar year and the report should be provided by the Chief Executive to the Minister by 30 June in the ensuing year.

(4) Section 17: The annual report relating to a DAIP should relate to each calendar year and the report should be provided by the State authority to the Chief Executive by 30 April in the ensuing year. A report summarising the reports received from the State authorities should be prepared by the Chief Executive by 30 June and provided to the Minister.

The change to calendar years for reporting would commence on 1 January 2024.

In addition, it is proposed that after the State Disability Inclusion Plan is reviewed, each State authority must review its DAIP to the extent necessary to ensure that the DAIP is consistent with the State Disability Inclusion Plan as varied. The State authority would have 6 months to review its DAIP and publish its DAIP as varied. The Chief Executive would also have the ability to require a State authority to take into any requirement specified by the Chief Executive for the purposes of the review of its DAIP.

Recommendation:

Section 18 of the Act should be amended so that each State authority must review its DAIP to the extent necessary to ensure that the DAIP is consistent with the State Disability Inclusion Plan when the State Disability Inclusion Plan is varied. The State authority would have 6 months to review its DAIP and publish its DAIP as varied. The Chief Executive would also have the ability to require a State authority to take into any requirement specified by the Chief Executive for the purposes of the review of its DAIP.

4 Collaboration with stakeholders and co-design

In thinking about the "rights" basis of the legislation, it is reasonable to expect that government policy will take into account its impact on relevant groups within the community.

This expectation was raised on a number of occasions during the course of the review. It is also relevant to the principle that government services should be accessible on a universal basis.

The point was made that disability inclusion should be considered across policy development and service delivery and not seen as something special. Essentially, on the one hand there is a need to apply a "disability lens" across everything and on the other hand considering the interests of people with disability should be part of routine processes. Significant advantages and outcomes can be achieved if the issue of disability inclusion is considered when any program is being developed by a State or local government entity. An approach based on the view that an entity should view impairment as an expected part of human diversity will assist in creating an enabling environment for people with disability where equality prevails.[28]

The discussion relating to these matters leads to the consideration of principles of universal design and co-design.

In referring to universal design, it has been said that this involves everything being designed so that as many people as possible can use it.[29] Universal design is inclusive. Designers need to think about all the different people in our communities, and involving lots of people in the design is a good way to get something right.[30] An approach based on universal design also means that discrimination issues are avoided. In addition, Priority 7 in the State Disability Inclusion Plan is "Universal Design across South Australia".

In referring to co-design, it has been said that this is about people who use or are affected by a service or product being involved in the development or design of that service or product. As indicated by the NSW Council of Social Service, co-design is a process. It builds on engagement processes where critical stakeholders are encouraged to participate and are respected as equal

[28] This is based on a statement made in the Australian Local Government Association 2016 *Disability Inclusion Planning – A guide for Local Government* Commonwealth Department of Social Services.

[29] The Convention provides that ***universal design*** means the design of products, environments, programs and services to be used by all people, to the greatest extent possible, without the need for adaption or specialised design. Universal design does not exclude assistive devices for particular groups of persons with disabilities where this is needed. See also Article 9 of the Convention in relation to accessibility. Under the State Disability Inclusion Plan, "universal design" involves creating facilities, built environs, products and services that can be used by people of all abilities to the greatest extent possible without adaptations.

[30] See the Centre for Universal Design Australia, which provided this explanation of the principles of universal design.

partners, sharing expertise (and experience) in the design of services and products (and programs and policies could be added as well).[31]

JFA Purple Orange takes this further and has produced an excellent *Guide to Co-Design with people living with disability*.[32] This guide refers to the use of co-design in relation to projects, policies, programs and initiatives, and to the fact that a meaningful co-design process runs through the life of a project, from the planning stage through to implementation and review.[33] The guide identifies potential benefits of co-design as including:

- achieving a stronger result which draws on a wide range of perspectives, experiences and expertise;
- encouraging greater ownership of (and interest in) the outcomes by all stakeholders involved, including the disability community;
- increasing the community's understanding of the reasoning behind key decisions;
- testing ideas with intended users/beneficiaries;
- upholding the rights of people living with disability, consistent with the UN Convention on the Rights of People with Disabilities (UNCRPD);
- reducing the cost of remedying mistakes by designing well from the start;
- identifying and mitigating potential issues early;
- demonstrating the organising body's commitment to incorporating the views of relevant stakeholders;
- providing a platform for networking among different stakeholders;
- demonstrating to the wider community the valuable contributions people living with disability can make, as core members of a co-design group.

In relation to the Act, it is recognised that the State government and State authorities must take steps to consult with people with disability and their representatives in the preparation of the State Disability Inclusion Plan and in the preparation of DAIPs.[34] Priority 4 in the State Disability Inclusion Plan is "Participation in decision-making".

[31] The NSW Council of Social Service refers to the principles of co-design as being: (1) inclusive; (2) respectful; (3) participative; (4) iterative; and (5) outcomes focused.

[32] See purpleorange.org.au.

[33] JFA Purple Orange refers to the principles of co-design (as they relate to the disability sector) as being: (1) respect; (2) diversity; (3) equality; (4) safety; (5) accessibility; (6) commitment; (7) authenticity; (8) confidentiality; and (9) acknowledgement. See the *Guide to Co-Design with people living with disability* at purpleorange.org.au

[34] See sections 13(4) and 16(4) of the Act.

It is also noted that the Department has developed a toolkit which draws on information provided by State and local government agencies, people with lived experience of disability, the wider disability sector and the community, and open-source disability information. The toolkit has been developed to support State Government and local government in consulting and engaging with people living with disability and promotes and explains co-design principles and supports consultation.[35]

In relation to the operation and administration of the Act, it is important that people with disability are involved in policies and initiatives that are developed in connection with the Act, and especially in the development and review of DAIPs and any other strategy under the Act designed to promote disability inclusion. As was said in the text of a podcast provided to the reviewer, it's when you "sit down with someone who has that genuine lived experience of disability, and you hear the challenges that they've had to face, the discrimination that they have encountered through their lives" is when you get involved in good engagement.[36]

The podcast also provided an excellent set of tips for good engagement, as follows:

1. You commit to listening particularly to firsthand stories.
2. You seek out a diverse array of people with varying disabilities.
3. You pay people for their time and expertise.
4. You're open to criticism, because you know you're all on the same team working towards the same goal.
5. You follow up with people, you'll let them know what you've done, and you find out how they feel about it.
6. Good engagement never ends.

This is also reflected in the Convention, where Article 4.3 provides as follows:

3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

In this regard, during the course of the review, the reviewer met with the reference groups that have been established by the Department and the Local Government Association. The status of these groups, and their involvement in processes under the Act, should be expressly recognised by the legislation.

[35] A copy of the Engagement and Consultation toolkit is available on the Inclusive SA website.

[36] The podcast was called the "Purple Orange Podcast".

Recommendations:

(1) The Act should expressly require the Minister to have a reference group to provide advice in relation to the development of policies and initiatives under the Act and the preparation and review of the State Disability Inclusion Plan, taking into account the principles of co-design. The reference group should seek to provide a broad spectrum of membership, including members who represent priority groups referred to in section 9 of the Act.

(2) The Act should expressly require each council to have a reference group to provide advice in relation to the development of policies and initiatives under the Act and the preparation and review of disability access and inclusion plans, taking into account the principles of co-design. The reference group should seek to provide a broad spectrum of membership, including members who represent priority groups referred to in section 9 of the Act. Two or more councils could have the same reference group, which may work well for regional or other groupings of councils and assist with efficiencies and the sharing of expertise and ideas.

In relation to the reference group established by the Minister, this could be the current Disability Engagement Group that has been established by the Department. This group could work with the new Disability Advisory Council and be closely involved in work associated with the development of specific policies and initiatives and the work associated with the State Disability Inclusion Plan.

As was reinforced in a submission for the purposes of the review, it is imperative for the Minister and her department to be informed by the lived experience of disability from a legislative, public policy and operational perspective at all times.

5 Disability access and inclusion plans

5.1 General discussion

As pointed out in one submission, DAIPs have enabled the instigation and creation of strategies and policies which support disability access and inclusion in the community.

Accordingly, while DAIPs are making a positive contribution to disability inclusion, it was clear from discussions and some submissions made for the purposes of the review that many people and organisations consider that the State Disability Inclusion Plan and at least some DAIPs must be strengthened, and that more accountability is required. There is a perception with some people and groups that some DAIPs are still being prepared as a "tick the box" exercise and that some departments, agencies and councils are still not "getting it right" in relation to their daily interactions with people living with disability.

On the other hand, it is also acknowledged that many State government agencies and authorities, and local councils, are working hard to make a difference in connection with disability access and inclusion through the development and implementation of their DAIPs.

It appears to the reviewer that many of the comments and submissions reflect the fact that some State authorities are further advanced than others in developing high-quality DAIPs. Additional challenges may exist for entities in the regional areas of the State and so it may take time to reach a particular standard "across the board" (and across the State). Challenges associated with disability diversity may also be in play.

The point was made by the Department during a forum that a good approach is to focus on a community of practice in relation to disability inclusion and especially in relation to the development and review of DAIPs. As mentioned above, this involves such things as acknowledging a common practice, encouraging support and engagement, adopting a willingness to learn from each other, the sharing of ideas and pooling knowledge, and seeking the best outcomes.

One submission (from the Office of the Public Advocate) made the observation that there are many approaches by State and local government that confuse "access" with "inclusion". As already discussed, inclusion is more than just having access to buildings, spaces and services. The point was made that inclusion is about attitudes and acceptance of difference.

It certainly appears that the requirement to prepare and implement DAIPs under the Act is having a positive impact on the lives of people with disability and their families and carers.

An important aspect for ensuring that DAIPs address the interests of people with disability is to include people with disability as part of the co-design team, as indicated in Part 4 of this report.

In addition, as envisaged by the Act, the Minister has published a set of guidelines in relation to the preparation and contents of DAIPs.[37]

A submission made for the purposes of the review[38] noted that the Convention is a useful policy document in terms of setting the framework for achieving a more accessible and inclusive society. It went on to note that the guidelines for DAIPs make reference to the Convention, and the guidelines make reference to the fact that the Convention is underpinned by eight guiding principles based on respect, equality and non-discrimination. Given the significance, contents and extent of the Convention, it is thought that State authorities would benefit from improved advice on what needs to be in an effective plan so that the "vision" of the Convention "becomes a reality".

The review has also highlighted issues associated with greater recognition of the way in which disability inclusion enhances the safeguarding of people with disability (and this is discussed in more detail in a later part of the report). To build on this aspect of disability inclusion, it would be helpful if DAIPs could identify actions being taken by State authorities to support or improve safeguarding of people.

In addition, the South Australian Council on Intellectual Disability has published its "top tips" for DAIPs, and while all of these tips are valid, some are particularly useful and suited to being included in the DAIP guidelines, being as follows (with some minor refinements):

- Recognise that access is not just about the physical environment
- Use simple English
- Avoid or clearly explain acronyms
- Consider using definitions for "hard" words
- Provide options for contact points (including for contact to be made by telephone)
- Include a table of contents and consider including a guide to a reader on how to use the plan

Recommendations:

(1) From a general perspective, higher standards need to be developed and implemented in relation to disability access and inclusion plans. The current *Disability Access and Inclusion Plan Guidelines* need to be reviewed and revised by the Department to improve the quality of DAIPs and to promote community of practice across the entities that are required to prepare a DAIP. One change should be to place greater emphasis on the *inclusion* component of DAIPs.

[37] See the *Disability Access and Inclusion Plan Guidelines* published on behalf of the Minister by Inclusive SA.

[38] The submission was made by the Office of the Public Advocate.

(2) The guidelines should be strengthened to promote a greater understanding of the characteristics of an inclusive society and effective strategies for achieving this.

(3) The guidelines should reiterate the principles of the *United Nations Convention on the Rights of Persons with Disabilities* and provide additional context to better support their translation into practical strategies by State authorities as part of their DAIPs.

(4) The guidelines should outline the connection between disability inclusion and safeguarding, and require a State authority to report annually on the extent to which its DAIP has provided for safeguarding through its actions and outcomes.

(5) Without limiting the steps taken to improve the quality of DAIPs, the following should be incorporated into the guidelines as requirements for DAIPs:

- **(a) To recognise that access is not just about the physical environment**
- **(b) To use simple English**
- **(c) To avoid or clearly explain acronyms**
- **(d) To consider using definitions for "hard" words**
- **(e) To provide options for contact points (including for contact to be made by telephone)**
- **(f) To include a table of contents and consider including a guide to a reader on how to use the particular plan.**

5.2 Monitoring quality and outcomes

Another point made during the course of the review was that there is limited benefit from preparing and publishing DAIPs if outcomes are not assessed and measured.

It is accepted that achieving the legislation's vision for an accessible and inclusive community involves cultural and attitudinal change which requires long-term and sustained effort. As indicated in one submission, a "clear and consistent measuring of outcomes is critical for both monitoring the effectiveness of the legislation and maintaining momentum".

Another submission highlighted the need to avoid the use of words that "ultimately remove responsibility and accountability of the specific action", such as the verbs "consider" or "examine".

Recommendations:

(1) DAIPs should include specific measures against which performance and outcomes can be assessed.

(2) The guidelines should indicate that actions outlined in a DAIP should avoid (so far as is reasonably practicable in the particular circumstances) actions that do not lead to definite and meaningful action.

(3) The Department should develop and adopt a set of measurable benchmarks to report on the implementation and effectiveness of DAIPs. These benchmarks should form part of an outcomes framework, and individual actions contained in a DAIP should be linked back to this framework.

6 Screening

As indicated earlier in this report, the technical and detailed provisions in the Act relating to worker screening should be incorporated into other legislation at an appropriate time.[39]

During the course of the review, the point was made that there is not a comprehensive scheme for the screening of people who may work with people with disability.

It is the responsibility of the State to undertake worker screening associated with the NDIS, but other organisations or entities, especially those involved in service delivery for people with disability that is not provided through NDIS, may consider that their staff, workers or volunteers should be subject to an appropriate screening regime.[40] Mandatory screening would also be required for the provision of services of a kind prescribed by regulation, as envisaged by Part 6 of the Act.

A comprehensive screening scheme could also be extended to cover the protection of vulnerable people more generally, recognising that there are a variety of issues to be addressed and determined in relation to such things as scope of application, access to data bases (which may include Commonwealth data bases), assessment criteria and portability across different types of work and across jurisdictions. It is understood that one outcome could be to have two systems applying in this regard, one being a working with children check and one being a working with vulnerable persons check. This would work well and would be consistent with points made in a number of submissions.

Recommendation:

Provisions and reforms associated with worker screening should include screening under which the providers of services to people with disability other than under the NDIS can assess a comprehensive screening scheme for their staff, workers and volunteers. Consideration should be given to including a screening scheme relating to people working with people with disability in a broader scheme relating to people involved in providing care or support to vulnerable people. This issue may be appropriately considered and addressed in conjunction with reforms or initiatives developed in discussions or under agreements with the Commonwealth. Any screening scheme relating to people working with people with disability should be incorporated into another piece of legislation in due course.

[39] It is noted that there was little commentary or suggestions provided in relation to Part 5A of the Act during the course of the review and no amendments to this Part are being recommended as part of this review.

[40] One organisation indicated that they must default to using a screening service for working with children even though their staff or workers are working with people with disability who are adults. This causes reputational risks to organisations and is unsatisfactory.

7 Advocacy, safeguarding and social connection

7.1 Preliminary

Some submissions received for the purposes of the review raised concerns about protecting and safeguarding people living with disability.

The Act is about disability inclusion and there are some aspects of disability inclusion that enhance the protection and support of people living with disability.

In a discussion paper entitled *Future Safeguarding for People with Disabilities* (David Caudrey, Sandra Wallis and Tammy Walters), released by the Disability Advocate in September 2021, the following is noted:

> The best safeguard for any person with a disability is that there are measures to increase the social connection of the person, so that there are more independent and concerned people in their lives. At the same time, the person with a disability needs to be able to take as much control of their life as possible. When a person has control and there are other caring people around, they are safer, and that usually leads to a better quality of life.[41]

A similar point was made by JFA Purple Orange in its submission. An extract from this submission is as follows:

> When people living with disability are isolated and disconnected from their community, this can lead to a life of exclusion and vulnerability to violence, abuse, neglect and exploitation. The more inclusive a community is, the more likely it is that people living with disability will have informal support networks; this in turn supports the emergence of natural safeguards.

The submission also makes the point that inclusive neighbourhoods "pave the way for people living with disability to build informal social networks with neighbours and other members of their local community…These connections can serve as an important informal safeguard, as community members would notice and check in if the person were absent for a significant period of time.".

This underscores the importance of disability inclusion to vulnerable and other people who may need support or safeguarding on account of living with disability.

[41] See page 3 of the paper.

7.2 Advocacy

A key issue discussed during the course of the review was the need to enhance the work of the State Government in promoting disability access and inclusion, and the importance of advocacy for people living with disability.

A submission from an advocacy service noted that it has found that State agencies are often inaccessible for persons with disability, which is a barrier to full and effective participation and inclusion in society. The submission continues with the comment that agencies often appear to offer limited training and resources to frontline services staff in disability awareness or mental health first aid, and this means that persons with disability are often misunderstood or feel that their concerns go unheard.[42]

One option that was canvassed during the review was to provide for a statutory office or agency[43], or a position, with specific functions associated with the promotion of disability inclusion and advocacy to support the interests of people living with disability in relation to access and inclusion. While there are obvious advantages in creating an agency or position by statute – including status, guaranteed continuation and public profile – there are also additional costs required to establish and maintain a statutory agency or position. There are certainly situations where the creation of a separate statutory authority is clearly the best option. However, in a case such as this, the same outcomes can be achieved through the work of the Minister, the Chief Executive, the Department and other public sector agencies and authorities.

As to the advocacy function, the reviewer has been advised that work is underway at the Commonwealth level to develop a national advocacy framework. The difficult area of NDIS is now also under review. Once this work is completed, the State will need to consider how to achieve the best outcomes in this area to ensure that support is provided to advocacy entities, organisations and groups in South Australia to build capacity round choice and control, and rights awareness. Advocacy must continue to be seen and supported as an essential part of this sector.

Recommendation:

The State Government should ensure that adequate funding remains available to appropriate entities, organisations or groups in connection with disability inclusion advocacy and rights awareness. This funding may be sourced from the Commonwealth or the State, including under a national framework.

7.3 Community visitor scheme

Another important strategy to increase the safeguarding of people living with disability is to put in place and maintain a comprehensive community visitor scheme. It would appear to be

[42] This is taken from the submission to the review made by *Disability Rights Advocacy Service Inc.*

[43] See, for example, the Office for Ageing Well under Part 2 of the *Ageing and Adult Safeguarding Act 1995*.

essential that a community visitor scheme under the Act is developed and implemented as quickly as possible.

In this regard, Part 7 of the Act currently allows the Governor, by regulation, to establish a scheme for community visitors. As with some of the other parts of the Act, it would be appropriate for provisions relating to community visitors to appear in the Act rather than the regulations (when the appropriate opportunity arrives)[44].

During the course of the review, it was suggested that a community visitor scheme should be extended so that it applies beyond the provision of services provided or funded by government, including to review and report on disability inclusion more widely within the community. The discussion also included a proposal that the scheme should extend beyond safeguarding so that community visitors could be involved in such things as helping people and businesses with initiatives to promote disability inclusion, seeing if appropriate practices are in place to support people living with disability in their work, and providing advice to people living with disability about how to increase their opportunities for greater connections in the community.

The reviewer is aware that there has been a commitment by the new State government to expand the scheme so that community visitors are available to visit a wider range of people who receive services. There is certainly significant interest in the community to put in place additional initiatives and schemes that will provide opportunities to identify good practice and to assist in the implementation of plans and programs for better outcomes not only in the delivery of services but in connection with such things as employment.[45] A number of issues need to be considered, including the training of visitors and the extent to which they might be able to enter premises, conduct inspections and access information. It would be good if this work could be progressed at the earliest opportunity.

Recommendations:

(1) The review of the community visitor scheme is very timely and while its improvement and expansion should not be delayed, at an appropriate time the provisions for a community visitor scheme should be set out in the Act rather than in the regulations.

(2) Steps should be taken to continue to review how people with disability are supported in finding and retaining employment and in participating in other activities in the community. This could include reporting on disability inclusion more widely within the community, supporting people with disability as they overcome barriers in the community, and assisting businesses in introducing or supporting disability inclusion.

[44] Depending on timing, it may be appropriate to begin with a community visitor scheme set out in the regulations so as to not to delay the introduction of a community visitor scheme under the Act.

[45] Other areas could also be considered, such as the provision of public and commercially provided transport services and facilities, as proposed by a submission received for the purposes of the review.

7.4 Social connection

As mentioned above, the best safeguard for a person living with disability may well be the presence of measures to increase their social connection.

Historically, it appears that the community has not been good at disability inclusion.

As discussed in an article about efforts to assist people with disabilities to become active contributors and valued members of the community[46], a barrier to increased social connection is that people with disability can be devalued in society because of a perceived difference, characteristic or identity. This can lead to rejection, separation or exclusion. One way to assist with this situation is to develop valued social roles.

The article then refers to the fact that once people can attain a role in the community, "community members are more likely to see people for what they contribute rather than their disability or label".

As discussed earlier, good outcomes cannot be forced, but by promoting education, establishing partnerships, modelling desired outcomes and recognising and rewarding examples of successful inclusion, significant steps can be taken towards a more inclusive community and build from the legislative base created by the Act.

As part of the processes of the review, the reviewer was made aware of a number of initiatives and programs that have promoted, supported or delivered on high quality inclusion outcomes. In many cases it is clear that such initiatives based on social connection have benefitted both people with disability and businesses, organisations or community members involved in these activities, programs, work or other arrangements.

The *Neighbourhood Circles Project* is an excellent example of a major initiative to build relationships within neighbourhoods in order to provide important sources of safeguarding and support for those who are at greater risk of being isolated and marginalised. Interestingly, these relationships may be virtual or in-person, although in person connections are to be preferred, and generally more significant, to help to provide safeguards.[47] As pointed out by the JFA Purple Orange submission, inclusive neighbourhoods "pave the way for people living with disability to build informal social networks with neighbours and other members of their local community…These connections can serve as an important informal safeguard…" As also pointed out by JFA Purple Orange, community connections, and the work of grassroots organisations and groups, can create resilience, and inclusive neighbourhoods can create positive casual connections between people living with disability and non-disabled members of the community, reduce loneliness and isolation, and increase economic participation.

[46] *Some Reflections on What Might be Needed to Assist People with Disabilities to Become Authentically Included in the Community* Deb Rouget, Personalised Lifestyle Assistance (PLA) in Bigby, C & Fyffe, C (2009). More than Community Presence: Social Inclusion for People with Intellectual Disability. Fourth Annual Roundtable on Intellectual Disability Policy, pages 62-70.

[47] See www.inclusiveneighbourhoods.org.au

Another excellent example associated with social connection is the work of community centres, supported by their peak body *Community Centres SA*. These centres are places where people with disability are "empowered to participate fully in life, to feel valued and to have a sense of belonging".[48]

Another area where social connection can make a significant difference, and where there are significant opportunities, is in relation to sport. A significant aspect of community life in Australia relates to sport and especially participation in sport. Most sport revolves around clubs, whether at the elite level or at the grassroots level. The work of organisations such as *Active Inclusion* is well worth considering in this context. The mission of Active Inclusion is "to continue supporting the South Australian community, individuals and families by delivering best practice inclusion and diversity programs and advice to local government, peak body organisations, businesses, local sporting clubs and recreation groups". The aim of Active Inclusion is "to create effective engagement opportunities and strategies between organisations, marginalised groups and the community to ensure a welcoming and inclusive environment for all".

The idea of linking up with sporting and community organisations to increase the participation of people with disability in sport and other recreational activities is clearly consistent with many of the points and themes arising during the course of this review, where it is seen that achieving the objects of the Act is very much about getting people in the community to accept people living with disability into their lives and activities, to be willing to give people living with disability "a fair go", to treat all people equally even if that means providing some assistance or even just some basic support, time and understanding.[49]

In summary, partnerships, activities and support that focus on social connection are of critical importance to promoting and advancing the objects of the Act, and the State government and councils should ensure that reasonable amounts of funding are available to support organisations that are contributing to effective or improved social connections for people living with disability.

Recommendation:

Additional safeguards for people with disability can be achieved by increasing social connection. To do this, State government agencies and local councils should be encouraged to partner with, and to provide resources as reasonably available, to organisations and other bodies that are involved in creating inclusive and connected communities at the local level for people with disability.

Another key way to increase social connection is to promote disability inclusion, to which this report now turns.

[48] This is taken from the submission to the review that was made by Communities Centres SA.

[49] This is also consistent with the State Disability Inclusion Plan, which says (at page 9), that a priority is" to explore opportunities to increase the involvement of children with disability in sports and cultural activities".

8 Additional strategies, initiatives and matters

8.1 Promoting disability inclusion

It appears that more could be done to support disability awareness, and especially awareness of the problems and barriers facing people living with disability.[50] As recommended by the Royal Commission, "Governments should lead the way in shifting community attitudes and behaviours by developing and implementing population-wide initiatives to improve attitudes and raise awareness, including public awareness campaigns aimed at reducing stigma."[51] This is consistent with a theme that was evident throughout the review, which is that it is necessary to achieve social change in order to achieve meaningful improvements in disability inclusion.

The review has also provided an opportunity to note that great work is being done by a significant number of people and organisations to support people living with disability and to promote people living with disability as people who can make positive and meaningful contributions to local communities and society more generally. The reviewer was also privileged to meet with a range of people living with disability and to gain some insights into their abilities and to hear their views about disability inclusion.

It was also evident that an important principle is to think about what a person can contribute rather than to focus on their disability. This leads to an approach where the focus is on *ability* rather than *disability*, and this would be a good concept to adopt as part of any awareness campaign.

The approach to "awareness-raising" is also something highlighted by the Convention, especially Article 8, which includes an undertaking that State Parties will promote awareness of the capabilities and contributions of persons with disabilities, including by initiating and maintaining effective public awareness campaigns designed to promote positive perceptions and greater social awareness towards people living with disability, and to promote recognition of the skills, merits and abilities of persons with disabilities, and their contributions to the workplace and the labour market.

A point made during a forum and other discussions was that people living with disability are likely to be highly motivated people who are used to dealing with challenges and succeeding. In employment, people living with disability may appreciate the opportunity to perform a particular function, undertake a particular activity, or show their skills and abilities. They may

[50] The Royal Commission notes in its paper "Overview of responses to the Promoting inclusion Issues paper" (October 2021) that some responses to that paper had highlighted that more needs to be done to promote inclusion is Australia (see page 4 of the Royal Commission's paper), and points to a link between a lack of awareness about disability and the development of negative attitudes towards people with disability and disability inclusion (see page 7 of the paper).

[51] See the Royal Commission's paper "Overview of responses to the Promoting inclusion Issues paper" (October 2021) at page 17.

highly value the position once they are in a particular job because of the barriers that they have faced. For these reasons, people living with disability can make exceptional workers, employees and contractors.[52]

Inclusion can also unlock many advantages. As was said during the review, inclusion enables people to gain more independence, places less call on resources in many cases, and creates positive economic impacts. In this regard, some programs identified or discussed as part of the review demonstrated that there are significant business opportunities associated with disability inclusion.[53]

A good way to promote the involvement of people living with disability in businesses is to share information, outcomes and tips for success.

Significant outcomes can also be achieved if partnerships are created. It was also said during the review that partnerships can deliver on achieving real and meaningful inclusion.

In undertaking the review, the reviewer was also made aware of the *Autism Friendly Charter* developed by Autism SA.[54] The reviewer is advised that the State government has committed to a State Autism Strategy, which will align to Inclusive SA and require all government agencies to sign up to Autism SA's Autism Friendly Charter.

Recommendations:

(1) In developing communications strategies to promote disability, it is important to include an emphasis that focuses on the abilities of people to contribute to a particular work situation or to the community.

(2) The State Government should promote disability awareness programs and training, especially for small to medium sized businesses.

(3) Businesses that participate in a disability awareness program and training should be encouraged to promote that they have done so.

(4) More work should be done by the State government and local councils to create opportunities for people to realise the importance of disability inclusion, including the fact that it can result in economic advantages and business opportunities. The State and local government sectors should commit to an increased effort to help businesses to become more inclusive. The Department should provide advice to businesses about government funding that is available for workplace

[52] Action 23 under Priority 9 of the State Disability Inclusion Plan is to continue "to work collaboratively with the Commonwealth Government and the National Disability Insurance Agency (NDIA) to develop strategies to support a diverse disability workforce, including within regional South Australia". Priority 12 is also directly relevant in relation to the public sector.

[53] For an excellent example of a successful venture in the tourism area, see *Accessible Tourism on the Yorke Peninsula* Report and Recommendations following a workshop held 15 November 2021.

[54] See autismfriendlycharter.org.au

modifications and specific equipment and facilities to assist people living with disability to gain or retain employment.

8.2 Collecting important information

One of the submissions[55] raised the importance of collecting statistical information on the needs of people living with disability, especially in connection with interacting with State authorities within the meaning of the Act. This information should include (as far as is reasonably practicable) information about:

(a) the number of people with different categories of disability engaging with the entity; and

(b) any reasonable adjustments that they require and the degree and timeliness of the provision of such adjustments.

The collection of such information would obviously need to be made with the consent of the people interacting with the State authority.

Another submission[56] made the point that it would be useful to have improved data and statistics relating to the investment and resources that State authorities are spending on disability inclusion. This could include amounts spent on advocacy and specifically promoting the interests of people living with disability.

Another area relates to reporting on complaints and feedback received by State authorities in connection with the services that they provide to people living with disability.

The development of a comprehensive reporting framework would certainly assist in gauging the effectiveness of the Act and, in particular, the effectiveness of DAIPs under the Act. A scheme based on collecting and analysing quantitative and qualitative data relating to, and informed by, people living with disability would also be consistent with the Royal Commission's report "Overview of responses to the Promoting inclusion Issues Paper"[57] This could be incorporated into the work being done on the proposed outcomes framework.

In addition, as stated by the Uniting Communities Law Centre, the provision of such information "would be a chance to discover patterns, identify gaps, and respond in a proactive manner ensuring that those who need assistance in our community have the opportunity to receive much needed assistance in a more mainstreamed and effective manner before their situation becomes larger, more expensive and more urgent".

[55] This was the submission made by Uniting Communities Law Centre.

[56] This was the submission made by the Lifetime Support Authority of South Australia.

[57] October 2021. See especially pages 21 and 22 of the issues paper.

Recommendations:

(1) In providing services or programs that may assist people living with disability, State authorities should take steps to collect and collate information on: (a) the number of people with different prescribed categories of disability engaging with the entity; (b) the changes or adjustments to services that were required to ensure that they could access relevant services; and (c) amounts spent on advocacy and specifically promoting the interests of people with disability. This information should be published by the State authority.

(2) State authorities should take steps to collect and collate information about complaints and feedback received by State authorities in relation to the operation of their DAIPs and the provision of services to people with disability. This information should be published by the State authority.

8.3 Communication and websites

As noted by the Australian Federation of Disability Organisations, communication barriers are experienced by people who have disabilities that affect hearing, speaking, reading, writing and/or understanding.[58] It is particularly important that resources, information, materials and communication that are relevant to initiatives associated with disability inclusion under the Act are accessible for people living with disability, and it appears that greater effort needs to be placed on making information more accessible. In addition, the State and local governments should, so far as is reasonably practicable, ensure that information that they publish is accessible by people who live with disability, especially as they seek to obtain information through the use of electronic methods. This is particularly important in relation to government policy.

Article 9 of the Convention also acknowledges that access to information and communications is a human right, and provides that parties will take appropriate measures to ensure people with disability access, on an equal basis with others, information, communications and other services, including electronic services.

The Department of Premier and Cabinet has developed an Online Accessibility Toolkit, and the reviewer has been advised it is recognised as a world-leading and multiple award-winning accessibility resource.[59]

Recommendations:

(1) State government agencies and local councils should ensure that their DAIPs are accessible from the "front page" of their websites, and be in a form that is easy for people with disability to access.

[58] See www.afdo.org.au

[59] The State Government's Online Accessibility Toolkit can be accessed at accessibility.sa.gov.au. This supports Priority 8 under the State Disability Inclusion Plan, which is "Accessible and available information".

(2) Insofar as is reasonably practicable, Easy Read documents should be seen as standard requirements for all policies published by the State Government and local councils.

(3) State government agencies and local councils should take reasonable steps to ensure that they have policies in place to assist people living with various disabilities to be able to understand documents and published information.

8.4 Children

Preliminary

It is important to note the challenges facing children living with disability and their development as thriving members of the community. Steps to ensure their safety, wellbeing and personal development should go hand-in-hand with ensuring that children living with disability receive an excellent education and are in a position to maximise opportunities associated with inclusion and independence as they move into adulthood.

General discussion

In the case of children living with disability, children are a priority group under section 9 of the Act. As noted by the Commissioner for Children and Young People, this means that protections for children's rights and safety should be stronger that those devised for adults (being adults who are not in another priority group).

This report is seeking to give greater recognition to the special interest of the priority groups, including in the formation of reference groups. Children should be taken into account in this regard as well. Additional reporting requirements are also proposed.

In a recent report, the Commissioner for Children and Young People also concludes that despite the legislative requirement "many draft DAIPs developed by key state authorities do not adequately recognise children and young people with disability as a group that has needs and wants that are separate to and different from adults who are living with a disability".[60] The Commissioner reports that, consequently, DAIPs "fall well short of what is required in terms of what is required to be a unique set of responses and engagement strategies".

In considering the position of children, the reviewer has been impressed by the work that the Commissioner for Children and Young People has done in publishing her report *From Checkbox to Commitment: What children and young people with disability said about identity, inclusion and independence.* It is assumed that the Commissioner will be advancing her recommendations with the Minister and the Department (and any reforms adopted as a result of her report could be made in conjunction with the recommendations contained in this report).

[60] See the report of the Commissioner: *From Checkbox to Commitment: What children and young people with disability said about identity, inclusion and independence* at page 10.

Education

An important aspect of disability inclusion is highlighted by the Commissioner for Children and Young People's report, being that children and young people living with disability want to blend in and engage with other children and young people their age. The report continues:

> When young people with disability are placed in situations where their differences are highlighted over their shared experiences or common interests, their capacity to blend with kids their own age becomes problematic.[61]

This is particularly relevant when it comes to issues associated with children and school, and during the course of the review it was noted that an inclusive education (with any necessary and appropriate support for the child) not only benefits the child, but also allows other children at the same school to gain a better understanding of the challenges facing children living with disability.

It is clear that it is essential that children living with disability must be given the best opportunity to receive the best education so that they can maximise their potential and make the most of life as they advance into adulthood (so, for example, to have the best chance to apply for, and compete for, a job like any other person). In connection with this, other children around the child living with disability may be given more of a chance to develop into adults who respect people living with disability, and who have a much better understanding of social inclusion. The more that this occurs, the more community attitudes in relation to disability inclusion can change over time.

As has been said, social inclusion is more than physical presence – it's also a sense or feeling that you belong, are connected and are surrounded by a range of relationships. An important part of the experience for children at school is therefore to focus not only on their education, which is of critical importance, but also on their well-being and the social aspects of school.

The reviewer appreciated the opportunity to discuss the work being undertaken by the Education Department to implement its Disability Access and Inclusion Plan, and various other initiatives, procedures and policies that the Education Department has in place to improve the learning and development outcomes for students living with disability in South Australia. This work is also consistent with Priority 10 in the State Disability Inclusion Plan.

A significant factor in recent times has been the work of the Royal Commission in reviewing the experience of children and young people with disability in different education settings.

It is obviously not for this review to replicate or pre-empt the work of the Royal Commission, or to provide advice in relation to specialist areas associated with the education of children and young people living with disability. However, there is no doubt that the more that the Education Department can support these children and young people to have an educational experience that occurs within the mainstream of education, the better.

[61] See the report at pages 29 – 30.

As previously mentioned, children constitute a specific priority group under section 9 of the Act, and this report includes recommendations that are intended to improve the focus on these groups, including in relation to addressing the principles and risks identified, in the case of children, under section 9(3) of the Act. In view of the interest in the extent to which mainstream activities and support has generated interest as part of the review, it would be an excellent outcome if the Education Department could provide a specific report on the work of the department to support and enable children living with disability to successfully participate in mainstream learning and social experiences and outcomes while at school.

Recommendation:

The Chief Executive should request the Education Department to include specific information in its annual report on the operation of its disability access and inclusion plan for the 2022/2023 financial year on the extent to which children living with disability are able to participate in mainstream learning and social experiences at school. It is requested that this information include: (a) an outline about how the success of initiatives, procedures and programs designed to assist children living with disability is measured, especially in relation to learning outcomes and wellbeing; and (b) recent results against those measures.

8.5 Other initiatives

An appropriate identification card

During the course of the review, it was mentioned that many people living with disability are unable to obtain a driver's licence. It is inappropriate that the only alternative for the purposes of establishing a person's entity is a proof of age card, which is not accepted by all government agencies in any event.

Recommendation:

The Department should take steps to ensure that a "universal" identification card is made available for people with disability who do not hold a driver's licence.

Reporting on proposals for change following review of the State Disability Inclusion Plan or a DAIP

One submission highlighted the fact that the is no requirement for the State Disability Inclusion Plan or a DAIP to be updated after a review (as well as reported on). In order to promote greater transparency and to keep track of required actions, a report about a review should lead to the preparation of advice about the actions that will be adopted as a result of the review. In relation to the reports submitted under section 18 of the Act, these could be processed in the same way as the reports submitted under section 17, so that the reports are provided to the Chief Executive and then a report summarising those reports is provided to the Minister.

Recommendations:

(1) Section 15 of the Act should be amended so that a report on the review of the State Disability Inclusion Plan submitted to the Minister under that section includes, or is accompanied by, information about any changes recommended to be made to the State Disability Inclusion Plan as a result of the review.

(2) Section 18 of the Act should be amended so that a report on the review of a disability access and inclusion plan submitted to under that section includes, or is accompanied by, information about any changes made, or proposed to be made, to the DAIP as a result of the review. Consideration could also be given to amending section 18 so that the reports are initially provided to the Chief Executive, and a report summarising those reports is provided in turn to the Minister.

Easy Read documents

As indicated above, it is essential that information under the Act or relating to disability inclusion more widely should be accessible for people living with disability. An overview of the Act in an Easy Read format should be available on the Department's website, as should a copy of this report.

Recommendations:

(1) An overview of the Act should be published in an Easy Read format on the Department's website.

(2) **A copy of this report should be published in an Easy Read format on the Department's website, and made available by the Department, after the report has been tabled in Parliament.**

Appendix 1 – Formal consultation and submissions

The following people and entities were either directly consulted, or made written submissions, for the purposes of the review:

Autism SA

Professor Richard Bruggemann

Commissioner for Children and Young People

Communities Centres SA

John Cranwell, Chief Executive Officer, Active Inclusion

Dr Betty-Jean Dee-Price

Department of Human Services – key senior staff

Disability Engagement Group (DEG) (Department of Human Services)

Disability Rights Advocacy Service Inc

Education Department – Executive Director, Support and Inclusion

Ms Yvette Eglinton – Department for Environment and Water

Associate Professor Caroline Ellison

Ms Susanne Hendy

JFA Purple Orange

Lifetime Support Authority

Local Government Access and Inclusion Network

Local Government Association of South Australia

Local Government Disability Inclusion Advisory Group

Ms Claire McCracken, Chief Executive Officer, Carers and Advocates Australia Pty. Ltd.

South Australian Council on Intellectual Disability, and SACID's inclusion workers

The Disability Advocate

The Public Advocate

Uniting Communities Law Centre

Ms Natalie Wade – Equality Lawyers

This list does not detract from the people who took the time to participate in a forum, who provided comments about the review and disability inclusion via YourSAy, who completed the survey, or who met with the reviewer on a more informal basis to discuss disability inclusion and the operation of the Act. Everyone's interest and contributions to the review has been valued and appreciated.

Appendix 2 – Survey feedback

A survey was prepared as part of the review. The questions were primarily designed to seek feedback from individuals about the operation and effectiveness of the *Disability Inclusion Act 2018.* It was noted for the purposes of the survey that the Act is intended to promote the full inclusion in the South Australian community of people with disability and that generally speaking the Act does not provide for the actual provision of services but rather seeks to provide a framework that highlights and promotes policies and initiatives designed to promote disability inclusion in society.

The following sets out the questions and some comments from the reviewer, and responses to the questions, to the extent considered useful by the reviewer for the purposes of this report.[62]

There were 20 respondents.

1. *Please tell us a bit about yourself*
   Respondents were invited to provide information about themselves so that there could be some information relating to their background and/or interest in disability inclusion. The following is a summary of the information that was provided:
   - Several people with lived experience of disability.
   - A person with several acquired disabilities (and so a person with lived experience), who is also the carer for their partner who has a degenerative disability and a grandchild with a disability.
   - Parents of children with disability.
   - Several people who work in the disability sector and/or are carers of people with disability.
   - Disability advocates.
   - Other interested members of the community

2. *What are the biggest challenges facing the disability community when participating in the community?*
   Some of the answers were:
   - The inconsistent attitudes and the defensive refusal to listen and act by local councils and state government to assist us to participate in the community.
   - Relationship inclusivity – individuals taking the time to be friends with someone who has a disability.
   - People with disability and their family or carers have to work too hard to participate. This can include access to expensive assistive technology.
   - Other people in the community, mostly those not living with disability.
   - Genuine ignorance and a lack of concern for the varied experience of people living with disability.
   - A belief that people living with disability are a burden on society.

[62] In some cases, some editing has also been done to amalgamate responses, to avoid repetition, or to provide greater clarity.

- Job opportunities for people living with disability, and workplaces that are suitable for people living with disability, including adjustable tables.
- Lack of equal access in the community in all environments including employment.
- Lack of employment opportunities, due to stigma and discrimination.
- The view that any adjustment to a workplace is too much.
- Not providing sufficient support and adjustments to students, especially in the tertiary sector.
- Discrimination by people, and building and space accessibility.
- Restaurants not having cutlery that is suitable for people with disability.
- Conditions of paths and road crossings, including slopes going on to or from a road.
- Not being given a fair go in relation to parking, bathroom facilities, etc.
- Access to shops.
- Lack of accessibility to events, venues, transport and other services and facilities. The burden of needing to check with a place is accessible (for example, by telephone calls or searching websites), and the stigma associated with this, which impacts on people's ability to have natural social relationships.
- Lack of appropriate housing.
- Lack of skilled support workers.
- There is a lot of "gatekeeping" of information on a systems level. People who already have resources and support can still face hurdles, but people with far less resources really struggle to navigate systems and gain access to the various kinds of necessary supports.
- Key services not providing prevention or intervention until a crisis occurs.
- Understanding about how the NDIS works and access.
- Misunderstanding that NDIS does everything.
- Assumptions of capacity causing discrimination within healthcare and employment.
- Lack of good care preventing a full life.
- Mental health triage lines taking too long to get through on. Not enough family support for those supporting loved ones with mental health issues.
- Lack of public awareness of people living with disability.
- The belief that community consultation on platforms of "inclusion" (mostly at arms-length) is sufficient.

3. *Do you think State Government and local councils are doing enough to address the challenges facing people with disability?*
   Most of the respondents answered this question in the negative.

4. *Please explain your answer to Question 3*
   Some of the information provided was as follows.
   - A council refusing to acknowledge people living with disability in a particular plan, instead saying that this is dealt with in its "community inclusion" plan.
   - A council was considered to be doing a lot in relation to disability inclusion, which although not perfect was a work in progress. It was thought that the state government needs to do more.
   - www.accessibility.sa.gov.au is seen as a good start, but not everyone knows about it or "designs to accessible standards".

- Some councils were considered to be trying to improve disability inclusion.
- Governments are starting to make a difference but they are not well informed, make assumptions and end up with tokenistic gestures.
- Local and state governments are trying but they really do not know what to do, apart from making physical environmental changes/accommodations, which is only a very, very small part of building an inclusive world.
- Cultural, institutional and structural change takes time.
- Freedom of movement and spontaneity of access is denied.
- Policies should be changed to give greater recognition to their application to people living with disability.
- An example where governments have not taken into account people with disability are scooters being left around the City and blocking the path for people and especially those with mobility issues.
- There are some examples of impressive work being undertaken, such as the Adelaide Fringe Festival.
- Legislation needs to change to ensure all people with disability are included in all activities, including employment, equally to all.
- Government agencies do not understand the complicated NDIS system and that only a small percentage of people living with disability are covered by that system.
- Mental health services are only reactive when a person reaches breaking point. This puts a huge burden on families and emergency services.
- The Act does not meet its objects or honour its commitment to the UNCRPD.
- Knowledge is power and more needs to be done for those who are more likely to have less support to have more support.
- Funding should be available to facilitate transportable amenities that can be utilised at various community events for no charge to the event coordinators.

5. *Do you know of any changes made by the State Government and/or local councils to improve disability participation and inclusion in the community?*
   There were a mix of answers to this question. Some responses that are relevant are:
   - It is very ad hoc, and depends on the council and staff, if they have the knowledge and ability to implement real improvements. Staff are usually non-disabled people.
   - Yes – An example is beach access with the engagement of Push Mobility and local councils. The Changing Places at the foreshore was a massive leap in the right direction.
   - No – and it was noted that a negative example was not fining people who use disabled facilities, such as parking, when they do not have a disability.
   - Yes – www.accessibility.sa.gov.au, which has won national and international awards and is the resource that many other Australian governments reference as a practical toolkit. More needs to be done to promote this within the State government. The Digital Inclusion Strategy needs government agencies to include more tangible supports for people living with disability.
   - No – The assumption is that the NDIS takes care of everything related to disability and so this has caused a devolvement of responsibility.
   - Yes – The Urgent Mental Health Care Centre.
   - Yes – The Thordon super park upgrade. There are several councils that are being accredited for Communication Access. The Disability Access and Inclusion Network

committees are starting to have more of a say in planned upgrades and new building opportunities about access and inclusion.

- Yes – More accessible toilets are available.
- No – The DAIPs are a mockery. There are so many people in the State with invisible disabilities who are completely ignored. COVID has shown people what governments really think; it does not matter if vulnerable people are lost as they were disposable anyway. All of the accessibility of working from home was revoked as soon as possible.
- Unsure – The continuation of funding for advocacy services is good. However, one of the side effects of NDIS funding means that grassroots community service funding is being pulled.
- Yes – Mount Gambier Council has facilitated sessions for the public to provide feedback on how to make our recreational areas more inclusive.
- Yes – The implementation of DAIPs across the government sector is heartening. It would be good to see them better prepared, better implemented, and developed in partnership with people with disability, but they are a start.
- There is a lack of knowledge and awareness of invisible disabilities throughout all systems in South Australia. A person can feel blamed for the conditions that they experience by most professionals, who do not have a systems/holistic understanding of disability and mental health. A professional's shortcomings are directed back at the person as a patient.
- Yes – Wheelchair accessible trails in national parks, the fact that some places lend access mats for wheelchair access to beaches, the accessible changing facilities at the Henley Beach foreshore, and more accessible facilities at such places as the Parks, West Lakes and St Clair. Reference was also made to Alternative and Augmented Communication education rolled out with Adelaide City Council staff and local businesses.

6. *Do you know of any State Government policies or services that are available to assist people with disability to actively participate in the community?*
   There were a mix of answers to this question. Some responses that are relevant are:
   - Unsure – Reference was made to the Pavely app and the fact that the person is waiting to see how accurate access information will be. It is unbelievable that the two tiers of government are not enforcing the standards for access that already exist in building codes and the Disability Discrimination Act.
   - Yes – The usual companion card, concessions and legislation.
   - Yes – Provision within NDIS plans to incorporate social inclusion with caters etc.
   - Unsure – No recent initiatives have been seen.
   - Unsure – The NDIS needs to be better.
   - No – They think that it is all done by the NDIS.
   - Unsure – There is nothing that supports a person with dementia to remain employed, or to have equal access.
   - Yes – Reasonable adjustment in VET and education.
   - Yes – Disability Access and Inclusion Plans.
   - Unsure – The person could not find any and that is probably an indictment on their communication and general adoption.

- No – Policies to not increase access or inclusion in the community. They are just tokenistic gestures that have little to no consequences if not followed. It takes people who are dedicated to create opportunities for people to be included in the community.
- No – In conversations with people about community access the person has never found themselves referring to a service or policy of the State government.
- Yes – Main service structures usually provide website information but this is not sufficient and the EOC or AHRC are often inundated with disability access complaints.

7. *Do you know of any local council policies or services that are available to assist people with disability to actively participate in the community?*
   There were a mix of answers to this question. Some responses that are relevant are:
   - Unsure – My local council is very haphazard.
   - Unsure – It's uncertain whether local councils are even familiar with some of their own policies and services.
   - Yes – It all depends on the council. Some are very progressive and some provide no assistance.
   - No – In the Riverland, there is not even public transport.
   - Yes – Including Kindred Living, Centrecare and the YMCA.
   - No – They think that it is all done by the NDIS.
   - Yes – Free admission for companions and carers at swimming pools.
   - Yes – Community support programs run through various councils.
   - No – Policies to not increase access or inclusion in the community. They are just tokenistic gestures that have little to no consequences if not followed. It takes people who are dedicated to create opportunities for people to be included in the community.
   - Yes – The Barossa Council's Community Connector Program, which helps vulnerable people to explore their interests and make meaningful connections with their local community.

8. *Have you seen your local council's Disability Access and Inclusion Plan (DAIP)?*
   The councils listed in the responses were:
   - City of Port Adelaide Enfield
   - Whyalla
   - Salisbury
   - Campbelltown
   - Tea Tree Gully
   - Charles Sturt
   - Adelaide City Council

9. *Have you seen any State Government department Disability Access and Inclusion Plan (DAIP)?*
   The agencies listed in the responses were:
   - Department for Child Protection
   - Department of the Premier and Cabinet
   - TAFE
   - SA Health
   - Inclusive SA

- Office of the Commissioner for Public Sector Employment
- Department for Education
- Several across different services

10. *Did you know the South Australian Government operates **Inclusive SA**?*
    - Yes: 12 respondents
      Some ways in which respondents became aware of Inclusive SA include:
        - Going to a consultation session
        - Web searching
        - Contributing to a department's DAIP
        - Accidently when advocating on another issue
        - As part of a person's employment
        - Committee involvement
        - Through the Disability Rights Advocacy Service
        - Via other government communications
    - No: 8 respondents

11. *Do you know of any initiatives that have been implemented as a result of Inclusive SA?*
    There were a mix of answers to this question. Some responses that are relevant are:
    - The Pavely app
    - More inclusive playgrounds
    - Beach access
    - No – In 15 years the respondent has never heard of any disability initiatives that have helped disabled people
    - The Report it Right Guidelines

12. *Do you think the various levels of government (Local, State and Commonwealth) work well together to improve disability inclusion?*
    - Yes: 2 respondents
        - One respondent considered that officers are passionate about helping people living with disability.
    - No: 13 respondents
      Some reasons for this answer were:
        - They usually blame each other, say that it's not their area, and do not offer to help to put people with disability in touch with the correct contact person.
        - The rollout of the NDIS and the lack of communication around implementation has been poor.
        - They hide behind archaic policy that can be fixed but isn't.
        - If they were working together, more would be done to help people living with disability.
        - Funding models are disjointed and action plans and frameworks are not aligned in terms of deadlines and priorities.
        - They do not cooperate – such as SA Health and NDIS.
        - They work too much in their individual silos. Some councils are being left behind.

- None of the levels of government appear to be genuine in the desire to meet our human rights. The general public and its representatives prefer to live in a fantasy world where disabled people are "separate but equal" with all the extraordinary disadvantages that come with such an obviously false 19th century ideal. There is a culture that is still deeply against people with disability after 40 to 50 years of supposed "reform".
- The State struggles to see it's legislative opportunity to make changes and instead defers to the Federal Government. There is an ongoing blur between State and Federal nuances. There is little consistency across councils in values, policy and action. There is a lack of confidence in the use of appropriate language.
- A respondent did not often see these levels of government working well together to benefit their communities, despite heartfelt commitments to do so. If this does not happen in the key major population areas of education, health, aged care, economic development, NDIS/services, Centrelink etc., then what chance does the relatively small, diverse, powerless disability have to divert resources to change disability outcomes?
- The NDIS fee for service model has meant that some great initiatives of local organisations have folded. It might be useful to do an audit of where those gaps exist and whether the State government or local councils could provide some grant type funding to support grassroots programs with the intention of fostering inclusion and community connection.

- Unsure: 5 respondents
  - One respondent considered that more communication between the various levels of government and more public consultation and feedback to the community would be good.

13. *Do you feel you have gained more independence over the past five years?*
    - Yes: 7

      Some reasons for this answer were:
      - There is an improvement because of being able to choose providers of care.
      - Through the NDIS there is more choice and control, and supports cater to individual needs. It would be good to see more on a community level.
      - NDIS has contributed to increased capacity building and support to access the community.
      - Two steps forward and one step back.
      - Independence is very important. There are gaps in provision of care and wellbeing for those without means or support.
      - There is a great sense of change. There is better physical access all round. People are more aware of sensory needs. There has been a great presence of Auslan interpreters at events. There is a concern that people with intellectual disability may be left behind.
    - No: 6

      Some reasons for this answer were:
      - There is still insufficient protection under the law. There is a lack of social justice and a refusal for people to see people living with disability as equals.
      - Unaware of any recent initiatives.

    - It necessary to explain every day what is needed.
    - Other than things like wheelchair access, almost no other "real" disability or inclusive access is available.
    - The NDIS is in a mess.
    - There is no leader in the area or advocate with real powers. The only available points with power to intervene are the EOC and AHRC, which are flooded with complaints.
- Unsure: 7
  Some reasons for this answer were:
    - It depends on individual and specific situations.
    - Things went backwards with COVID.
    - It is difficult to say in view of the NDIS. The people who have been able to get the support they need are better off than when they received support that they did not need. The incompetence of the Federal Government to conceptualise and action a usable plan has become a bureaucratic nightmare.
    - The NDIS should have made a difference but it has been two steps forward and one step back. Technology has provided more platforms for people living with disability to be independent, but this may still only be to a few, not many or all. We need more guidance, funding, expertise and momentum.
    - It depends on the disability.

14. *What three changes would you like to see made to improve disability inclusion in South Australia?*
    - Heritage should not be used as an excuse not to make buildings accessible. Grants or tax exemptions should be created to ensure building owners can improve their buildings.
    - The disability complaints process should be simplified so that the onus is not on the disabled person. No council or State Government funding should be given if an inaccessible building or environment is to be used. This should be assessed by trained staff.
    - Building inspections/health inspections.

    - Ease and dignity of access to buildings.
    - Mandatory training of employees to understand and respect the rights of people living with disability.
    - Public transport and ride share more dignified and accessible.

    - Attitudes with individuals to be more embracing and accepting. Greater understanding of their specific situations and needs and the ability to accommodate those things.

    - More access to disabled parking for people who are disabled; not just the physically disabled.
    - The ability to leave and return if they need a bit of time out.
    - Police and inspectors fining people for parking in disabled spots, using disabled toilets etc., without a disability so people with disability can actually use the services when they need to do so.

- A better streamlined NDIS.
- More support workers.
- Better housing.

- Better access (availability and finance) to support workers, translators, assistive technology.
- Much wider communication across the South Australian Government to raise awareness to build universal design (buildings, services, technology) from the planning stage, not "tacked on" after.
- Joined up information and supports between the three tiers of government.

- Inclusion of more people with disabilities in the workforce.
- Legislation to support fairer employment of people living with disability in the workforce.
- Inclusion of dementia as a condition causing cognitive and multiple other disabilities (as defined by the World Health Organisation).

- A focus on people with disability from culturally and linguistically diverse backgrounds.
- Employment opportunities.
- Valuing lived experience.

- Education of staff.
- Cooperation between NDIS and SA Health.
- Safeguards act like Victoria and implementation of a disability commissioner to safeguard all with disability.

- More partnerships between services.

- Facilities, accessibility and inclusion that allow people to not just go to places but allow them to stay at those events and venues.
- Less steps and stairs and build more ramps.
- An accreditation standard for accessibility and inclusion that makes it clear if something complies.

- Financial support to deliver grassroots disability programs for those with challenges who may not fit into NDIS funding and need socialisation, inclusion and support or a latter to NDIS.
- Dedicated roles to support disability in local government.
- More seats for everyone in parks, shops and tourist sites – for access, those who can't walk far and socialisation.

- Either make it worthwhile to employers to hire disabled people or make it not worth the risk to be reported for even potential discrimination.
- Some sort of cultural change efforts to show that difference isn't a reason for dismissal.
- Ensuring that someone is not left stranded in their bed because a contractor couldn't be bothered to prepare properly.

- A community appointed panel of legislation reformers with real power (not advisors) to develop updated Disability Inclusion Act.
- The issue of ableism to be acknowledged (many peer reviewed studies point to this need).
- More people with disability and lived experience in positions of power (real power not the endless churn-out of advisory groups).
- All Government leaders to undertake immersive training in disability and the meaning of ableism.

- Universal design.
- Including in employment opportunities/decision making processes/planning/flexible workplaces and further learning opportunities.
- Educating people about their rights and opportunities on offer, and making that information readily accessible.

- Funding for established sporting and social groups to make their facilities accessible.

- Working together to onboard findings of Research Report: Disability Royal Commission "Changing Community Attitudes to Improve Inclusion of People with Disability".
- Supporting the development of social enterprises run by people with disability and neurodiversity to foster social inclusion and build independence and respect. Supporting these to grow skills, provide back office and space support and develop markets and networks is a win-win social investment.
- Developing a Social Procurement policy/resource across all levels of government and government contractors.

- More access and support for students with invisible disability in Universities.
- Wiser health care professionals.
- Better treatment of people experiencing mental health crisis.

- Enforceable standards around ableist slurs.
- An overhaul of the Education system's response to behavioural incidents from children with known disabilities.
- Disabled voices at the table for every initiative, every project, every decision. If people within government can hear and see the perspective of people with lived experience along the way as they design programs and services, the outcomes will be better, and the knowledge those people bring to future projects will be improved – there could be huge long terms gains.

15. *Is there anything else that you would like to share?*
    - I am angry at the lack of action and feel that this is just another token act.

    - You need to start allowing for families who have multiple kids with a disability not just assume there is one disabled person per family as with multiple there are many more

factors and I'm sick of being told no for something because my kids are not disabled enough!

- I am continually appalled at the lack of inclusion (and therefore access) for people with disabilities.
- I have been campaigning for regulation of support workers for years. Too many are poorly qualified and the assumption that NDIS does it all is unhelpful.
- If you don't know, ask. If we don't know the answer we will know the person who does know. Stop guessing, making assumptions and seeing people of a disability as pity ridden burdens that need to looked after.
- Working further on targeting access to information sharing – libraries, councils are good of course, but think creatively and more broadly about where people who may be further isolated might still interact and therefore be more likely to receive information – i.e., sending information to Disability Employment Services, schools, etc.
- Increase consultation with existing disability groups and services.
- I note in the legislation the terminology about equal access is "like other people". I'd like to see this changed to "like anyone else", which removes the implication that you are not like us, you are other.