

National People with Disabilities and Carer Council

Submission to the Disability Care and Support Inquiry

Introduction

The National People with Disabilities and Carer Council welcomes the Productivity Commission's draft report. The Council congratulates the Commission on its detailed analysis and comprehensive response to the long-standing and complex issues in the disability system.

The Council strongly supports the introduction of a national disability insurance scheme and believes that other solutions in comparison are inadequate. As many individuals and families have stated repeatedly to the Council through its nation-wide consultation, the current system is broken and has damaged many who have come into contact with it. The system is inequitable, underfunded, fragmented and inefficient.

All Governments and all political parties have acknowledged that we cannot continue with the system that we currently have in place. We need a long term care and support system that is sustainable and enables people with a disability and their families to fully recognise their potential and participate to the fullest extent possible. Australian society and the economy can no longer prolong this wasted opportunity and must invest in a better system that will recognise long term benefits to everyone.

Role of the Council

The National People with Disabilities and Carer Council provides advice to the Australian Government on issues affecting people with disability, their families and carers in Australia. Council members represent a diverse range of backgrounds and experience. The Council includes people with disability and their families, carers, industry and union representatives and academics.

The National People with Disabilities and Carer Council:

1. Provides advice and information to the Minister and Parliamentary Secretary on the development and implementation of the National Disability Strategy.
2. Consults widely and provides views and input on various aspects of the National Disability Strategy to the Minister and Parliamentary Secretary.
3. Reports quarterly, or at the Minister's direction, on progress on the National Disability Strategy to the Minister and Parliamentary Secretary.
4. Provides advice on specific matters referred to it by the Minister and Parliamentary Secretary.

1. General comments

1.1 Risk of maintaining status quo

The Commission's report correctly argues that 'the disability support "system" overall is inequitable, underfunded, fragmented and inefficient'. The report also states that the system is unsustainable and makes a strong case for why change is needed. However, the report does not address the question of: What would be the situation if a scheme were not introduced? What would be the result for people with disability, their families and carers? What would be the effect on government expenditures with an ageing population and an expected increase in the number of people with disability? What would be the cost of maintaining a dysfunctional system and the consequent opportunity cost for people's participation and inclusion, compared with the estimated cost by the Commission of a scheme of \$6.3 billion per annum?

Recommendation 1.1: *The Council recommends that the final report clearly depict the consequences for all governments, people with disability and other key stakeholders of not introducing a scheme.*

2. Design Issues

2.1 Economic participation

The Council strongly supports the introduction of a National Disability Insurance Scheme (NDIS) which will increase opportunities for economic participation. The inclusion of specialist employment services that provide or prepare people for jobs (including transition to work programs) is critical. Many people with disability live in or near poverty. Providing opportunities for employment enables people to not only increase their personal wealth but also improve national economic productivity. This is a key asset of the NDIS. The Council also believes that the administration of existing employment programs such as the Australian Disability Enterprises and the Disability Employment Network should fall within the National Disability Insurance Agency (NDIA). This would be in acknowledgement that people's capacity to work can depend on the level of support they require.

Recommendation 2.1: *The Council recommends that the Commission considers the advantages and disadvantages of including existing employment programs under the NDIA.*

2.2 Supported Accommodation

The opportunity to access a variety of accommodation options has been an ongoing issue for people with disability. The Council has consistently argued that for people with disability to truly enjoy living arrangements that are practical, flexible and of their choosing support needs should be separated from accommodation needs and this is endorsed by the National Disability Strategy.

The Strategy states that separation of support services and accommodation minimises the potential for conflict of interest. It also reduces the risk of a person's whole life being essentially controlled by one organisation and enables individuals to make genuine choices of who they employ as a support service without the fear of having to move from their current house. Conversely, people with a disability may want to move into a different house and maintain their same support staff.

Appropriate housing is vital to people with disability. It increases their choices and opportunities to live in the home and location of their choice. Equally important is the fundamental right of people with disability to be able to choose with whom they live, just like any other Australian. Finally, investment in personalised support is critical to people with disability being able to maintain dignity, independence and participate in and feel part of their local communities.

The Council supports the inclusion of accommodation in the NDIS but believes that to maximize opportunities for people with disability, support and accommodation needs should be separated.

Recommendation 2.2: *The Council recommends that the final report stipulate that the provision of care and support should be separate from the provision of accommodation.*

2.3 Assessment process

The United Nations Convention on the Rights of Persons with Disabilities stresses that people with disability should be actively involved in decision making processes that directly affect them. The National Disability Strategy also states that government policy and program design should support wellbeing and health status through factors such as choice and control. The Council asserts that involvement in decision making and maximising choice could effectively be achieved through the implementation of a self-assessment process. The Council understands the Commission's reservations about self-assessment based on research but believes that the intention of the Convention and the Strategy could best be achieved through the implementation of self-assessment.

Recommendation 2.3: *The Council recommends that the Commission reconsiders the use of self-assessment as an appropriate assessment tool.*

2.4 Advocacy

Disability advocacy is essential to providing people with disability the opportunity to participate in decisions that impact their lives to ensure their rights are promoted and protected. The Commission suggests that advocacy could be provided by 'disability support organisations'. It is the view of the Council that independent advocacy is vital to the success of any scheme and careful consideration should be given to ensure there is no potential for a conflict of interest between the funding of advocacy services, service delivery organisations and those that make decisions about the level of service that is to be provided. Independent advocacy will ensure that the rights of people with disability are safeguarded.

Recommendation 2.4: *The Council recommends that the Commission give careful consideration to the funding of independent advocacy services to avoid any possible conflict of interest between those services and disability support organisations including brokerage and administrative services.*

2.5 Carer issues

The Productivity Commission's report acknowledges the importance of carers in the disability system and the Council supports the inclusion of separate carer assessments. It is widely acknowledged that there is currently an excessive dependence on informal carers which has a significant impact on their physical and psychological well being. Any scheme will need to support the role of informal carers to ensure the viability and sustainability of the scheme. This is particularly critical where the carer may also have a

disability. The ABS confirms that over 33% of people caring for people with a “severe or profound” disability are individuals with a “severe or profound” disability.

As carers’ issues and issues for people with disability are intrinsically linked, a National Disability Insurance Scheme will need to incorporate the protection of the fundamental rights of carers. The Council believes that there are some recommendations in the report that need to be made more explicit in respect to the entitlements that carers can claim.

Recommendation 2.5: The Council recommends that the final report stipulate the type and level of supports carers will be able to receive.

2.6 Education

It is widely accepted that educational outcomes for people with disability is linked to their economic participation. The Council understands the need to establish boundaries between mainstream services and the NDIS. The Council therefore, supports the exclusion of education from the scheme. However, given the need for significant reform in this area the Council believes that the NDIA should take a lead role in advocating for the needs of people with disability in the education system.

In this regard, the Council has attached its submission to the review of funding for schooling **attachment A**.

Recommendation 2.6: The Council recommends that the final report state that the NDIA will have a significant role in advocating for education reform for people with disability.

2.7 People with psychosocial disability

The Council believes that the support needs of people with psychosocial disability should be included in the NDIS. This group of people would be unlikely to meet the current assessment criteria given that their needs are not necessarily based on significant limitations in communication, mobility and self-care. Although people with psychosocial disability may be able to dress themselves and be able to independently travel to places, they may not be able to undertake these tasks within the social framework that is required by our society. People with psychosocial disability should be able to access supports under the NDIS such as specialist employment and daily care supports when required.

Recommendation 2.7: The Council recommends that people with psychosocial disability be included in the NDIS and the assessment criteria be amended accordingly.

2.8 Cashed out budgets

One of the principles stipulated in Article 3 of the CRPD is the freedom to make one's own choices. The Council supports the Commission's view that people with disability should have the capacity to cash out their budget. The ability to manage their budget as they deem appropriate would increase choice and autonomy for people with disability and their families and would be consistent with the intention of the Convention.

Recommendation 2.8: *The Council supports the commission's view that people with disability should have the capacity to cash out their budget.*

3. Governance and Administrative arrangements

3.1 Appeal processes

The Council endorses the establishment of an independent statutory officer to review appeals made by people with disabilities and support providers against the decisions of the NDIA. The Council is not convinced that the Administrative Appeals Tribunal (AAT) would be the most appropriate alternative to hear merit based reviews. Another alternative review and appeal process that has been suggested is to establish an Office of the Disability Ombudsman. Council believes it is important to fully explore the merits of both appeal processes.

Recommendation 3.1: *The Council recommends that further consideration be given to fully explore alternative appeal systems including consideration of an Office of the Disability Ombudsman.*

3.2 Innovation Fund

Creating incentives to deliver innovative approaches to deliver independence for people with disability must be a core function of the NDIA. The Council commends the Commission on the inclusion of an innovation fund as part of the NDIA. It is envisaged that better outcomes will be achieved if new approaches are able to be trialled. The innovation fund could conduct preliminary pilots and subsequently national pilots - where a preliminary pilot was successful - prior to the NDIA endorsing a particular approach. The Council believes that NDIA will need to ensure that 'innovative' proposals are not redesigned old approaches. In addition the selection process for trials will need to consider whether the innovation proposal has the potential to be scaled up to a national level. All innovation trials must be rigorously evaluated - including with cost benefit analysis and selection of trials for national implementation should be evidence based. The effective implementation of the innovation fund will require a governance structure that is both transparent and rigorous.

Recommendation 3.2: *The Council supports the Commission’s proposal for an innovation fund and recommends that the Commission give consideration to the specific and stringent governance requirements necessary for the selection and oversight of innovation projects and programs.*

4. Costs and financing

4.1 Funding model

The Council supports the Commission’s proposition that the Australian Government should direct payments from consolidated revenue into a National Disability Insurance Premium Fund. The Council acknowledges that this will provide stable revenue to meet the independent actuarially-assessed reasonable needs of the NDIS including funding for adequate reserves.

Recommendation 4.1: *The Council supports the Commission’s proposal to pursue a system funded by general revenue rather than a levy.*

5. Conclusion

The Council strongly affirms the Productivity Commission’s recommendation to establish a National Disability Insurance Scheme. It is the Council’s firm belief that without the introduction of a NDIS people with disabilities and their families will continue to be highly disadvantaged and excluded from participation in everyday Australian life.

National People with Disabilities and Carer Council

No More Wasted Years

**A systemic reform approach to learning and development for students
with disabilities in Australia**

Submission to the Review of Funding for Schooling

1. Executive Summary

Through a wide ranging consultation for the development of the National Disability Strategy, the National People with Disabilities and Carers Council has been made aware of a range of barriers and anomalies that exist for students with disabilities in being fully included in the education system.

This submission highlights the systemic separation of disability in education, and proposes a total reform of education funding arrangements that will bring learning and development to the centre of expectations of schools.

Neither mainstream or specialist settings have fully inclusive education programs that are leading to measurable developmental learning outcomes for students with disabilities. The current system focuses on disability diagnosis rather than functional capacity to learn, and invests almost exclusively in support services rather than specific educational programs.

Education systems have invested in these 'integration programs' for some years, however they are exclusive and heavily rationed programs. Many children with genuine needs for additional assistance cannot access this funding due to quirks of eligibility filters or lack of overall funding, meaning that their schools are not properly resourced to provide an effective educational program. This is an unacceptable situation for schools, teachers and students, however it can be addressed through reform of the funding system.

This reform is fundamental to the modern Australian education system, especially as Australian Early Development Index (AEDI) reports that 10% of children are developmentally compromised. It is now well recognised that schools need to be properly equipped to deal with these developmental issues across the board, whether related to disability or not. The key challenge is to be able to recognise individual educational need and provide the right measure of individual support and educational intervention to ensure a positive learning trajectory for all children.

Key requirements of a new funding regime are as follows:

- effective early intervention framework focused on educational and learning needs
- explicit teacher training and professional development
- establishing a sound programmatic base for inclusive education
- placing specialist educators in schools to locally resource teachers.

The National People with Disabilities and Carer Council makes the following recommendations:

1. Create a National Partnership on Learning, Development and Education of Students with a Disability to develop an evidence base and practice experience for inclusive education strategies.
2. Reform the funding system to provide additional programmatic capacity for schools to provide high standard education to all students with additional learning and support needs.
3. Remove the current diagnostically-based funding mechanisms for determining individual support to students with disability and incorporate a complementary and flexible funding pool for schools to access to provide additional supports and equipment to students with a disability and developmental impairment.
4. Provision in the funding regime for educators specialised in learning and development to be placed in schools to locally resource teachers.
5. Better link the DDA Education Standards with core expectations of schools in a revised funding model. Make the standards more visible in the operation of schools and incentivise school communities to prioritise an inclusive culture.
6. Increase funding for early years education and provide clear pathways from early intervention programs into education.
7. Develop articulated pathways for students with disabilities into vocational options and higher education through secondary, tertiary and vocationally based training programs.
8. Develop compulsory and high quality professional pre and in-service training for teachers in disability, learning and development.
9. Link requirements for an inclusive school culture to government funding to ensure full participation by all students in all parts of the life their school. This

could be driven by incentive driven programs.

2. About the National People with Disabilities and Carer Council

The National People with Disabilities and Carer Council provides advice to the Australian Government on issues affecting people with disability, their families and Carers in Australia.

2.1 About this submission

This submission highlights some of the design flaws in the current funding regime and educational systems that contribute to the poor educational outcomes experienced by students with disabilities and developmental impairments.

It proposes the adoption of a systemic approach to learning and development where the capacity of schools to capably deliver inclusive education is improved and sustained by a combination of:

- system wide learning and development programs complemented by individualised support funding to enable schools to respond to the full range of learning and development needs of their students
- high expectations for quality inclusive education in every school for every student
- a focus on pre service and in-service training of teachers
- the placement of specialist educators in schools to locally resource classroom teachers
- high level agreement on priorities in this area via a National Partnership on Learning and Development for Students with Disabilities.

3. Introduction

The Council is pleased to make a submission to this review, as financing for the education for children with disabilities and developmental delay is of key concern. The construction of the financing model and system is not only of vital importance to the learning and development outcomes for all children, it can have the major impact on the degree to which the school is meeting outcome measures for the full inclusion of all children.

It is the experience of Council members (including their Australia-wide networks) that while all education jurisdictions have strong policy commitments to inclusive education, much is lost in translation into educational experience and outcomes. There is little built into the funding models and systems of hard expectations including requirements and programmatic opportunity for individual schools to deliver fully on this commitment.

While there are some excellent examples of good practice across the country, the lack of clarity of expectations from the funding and outcomes methodology under the National Education Agreement means that good practice is not a systemic expectation of every school – rather it is driven by leadership, personality and good-will in particular school communities.

To achieve authentic quality inclusive education the funding regime needs to be completely restructured to demand more specific approaches and provide matched programs and incentives to enable educators to properly address the educational and social needs of students with disabilities and developmental issues.

The submission focuses on the need for the education funding regime to:

- redefine and separate the programmatic objectives for students with disabilities from the provision of support services to the delivery of comprehensive educational outcomes
- promote adherence to the DDA Education Standards and to positively influence the culture of inclusion in school communities

- develop a skilled teaching workforce to meet the educational needs of all students including those with disabilities
- develop a skilled learning support workforce to work with all students with additional learning and developmental needs
- require the articulation of educational pathways throughout and beyond the formal education system.

The Council recommends the establishment of a National Education Partnership on Learning and Development Needs of all Students within the National Education Agreement to enable a range of these reforms to be prioritised, funded, operationalised and evaluated.

4. Policy Context

The Council make this submission in the context of a number of policy reform initiatives relating to social inclusion and frameworks for people with a disability. These are:

- the recently released National Disability Strategy (NDS)
- the Disability Discrimination Standards for Education
- the recommendation by the Productivity Commission for the introduction of a National Disability Insurance Scheme.

National Disability Strategy

The NDS is the joined up approach by all levels of Government in Australia to make the wider Australian community fairer and more inclusive. It is also the vehicle through which the Australian Government implements the *United Nations Convention on the Rights of Persons with Disabilities*. Education (Learning and Skills) is one of the 6 outcomes of the

NDS, and is central to many of the other outcome areas. The key outcome in this area for the NDS is:

People with disability achieve their full potential through their participation in an inclusive, high quality education system that is responsive to their needs. People with disability have opportunities to continue learning throughout their lives.

The consultation for the development of the NDS was summarised in the *Shut Out* report in 2009. Approximately 30% of submissions to the consultations were concerned with barriers to education and detailed some commonly reported issues for students with disabilities including difficulties in accessing support services within the education system, poorly trained teachers and the reinforcement of lower expectations of educational attainment.

Schools are also critically important in creating positive cultural responses to disability and social diversity. Families of children with disabilities live in the communities in which schools exist and it is important that the expectation is set structurally through the education system that all members of that community are valued and have opportunity for connectedness and achievement. The current 'setting aside' of students with disabilities in the system and even forcing them out into segregated settings does nothing to promote cohesive communities.

The Disability Discrimination Act Standards

Article 24 of the UN Convention addresses rights in regard to education:

"State Parties recognize the rights of person with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, State Parties shall ensure an inclusive education system at all levels and life long learning directed to:

- 1. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental rights and human diversity;***

2. *The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;*

3. *Enabling persons with disabilities to participate effectively in a free society.*

This article should underpin the reforms to education funding for children with a range of disabilities and developmental issues. The key focus of this reform is to set structures in place that maintain consistent expectations and can deliver educational outcomes for all students in all funded schools. The current funding regime concentrates effort in the provision of support services and only peripherally enhances the education offering in schools.

The Review of DDA Education Standards

The Council is having input into this review, and sees strong interaction between the DDA standards and a reformed funding and policy regime for education. The Standards provide overall guidance to education providers about their obligations but need to be more visible in the general operations of the system at the school and policy levels.

Proposed National Disability Insurance Scheme

The interim Report of the Disability Care and Support inquiry by the Productivity Commission details a transformative reform of disability services funding in Australia. It recommends the replacement of the current crisis driven system with an insurance approach that can deliver better planned and more comprehensive services to eligible people¹.

The Report includes references to interface issues with other sectors such as education, and makes the point that for the NDIS to be sustainable, other service sectors need to deliver fully on their responsibilities to people with a disability. The NDIS is proposed to fund the full suite of disability services that can complement the offerings of these other sectors and not to compete with or replace them.

¹ Productivity Commission, Disability Care and Support Draft Report, Canberra February 2011

This means that the education system needs to continue to focus on the responses to the educational needs of students with disabilities. It should not expect that any funding reform in disability services will obviate the need for education sector driven reform in improving educational processes, incentives and outcomes for this group of students.

The proposal for the NDIS is also limited to individuals with severe and profound disability (estimated to be in the vicinity of 360,000). A great many children with developmental and learning issues will remain outside the ambit of the NDIS and the imperative to address their needs will remain within the education system.

4.1 The current state of play

In addition to the feedback received through the NDS consultations, the NDS details the following data on the experience of students with disabilities and the failure of the current system to meet the needs of these students on a range of measures:

- around 63 per cent of school children with disabilities experienced difficulty fitting in at school (AIHW, 2006)
- in 2003, 29.6 per cent of people aged 15 to 64 years with reported disability had completed Year 12 compared to 49.3 per cent of people without a disability (ABS, 2004)
- in 2003, 12.7 per cent of people with a disability had completed a bachelor degree or higher compared to 19.7 per cent of people without a disability (ABS, 2004).

In 2006, the Victorian Ministerial Disability Advisory Council adopted a paper prepared by the Inclusive Education Network² that identified a range of important factors in inclusive education that are consistent with feedback received in the consultations by the Council for the National Disability Strategy. They include:

² Inclusive Education Network, *Inclusive Education in Victoria It's about Will, Skill and Capacity*, Victoria May 2006

- a paradigm shift from individual classification and remediation to creating more inclusive classroom
- a positive and supportive teaching staff
- positive and informed school leadership
- a whole school policy of inclusion of all children
- good teacher professional development and support
- assistance with curriculum development
- appropriate resource allocation models.

5. Key issues for reform of the funding system

5.1 Inclusive Education in all schools

All schools that receive Government funding should provide high quality inclusive education programs. Independent schools cannot access integration funding programs that are available to state schools, and funding from these programs is not portable if a student changes to an independent school. As a consequence independent schools utilise a range of approaches ranging from a user-pays model, where parents pay for aides and other supports on top of their school fees, to a programmatic approach (as used by Catholic Education in Victoria) where schools can apply for specific assistance based on their enrolment profile.

Under a reformed system that places a high priority on inclusive education, there needs to be a consistent educational expectation, skilled teaching and funding availability across all schools in all sectors.

5.2 An end to the ‘bolt-on’ approach to disability in school education

Jurisdictions have clear policy commitments in inclusive education and all have education support funding programs, but all of these are ‘add on’ funding programs and are not directed to increase the capacity of schools to educate all students whatever their learning and development needs – yet this is the very basis – the rationale, for education in Australia.

5.2.1 Prioritising expectations for Learning and Development

The current arrangements for individual integration or support workers being attached to individual children has been characterised by many parents and advocates as being more like childminding than constructive education. Without a complete restructuring of the funding regime, expectations and incentives of the system, schools will not improve their capacity to deliver programs that meet the learning and development needs of students with disabilities. The Council does not believe the current individualised funding approach provides value for money.

There is a profound difference between an ‘integration program’ that keeps a student occupied and quiescent and comprehensive inclusion in school life with genuine participation in the learning and development offerings. The latter are a child’s reason for going to school.

In the current model the onus is on the individual to fit in with existing structures and systems (with additional support attached to the child used as the central means to achieve their educational goals). Structures, systems and cultures remain unchallenged and unchanged. In an inclusive education model the onus would be on the system – that is all school, all classrooms - to be flexible, adaptive and responsive to individual needs of all students – not only those with a disability.

5.2.2 Changing the exclusive and limited diagnostic criteria to determine support

Education departments across Australia are still using rigid diagnostically driven criteria for eligibility for education support. These diagnostic categories have little or nothing to do with educational need. The criteria and assessment tools used tell the department, school and teacher nothing about what each child needs to learn within the classroom. It also has practical result of excluding many children with particular learning and development needs.

Commonly, nearly all the resources provided through these programs are directed to integration aides, with the balance going on minor equipment, assessment and therapy. Little or no resources from these programs go to educational capacity which would address such issues as:

- professional teacher development
- engaging skilled coordination within schools
- long term educational planning
- influencing curriculum and quality indicators
- making school communities more inclusive.

5.2.3 Systemic limitations of the individual integration program

While the individualised funding model is attractive in some senses and 'prized' by those families who are fortunate enough to receive funding, it is a one dimensional and narrowly targeted response to the overall education needs of students with learning and development issues. Identifying and developing systems based on diagnostic categories takes away the focus on development and learning.

Policy and social trends in recent decades have seen mainstream education become the preferred education option for students with a disability and their families. While participation rates have increased, so have the levels of dissatisfaction. The gap in educational attainment between students with a disability and the general student

population has remained unacceptably wide. As the *Shut Out* report notes, inclusion *is about more than location, it is about achieving the same quality of education* ³(as other students).

5.3 Mainstream schools failing in quality education provision for the learning and development for all children

Anecdotally a significant number of students are counselled by mainstream schools (particularly at secondary level) to transit to special school settings because of the perceived inability of the mainstream setting to respond appropriately. While this is a student by student proposition, such transitions generally do not result in improved educational outcomes. This is because neither setting has dedicated education programs that lead to measurable developmental learning outcomes.

The Council is aware of many cases where parents experience these referrals as ‘passing the buck’ and ‘getting rid of’ a problem student. While there is much dissatisfaction with the lack of support in mainstream settings there is also much dissatisfaction in specialised settings particularly with regard to low expectations of student achievement and outcomes and their impact on curriculum and program development.

The key criteria for additional targeted assistance for a student with learning and development needs should be ‘What is your learning and development need?’, not ‘What kind of disability do you have, how disabled are you and what funding can you attract?’

The approach that invests heavily in individualised support can, over a child’s school career, run into hundreds of thousands of dollars. But it is only purchasing disability support services, not the learning and development support for education. So on its own it does not represent a consistent value for money proposition within the system.

³ Shut Out, p 47

5.3.1 Parent Choice – is it informed?

Commonly, parental choice is used as a reason to enrol in a particular school or to pursue particular educational goals for children with learning and development needs related to disability. This is something that is encouraged at many levels.

In far too many situations, the discussions and negotiations between parents and schools are ill-informed. Parents are naive about the complex world of education theory and practice and to the possible trajectories that may be available for their children. Teachers and integration coordinators in schools (with some outstanding exceptions) are generally not trained in inclusive education and do not have ready access to the range of related professional advice needed to support the education of this group of students.

Parents rely on the advice of the educators in their schools in making the choices they do for their children. If that advice and educational expertise is not sufficiently informed by training and experience, it is likely to be flawed either in its content or its execution.

Parents are rarely well equipped to make the required decisions about education and have to place extraordinary trust in the staff at their school. These decisions (such as decisions to move to a special school setting or to a distance education program) can have profound impacts on the educational experience and outcome for their children.

Parents often receive advice from health professionals involved with their children but in the context of education, they need advice from appropriately trained educators. Health recommendations are difficult to translate to the educational context without particular educational expertise. High quality educational assessment and advice needs to be available at the local school and regional level across the system.

Improving the levels of understanding about disability and developmental issues and the capacity within every school to match programs to students will better inform the choices made by parents. It will also strengthen partnerships between families and schools that inevitably lead to better outcomes.

5.4 A lack of a developmental focus

There is a large group of students characterised as being developmentally vulnerable. The Australian Early Development Index (AEDI) indicates that 10% of children are developmentally compromised. The health system identifies many of these issues for young children (particularly now as a result of programs such as Helping Children with Autism) and has an overall expectation that the education system can implement programs to address the developmental issues.

The current capacity of primary schools to address these issues within their operational, curriculum and funding constraints is extremely limited and the capacity to maintain active engagement of the health system to contribute to the educational program for children is also ill-defined.

The AIHW identified in 2008 that overall 20% of students fall below the NAPLAN benchmark. (this figure does not include those students with a disability that are actively excluded from participating in NAPLAN tests by schools wanting to skew their average upwards). While State and Territory systems fund support services for around 5% of students in the school system it is estimated that 15% are in need of additional assistance.⁴

Even in the highly unlikely event that the jurisdictions tripled funding to integration programs, based on the current models as evidenced by the educational attainment figures stated above, such a funding increase would not necessarily improve the learning and development outcomes across this cohort. A wiser investment is in programmatic capacity of every school and every classroom, with the addition of a pool of flexible funding for schools to meet needs outside the core funding expectation.

The program and the educational capacity of the school needs to be the focus of the funding with individualised funding being available only where there is an established educational need for something additional.

⁴ Australian Institute of Health and Welfare (AIHW) 2008, Making Progress: The health, development and wellbeing of Australia's children and young people, AIHW, Canberra.

Evidence is definitive that focus on 3 to 8 years is the critical time. A flexible funding pool could be drawn on by the school after a child is functionally assessed – and where an individualised education plan is developed that can be implemented by the school in partnership with families and other relevant providers.

Currently the system mostly expends its resources on unskilled or semi-skilled integration or special school aides who, when added to a standard curriculum approach, do not greatly change the educational trajectories of children.

The perversity of the system is indicated where the person with the least amount of formal training and significantly constrained opportunities for professional development becomes responsible for the child or children in the classroom with the greatest educational needs. While the classroom teacher is supposed to have ultimate responsibility for planning, curriculum modification and implementation with the aide provided as a supplement, in practice many aides without the training and hence without the educational skills and capacity assume a great deal of responsibility for planning and delivery of classroom activities. A greater developmental focus is required.

Children with specific learning and development needs who do not qualify for individualised assistance under these 'integration' funding programs generally then do not receive the support and educational programs they need.

If they do not qualify as eligible for this funding, they are effectively deemed to be best suited to the standard curriculum approach, which clearly won't meet their needs.

In such cases schools sometimes try to share an aide in a classroom to support more than the one funded student, however this is not a sustainable or effective approach as it relies on every classroom having a funded child, and assumes that the funded child has aide time to spare, which is certainly not the case.

A reformed funding approach would direct resources to embed skilled educators in schools where children with disability related learning and development needs were enrolled. This would involve using a programmatic approach to enable schools to meet curriculum and learning objectives for all students, rather than the current piecemeal approach.

This would facilitate a more sophisticated approach to the challenge that is faced by many schools about balancing the education and therapeutic needs of some students. This has traditionally been poorly dealt with by schools because of the lack of articulation of school and non-school programs and needs to be improved. Greater specialist teaching resources, capacity within schools and better connections with health and disability funding programs and services would greatly assist in resolving this issue. Schools need to be part of overall programs to achieve a range of therapy goals but their central job is to educate.

5.5 Informed school leadership and skilled teaching workforce

The trend of increasing diagnosis and prevalence of children on the autism spectrum is increasing pressure on schools to manage a range of developmental issues for which they are simply not equipped. While it is routine for teachers to undertake professional development sessions of autism spectrum disorders mental health and other diagnoses, this in-servicing is no replacement for dedicated pre-service training and the availability of secondary and tertiary consultants in school settings to be able to respond dynamically to the needs of individual learning situations.

The systemic reliance on integration aides over time has thinly masked the skill deficit across the sector. A detailed strategy for improving the skills of teachers in this area is integral to funding reform leading to better outcomes.

It is not simply a lack of knowledge by teachers about the impact of a range of disabilities or health conditions. School systems and policies can also contribute to poor outcomes and result in perverse situations.

The Council is aware of many students whose disability has been misinterpreted and disciplinary responses have been wrongly applied to situations that demanded specialist or other supports. One of the most common and disappointing scenarios is the suspension or expulsion of students with anxiety issues (sometimes associated with ASD) whose behaviour is escalated by poor or naïve management or triggered by stress events such as exams, and then punished for the sequelae. If not expelled these students may be counselled to leave.

One undesirable consequence of this mismatch of methodologies is that children with disabilities end up in distance education programs. The Victorian school with the highest enrolment of students with disabilities is in fact the school of distance education. This was established for students who are geographically isolated, instead it is populated by socially isolated students who in addition cannot transfer their integration funding into this school. This situation illustrates the systemic failure in the current funding system that is readily fixed by creating flexible pools of funding for schools and individuals and improving professional training.

Clearly this is a tightrope situation for schools, however the growing prevalence of students with behaviour management issues means that schools must come to terms with comprehensive behaviour management methods.

It is positive that the Australian Institute for Teaching and School Leadership has included a standard on the inclusion and education of children with a disability in the 2011 National Professional Standards for Teachers. The standard describes that teachers need a broad understanding of disability and are able to design and implement programs to ensure participation and learning⁵. To ensure that this standard is met routinely in all schools across Australia a dedicated effort needs to be made in pre and in-service training for the teaching profession. Effort also needs to be made to increase resources available locally to teachers to ensure that their 'broad understanding' can be enhanced by specialist consultation where necessary.

⁵ Australian Institute of Teaching and School Leadership, National Professional Standards for Teachers. Ministerial Council for Education, Early Childhood Development and Youth Affairs Melbourne February 2011

Many jurisdictions have or are currently developing a range of resources to assist teachers to meet the needs of students with a disability in their classroom.. However, these resources are of little use if teachers are not made aware of their existence, nor provide with time to access and use them. Teachers also require time out of the classroom to develop effective individual program plans. Any funding model that is considered must allow teachers to have greater research and planning time to more effectively meet the individual needs of students with a disability in their classroom.

5.6 Pathways through education

Articulated pathways are essential for all students in the education system, however variations and adapted arrangements need to be available for students with a disability. Some of these will necessarily rely on other sectors and providers, particularly with those students entering the vocational or pre-vocational sectors.

For students with an intellectual disability or cognitive impairment preparation for post school life must begin during the secondary years. Traditional work experience placements for example where students spend a total of one or two weeks in a employment setting do not adequately prepare students with an intellectual disability for employment or training at the end of their formal school years. These students require exposure to a range of situations to enable them to make an informed choice about their preferences and in later school years need a significant amount of time in employment settings to become familiar with workplace requirements, norms and expectations.

Some programs in the UK and the US suggest that in the later school years some time every week (1-2 days) must be spent in the workplace to prepare for employment post school. At the moment very few parents report this important transition to post school life is managed well.

5.7 Flexible and Shared Funding

Schools operate in an environment of increasing expectations. They are dealing with an array of social and clinical presentations however are not structurally equipped to manage all that is on their plate.

Because schools are the dominant provider for children, health services will refer a range of complex situations for them to manage. In some cases there are strong relationships between schools and health providers, but this is not system-wide. It is generally left to parents to successfully case manage across systems, something that is beyond many professional case managers.

Although education is the core business of schools, there are many other challenges around health, social inclusion, learning and development that they are required to be across. The inclusion of students with a disability or learning issue is something that needs to be a core activity of neighbourhood schools, but under the current arrangements it is a peripheral responsibility that can be met only if those students come with integration funding.

To fulfil their modern service delivery obligations, schools need the ability to be cross-funded from a range of other programs. These funding links require high level protocols between education and the health, disability and justice portfolios in each jurisdiction. Accessing and sharing funding from programs such as Medicare (eg Helping Children with Autism and Better Start for Children with Disability), private health insurers, disability services, juvenile justice and similar programs is an important signal that some students will need a multipronged approach to fulfil their education and social goals.

The ability to retain students at school and facilitate a range of outcomes via the utilisation of school funding complemented by other programs can avoid the cost shifting that occurs when students at risk due to their disability separate prematurely from school settings and need to be picked up by other more expensive programs.

In many instances the inability of schools to comprehensively meet the constellation of needs of these students that causes the separation. This can be assisted or mediated by good programming and 'joined-up' responses.

5.8 Testing Benchmarks

There is a live debate at present about the place of the NAPLAN and the place of students identified with 'special needs' in the testing and comparison regime. The My School website compares schools on NAPLAN scores and there is active exclusion of students with disabilities by schools wanting to avoid having their school averages lowered by full participation in the tests by these students. In *The Age* on 28 March, Professor McGraw, the chairman of the Australian Curriculum, Assessment and Reporting Authority, the agency responsible for the My School national reporting system is quoted as saying that:

The longer we fail to identify kids with special needs and to remove them for some of the comparisons of schools results, the more we misrepresent schools that are doing very important work in educating and caring for students with special needs," Professor McGraw says. "You should be able to look at a school's performance without the kids with special needs and compare that with other schools. That would be a proper comparison. If you don't do that there is some disincentive for schools to look after these kids."

The authority will try to improve the next version of My School by clearly displaying a school's performance score with the special needs results factored in and the performance score without them. Otherwise there is a risk some schools may try to protect their scores by not accepting special needs students.⁶

The Council believes that the current comparison of schools used by My School purely on the NAPLAN results is incomplete as it does *not* measure other factors about school performance such as inclusion, educational specialty or culture. The risk Professor McGraw articulates, that schools may refuse entry to children with identified learning and development needs under this regime, is real. This risk needs to be addressed squarely by adding inclusion measures to My School, not going down the path of formalising the exclusion of some students from the comparison.

⁶ Caroline Milburn: When special kids skew the score, *The Age*, 28 March 2011, Melbourne

This further excuses and institutionalises the low expectations that exist around these students currently. The notion that schools need to ‘look after these kids’ also needs to be challenged. While schools have an inherent duty of care, their fundamental role is to provide a quality education and social experience for all students, including those with disability and additional learning needs.

5.9 Effective communication with students with sensory impairment

The needs of students with hearing and vision impairment need to be taken into account in the review. The absence of the ability for teachers and students to communicate effectively in the school environment renders all other strategies useless, so these factors need to be incorporated into the funding model, teacher training expectations and in the funding of specialist settings. Where required, these specialist settings need to be able to interact with mainstream schools to enable the provision of secondary and tertiary consultancy and facilitate movement of students, educators and health professionals between the settings as appropriate.

There need to be greater range of language capacities in the general teaching workforce as well as technology to assist students with sensory impairment. With the development of technological solutions such as remote real time closed captioning and reading systems the ability of schools to meet the needs of students with a sensory impairment in a cost effective way increases significantly. In the case of deaf students, teachers need to be trained to teach using bilingual methods (in Auslan and English), and schools need to accept and accommodate bilingual education methods.

Schools generally (but particularly high schools) with deaf students need to have qualified interpreters rather than “Educational Interpreters” who are often unqualified teacher aides. These ‘Educational Interpreters’ often know some signing but are not fluent in Auslan and not always trained to interpret so offer a sub-par interpreting service to students.

The bilingual program at Toowong State School in Brisbane is a good example of how bilingual education can be done in a mainstream inclusive school – deaf students and

hearing students learn alongside each other in the same classrooms with the same teachers and are taught using methods that use both Auslan and English – in different ways at different times throughout the day.

Bilingual education only works if you have a large enough cohort of students and other Auslan users in the one location. As a consequence there needs to be specialist inclusive schools that offer such bilingual programs that can be offered on a regional basis. In these situations students need complementary funding for transport (Brisbane deaf students can get funded taxi transport to their school if they live in the catchment area of the bi-lingual school) or other tailored funding to access other appropriate educational settings.

6. A new funding model

The Council believes that the current funding arrangements for schools in relation to students with a disability do not facilitate or encourage good educational outcomes.

The new funding model needs to move away from the diagnostically driven approach to disability and incorporate a programmatic approach at its core. This programmatic approach needs to allow schools to have an improved overall capacity to educate the full range of children with learning and development needs. It also needs to provide specific funding pools for schools to draw down resources to target their specific needs based on their enrolment profile. These programs would be similar to those programs currently available for literacy, numeracy, environment or nutrition and could be used to provide a range of additional resources for in-servicing, disability and diversity awareness programs, innovative learning programs or specialist teaching staff.

These would include such things as educational planning, professional development, behaviour adaptation and developing inclusive school communities.

The concept of inclusion involves a paradigm shift from a focus on the management of student deficits (i.e., the identification, classification and remediation of individuals with special needs) to the creation of more inclusive classroom environments that respond constructively to class, poverty, gender, disability and education for a multi-cultural and ant-racist society (Dalmau, 2002; Hamilton & Moore, 2004; Skrtic, 1995)

The diagram at **Attachment A** shows a potential multi-layered approach that combines core funding for schools with programmatic funding building capacity in schools to deliver consistent higher quality education to this group of students.

The model links the overall policy and standards goals of the education system with core school funding and expectations, and provides for funded programs that schools can access to meet the identified needs of their student population.

The basic expectation of school operation within their core funding needs to be directly linked to the DDA Education Standards so that schools are made to recognise that meeting the educational needs of students with a disability or developmental issue is a core activity alongside delivering the basic curriculum.

Schools will have different resource needs at different times depending on their enrolment, so it is important that they can access additional funding to deliver a range of additional supports and educational programs to deliver on their obligations.

The key reform proposed in the model that is proposed is that individualised funding becomes a component part of the overall funding regime but not the only vehicle to support children with disabilities or developmental issues. It would complement new programmatic funding of schools to ensure the delivery of comprehensive education based on functional assessment and service delivery. As stated earlier the current approach is exclusive and does not provide incentives or obligations for schools to address the full educational needs of every child.

Individual funding to students will always need to be part of the funding equation as some students require one-to-one assistance to access the school program. Any change to the funding model will impact on those students who are currently funded, so these children should continue to access individual funding as it will take time for schools to increase their overall capacity through a programmatic model.

The individualised funding would reside in a funding pool that schools would apply to for individual needs of students. The peripheral programs operating in the Disability Employment Service system (Workplace Modifications Scheme and Work-based personal

assistance) provide good examples of individualised funding based on non-diagnostic functional assessment for support to be delivered in the context of a goal-based program provided by the employment provider.

In education, the individual funding could be accessed by schools once they could demonstrate that an individual learning plan had been developed, and identify how the individual funding would support the schools own resource offerings.

7. What models have worked?

The School Learning Support Program in NSW was a Pilot run in 2010. It trialled a model of increasing capacity of staff and school regions, where specialist educators are embedded in schools to mentor teachers, develop programs and skills and ensure attention to overall educational and support needs of students.

This program demonstrated a needs-based resource allocation approach where schools could use additional teaching expertise to address their specific local needs. Students accessing this program included all children with identified learning and development needs. The program does not rely on an official diagnosis. It is a more inclusive and effective model as it recognises the need to build the expertise base in schools.

The following excerpt is taken from the Executive Summary of the Evaluation of the SLSP and sums up the rationale and objectives of the program:

The SLSP is a reform by the Department of Education and Training giving expression to the increasing societal recognition of the rights of people with a disability to full inclusion, as most recently acknowledged through the United Nations *Convention on the Rights of Persons with Disabilities* (2006). The Program is underpinned by the 1992 Disability Discrimination Act which specifically covers the area of discrimination in education and the importance of making appropriate accommodations and adjustments.

The Program draws on features of current national and international best practice in special education and builds on the Learning Assistance Program (LAP) and School Learning Support Coordinator initiative (SLSC). At its core is the understanding that every classroom teacher should expect to teach every student in their class, including those who have additional learning needs. Ideally, support should be delivered to meet individual needs of students as soon as these emerge and expectations about learning outcomes should be appropriately ambitious.

The model recognises that classroom teachers need to be better equipped to effectively provide this support. Hence, the aim of the School Learning Support Program is to establish a specialist teacher (known as a School Learning Support teacher-SLST) in every school to provide support to students with additional learning needs and their classroom teachers.

The stated purposes of the program are:

1. Better support students with additional learning needs
2. Build the capacity of staff
3. Strengthen cooperation between schools to respond to local need
4. Strengthen cooperation within schools to respond to local need
5. Deliver an equitable allocation of resources
6. Allocate resources for schools to use flexibly to meet the needs of students.

Resourcing for the program is allocated on a “bulk-funding” or non-categorical approach. This means that there is no need to seek a disability diagnosis in order for a student to receive assistance. This avoids the negative impact of “labelling” students, the time delay and administrative costs of seeking a diagnosis and the inequity of access a diagnostic approach can create. At the same time, it facilitates the provision of support at time of need.

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7.1 Overseas models

The system in Finland has some positive features that the current review could investigate. It's defining characteristics are:

- energy in early years learning for developmentally and learning challenged children

⁷ Westwood Spice Consulting: Evaluation of the School Learning Support Program for the NSW Department of Education and Training, NSW October 2010

- a Base system on masses of international research that show that progress is enhanced in early years
- emphasis on frequency and duration of intervention- research shows that this is the effective approach
- Finland mainstreams except for very small group – 2% on special schools that even there have progress indicators that must be met (and going down in number)
- Finland values the combination of better learning outcomes in mainstream school with social outcomes from integration.

This reform opportunity offers Australia the chance to create a world leading system that is consistent with the UN Convention on the Rights of Persons with a Disability. The key elements are simply stated but require funding support linked to high performance expectations of schools:

- **raising of the systemic priority for a fully inclusive education system**
- **increasing programmatic funding in the early years to enable skilled education of all children**
- **maintain individualised funding programs to complement the improved core inclusive education offerings in schools**
- **increasing emphasis on pre and in-service training and development of all teachers to ensure they have the skills to educate all children**
- **provision of educators specialised in learning and development for every school to act as secondary consultants to classroom teachers.**
- **equitable funding for students with disability in state, Catholic and independent schools.**

8. Special Schools

In Australia numbers in special schools are higher than Finland (5% and increasing). The demand for special schools is increasing amongst parents who perceive that the education needs of their children cannot be met in the mainstream system. This view can be informed by recommendations from mainstream schools, or by the fact that some special schools can cater more effectively to the needs of some students.

Special schools can play a vital role in the wider system for those students whose specific support needs require a specialist setting that can cater to high needs around physical or sensory impairment.

There is a widely held view that some special schools can have lower expectations of students than is the case across the whole education system. In looking at the funding regime for special schools, there needs to be a greater level of transparency around use of funding, educational expectations and programs.

There is a live debate about the place of special schools in the wider education system that is yet to play out fully. One strongly held argument is that special schools would not need to exist if mainstream neighbourhood schools were more inclusive, better funded and better equipped. Others hold the view that there is a place for specialist settings that can meet education and other needs in different ways. Some students find the social experience at mainstream schools a major attraction, others find the social environment highly stressful. Much depends on the age, school experience and individual preferences, but until we reach the stage that every school is welcoming, disability capable and able to provide high quality teachers who know how to run an inclusive classroom, there will be a demand and a place for special schools.

Indeed Senator Sue Boyce has written an article on ABC's Ramp Up! website (*Special schools allow discrimination to flourish*) positing that special schools have no place in our modern education system as it entrenches low expectations and delivers poor outcomes. It

has encouraged a string of other considered responses and the Council would encourage a detailed debate.⁸

We need to strive for this inclusive position and aim to increase the level of participation and excellence for students with developmental issues, and offer specialist settings as complementary services.

9. Prioritising Education for Children with Disabilities - A National Partnership on Learning and Development for Students with Disabilities

A National Partnership on Learning, Development and Disability within the National Education Agreement would be a positive way of establishing a research based approach to improving programs and practice across the system. This would underpin the long term reform of funding and educational delivery to this group.

The current National Partnerships are an effective way of targeting particular priority areas (early childhood, indigenous education) and given the need for overall reform in the area of disability, this would provide a visible and credible way of elevating disability related learning and development reform to national prominence in Education. It would be an appropriate way for education jurisdictions to respond to the National Disability Strategy.

The NSW School Learning Support Program has provided pilot data in a region, and a National Partnership could build on this to build a larger evidence base for a functional approach to this group, and trial a range of funding mechanisms.

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⁸ <http://www.abc.net.au/rampup/articles/2011/03/28/3175451.htm>

10. Recommendations

1. Create a National Partnership on Learning, Development and Education of Students with a Disability to develop an evidence base and practice experience for inclusive education strategies.
2. Reform the funding system to provide additional programmatic capacity for schools to provide high standard education to all students with additional learning and support needs..
3. Remove the current diagnostically-based funding mechanisms for determining individual support to students with disability and incorporate a complementary and flexible funding pool for schools to access to provide additional supports and equipment to students with a disability and developmental impairment.
4. Provision in the funding regime for educators specialised in learning and development to be placed in schools to locally resource teachers.
5. Better link the DDA Education Standards with core expectations of schools in a revised funding model. Make the standards more visible in the operation of schools and incentivise school communities to prioritise an inclusive culture.
6. Increase funding for early years education and provide clear pathways from early intervention programs into education.
7. Develop articulated pathways for students with disabilities into vocational options and higher education through secondary, tertiary and vocationally based training programs.
8. Develop compulsory and high quality professional pre and in-service training for teachers in disability, learning and development.
9. Link requirements for an inclusive school culture to government funding to ensure full participation by all students in all parts of the life their school. This could be driven by incentive driven programs.

References:

1. Productivity Commission, *Disability Care and Support Draft Report*, Canberra February 2011
2. National People with Disabilities and Carer Council (2009), *Shut Out: The Experience of People with Disabilities and their Families in Australia*, Australian Government Canberra
3. Council of Australian Governments *National Disability Strategy*, Canberra 2011
4. Dalmau, M. C. (2002). *Taking a fresh look at education: Reconstructing learning and change with teachers*. Unpublished PhD, University of Oregon, Eugene.
5. Department of Premier and Cabinet. (2005). *A fairer Victoria: Creating opportunity and addressing disadvantage*. Melbourne: State of Victoria.
6. Hamilton, R. J., & Moore, D. (Eds.). (2004). *Educational interventions for refugee children: Theoretical perspectives and implementing best practice*. London; New York: Routledge Falmer.
7. Jackson, Bob – *Response to Inclusive Education in Victoria Draft Paper – Dec 2005* Psychologist, Adjunct Associate Professor of Education, Edith Cowan University
8. McDermott, R. P. (1987). Achieving school failure: An anthropological approach to illiteracy and social stratification. In G. D. Spindler (Ed.), *Education and cultural process: anthropological approaches* (pp. 173-209). Prospect Heights, IL: Waveland Press, Inc.
9. Senator Sue Boyce (March 2011): Special Schools allow Discrimination to Flourish, ABC Ramp up website, <http://www.abc.net.au/rampup/articles/2011/03/28/3175451.htm>,
10. McDermott, R. P. (1996). The acquisition by a child of a learning disability. In S. Chaiklin & J. Lave (Eds.), *Understanding practice: perspectives on activity and context* (pp. 269-305). Cambridge, UK: Cambridge University Press.
11. Mehan, H., Hertweck, A., & Meihls, J. (1986). *Handicapping the handicapped: Decision making in students' educational careers*. Stanford, CA: Stanford University Press.
12. Skrtic, T. M. (Ed.). (1995). *Disability and democracy: Reconstructing (special) education for post modernity*. New York: Teachers College Press, Columbia University.
13. Westwood Spice Consulting (2010): Evaluation of the School Learning Support Program for the NSW Department of Education and Training, NSW October
14. Australian Institute of Teaching and School Leadership (2011): National Professional Standards for Teachers.): Ministerial Council for Education, Early Childhood Development and Youth Affairs, Melbourne
15. Inclusive Education Network (2006), *Inclusive Education in Victoria It's about Will, Skill and Capacity*, Victoria
16. Milburn, Caroline: When special kids skew the score, *The Age*, 28 March 2011, Melbourne

