

**31 May 2024**

Autism Policy Team  
Department of Social Services

Delivered by email to [AutismPolicy@dss.gov.au](mailto:AutismPolicy@dss.gov.au)

Dear Autism Policy Team

## **Draft National Autism Strategy Submission**

Thank you for the opportunity to comment on the draft **National Autism Strategy** (the Strategy). People with Disability Australia (PWDA) is Australia's peak cross-disability Disability Representative Organisation and is funded by the Australian Government to represent the 1 in 6 Australians with disability nationally. Our organisation is made up of, and led by, people with disability.

PWDA welcomes the Strategy's focus on implementing the *Convention on the Rights of Persons with Disabilities* (CRPD). However, we believe the Strategy requires some amendments to improve its compliance with the CRPD to promote the rights of autistic people to the fullest extent possible.

### **1. Human rights treaties**

Firstly, we suggest the Strategy could be strengthened by adding references to other important international human rights treaties in addition to the CRPD. In particular, reference should be made to the *Convention on the Rights of the Child* (CRC) and the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW). The CRC articulates the rights of children, including autistic children, and contains rights

that are not expressly covered in the CRPD, such as the right to rest, leisure and play.<sup>1</sup> Similarly, CEDAW articulates the rights of all women, including autistic women, and contains provisions that are not included in the CRPD, such as the obligation for States Parties to suppress ‘all forms of traffic in women and exploitation of prostitution of women.’<sup>2</sup>

PWDA suggests that specific reference is made to the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT) and the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT). OPCAT requires Australia to establish a mechanism of independent inspection into places of detention with a focus on preventing torture and mistreatment. This is particularly relevant for people with disability in closed settings, such as prisons or mental health facilities. To ensure the Strategy provides a holistic reference to Australia’s human rights obligations that relate to people with disability, we recommend that:

**Recommendation 1** – The Strategy is amended to refer to a broader range of international human rights treaties, particularly the CRC, CEDAW, CAT and the OPCAT.

## 2. Housing

The Strategy should promote an increase in accessible, non-segregated housing for autistic people with sensory needs. Many autistic people struggle to find affordable housing that meets their sensory needs. Apartment complexes are often noisy due to traffic, neighbours, age and other demographics of tenants, construction activities, and hospitality businesses.

While some autistic people can manage noise sensitivities with noise generators, headphones or earplugs, others have touch sensitivity and cannot use these devices. In addition, these technologies do not work for all noise frequencies. To address this issue, we recommend that:

**Recommendation 2** – The Strategy must include a specific focus on accessible and affordable housing for autistic people with sensory needs and promote increased access

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<sup>1</sup> *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 31.

<sup>2</sup> *Convention on the Elimination of All Forms of Discrimination against Women*, opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981).

to affordable, non-segregated housing options. This should be linked to the Australia's Disability Strategy 2021-2031's Inclusive Homes and Communities outcome area.

### 3. Sensory-friendly Spaces

Autistic people with sensory needs may struggle to access their community due to a lack of sensory-friendly spaces. The Strategy's 'Social Inclusion' section includes a commitment to increase accessible and sensory-friendly 'public and online spaces'. However, we believe the Strategy could go further by encouraging private settings to increase their accessibility for autistic people. For example, restaurants and cafes could be encouraged to have 'sensory friendly' hours, where music is switched off. We recommend that:

**Recommendation 3** – The Strategy's Social Inclusion section's commitment 1(c) is amended to commit to increasing accessible and sensory-friendly private spaces, in addition to public and online spaces.

### 4. Segregation

In Australia, autistic people continue to be segregated from the community in many aspects of their lives. Segregation constitutes a 'social apartheid' of people with disability, significantly increasing their likelihood of experiencing violence, abuse, neglect and exploitation.<sup>3</sup>

In 2020, over 60 organisations, including PWDA, and 290 individuals endorsed a position paper calling for an end to segregation. The paper explains that segregation violates our rights contained in the CRPD, specifically, the right to equality and non-discrimination (Article 5), the right to live independently and be included in the community (Article 19), the right to inclusive education (Article 24) and the right to work on an equal basis with others in an open environment (Article 27). Autistic people must be supported to fully and equally participate in the community in these ways.

The United Nations Committee on the Rights of Persons with Disabilities' (CRPD Committee) various general comments confirm that the CRPD precludes segregation in housing, education and work.<sup>4</sup> In its 2019 Concluding Observations on the Combined

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<sup>3</sup> Disabled People's Organisations Australia (2020) *Segregation of People with Disability is Discrimination and Must End Position Paper*, Disabled People's Organisations Australia, accessed 24 May 2024.

<sup>4</sup> Committee on the Rights of Persons with Disabilities, *General Comment No. 5 (2017) on Article 19: The Right to Live Independently and be Included in the Community*, UN Doc CRPD/C/GC/5 (27 October 2017); Committee on the Rights of Persons

Second and Third Periodic Reports of Australia, the CRPD Committee expressed concern about Australia's continued segregation of people with disability and recommended that Australia:

1. develops a national framework aimed at closing all disability-specific residential institutions.<sup>5</sup>
2. addresses the increasing rate of segregation and redirect adequate resources to a nationwide inclusive education system for all students.<sup>6</sup>
3. undertakes a comprehensive review of Australian Disability Enterprises to ensure that these adhere to Article 27 of the CRPD and provide services that enable people with disability to transition into open employment with equal remuneration for work of equal value.<sup>7</sup>

We acknowledge that the Strategy recognises the challenges faced by autistic people in accessing mainstream institutions and services. However, the Strategy falls short of actively promoting desegregation. As the ending segregation position paper states:

Disability reform processes continue to focus on improvements to existing ableist systems, which prevents implementation of actions to end segregation and achieve the social transformation required by the CRPD. The principles and standards of the CRPD must underpin disability reform processes, rather than disability reform processes continuing to maintain and justify ableist standards and principles.<sup>8</sup>

If the Strategy is to truly reflect the CRPD, then it must adhere to the CRPD's clear position that segregation must be phased out. To achieve this, we recommend that:

**Recommendation 4** – The Strategy is amended to specifically commit to ending segregation in housing, education and work.

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with Disabilities, *General Comment No. 4 (2016) on Article 24: the Right to Inclusive Education*, UN Doc CRPD/C/GC/4 (25 November 2016); Committee on the Rights of Persons with Disabilities, *General Comment No. 8 (2022) on the Right of Persons with Disabilities to Work and Employment*, UN Doc CRPD/C/GC/8 (7 October 2022).

<sup>5</sup> Committee on the Rights of Persons with Disabilities, *Concluding Observations on Second-third Report*, UN Doc CRPD/C/AUS/CO/2-3 (15 October 2019) [38(a)].

<sup>6</sup> Committee on the Rights of Persons with Disabilities, *Concluding Observations on Second-third Report*, UN Doc CRPD/C/AUS/CO/2-3 (15 October 2019), [46(b)].

<sup>7</sup> Committee on the Rights of Persons with Disabilities, *Concluding Observations on Second-third Report*, UN Doc CRPD/C/AUS/CO/2-3 (15 October 2019) [50(b)].

<sup>8</sup> Disabled People's Organisations Australia (2020) *Segregation of People with Disability is Discrimination and Must End Position Paper*, Disabled People's Organisations Australia, accessed 24 May 2024, 10.

## 5. Restrictive Practices

PWDA is concerned that the Strategy does not address the use of restrictive practices, such as mechanical, chemical and environmental restraint, and seclusion. Restrictive practices are a significant issue for autistic people, with the National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission reporting that 72% of NDIS participants subject to unauthorised restrictive practices have a primary disability of autism or intellectual disability.<sup>9</sup> Restrictive practices can impose life-long trauma and distrust of people in services, even when these practices are 'authorised'.<sup>10</sup> Restrictive practices breach our human rights, and the CRPD Committee has called on Australia to eliminate restrictive practices in all settings.<sup>11</sup>

PWDA believes that restrictive practices should be eliminated, rather than regulated. Until elimination is achieved, States and Territories must establish frameworks allowing for the independent authorisation and review of restrictive practices and behaviour support plans, and independent oversight and monitoring for all settings where restrictive practices are being used. We recommend that:

**Recommendation 5** –The Strategy is amended to commit to ending the use of restrictive practices in all settings.

## 6. Increased focus on Autistic women and girls and autistic people identifying as LGBTQIA+

We commend the Strategy for recognising intersectionality and for recognising that autism diagnoses are likely to occur later for women, girls and gender diverse people. However, we are concerned that there are no specific corresponding commitments relating to this issue.

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<sup>9</sup> NDIS Quality and Safeguards Commission (2023) *Unauthorised Uses of Restrictive Practices in the National Disability Insurance Scheme*, NDIS Quality and Safeguards Commission, accessed 31 May 2024.

<sup>10</sup> People with Disability Australia (2024) *Response to the Disability Royal Commission Final Report*, People with Disability Australia, 32.

<sup>11</sup> Committee on the Rights of Persons with Disabilities, *Concluding Observations on Second-third Report*, UN Doc CRPD/C/AUS/CO/2-3 (15 October 2019), [30].

We also note that autistic women and girls and autistic people who identify as LGBTQIA+, face barriers to accessing supports and services, but the Strategy does not contain a specific commitment to address this.<sup>12</sup>

To ensure women, girls and LGBTQIA+ identifying people can receive a timely diagnosis and access supports and services, we recommend that:

**Recommendation 6** – A commitment is added to provide training to mainstream health and social services and specialist family violence and sexual assault services on the needs of autistic women and girls and autistic people who identify as LGBTQIA+.

We commend the Strategy's Social Inclusion Commitment 1(1) to increase public education and awareness about autism, including in the workplace. However, the Strategy could be strengthened by adding a commitment that expressly recognises and addresses the lack of public knowledge about how autism presents in women and girls and that autistic women and girls experience higher rates of violence and abuse.<sup>13</sup> We also note that there is a lack of public knowledge about the diversity of autistic traits, including in women and girls. We recommend that:

**Recommendation 7** –The Strategy is amended to increase public awareness of how autism presents in women and girls and acknowledges that autistic women and girls experience higher rates of violence and abuse compared to non-autistic women and girls.

**Recommendation 8** – The Strategy requires all public awareness campaigns to be co-designed with people with disability.

## 7. Australian Disability Strategy

We are concerned that the Strategy does not sufficiently interact with the Australia's Disability Strategy 2021-2031. For example, the Strategy's Economic Inclusion section intersects with the Australian Disability Strategy's Employment and Financial Security and Education and Learning outcome areas. However, the Strategy does not expressly recognise this intersection or explain how the two strategies will interact on these matters. To ensure that the Strategy is interoperable with the Australian Disability Strategy, we recommend that:

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<sup>12</sup> Parliament of Victoria, Family and Community Development Committee (2017) *Inquiry into Services for People with Autism Spectrum Disorder, Final Report*, Parliament of Victoria; and A O'Shea et al (2020) *More than Ticking a Box: LGBTQIA+ People With Disability Talking About Their Lives*, Deakin University, accessed 24 May 2024.

<sup>13</sup> Amaze (2018) *Amaze Position Statement: Autistic Women and Girls*, accessed 24 May 2024.

**Recommendation 9** – The Strategy is amended to identify areas that intersect with the Australian Disability Strategy 2021-2031 and explain how the Strategy will interact with the Australian Disability Strategy 2021-2031 in relation to those areas.

Thank you again for the opportunity to respond to the draft Autism Strategy. If you would like to discuss our submission, please contact my Senior Manager of Policy, Mx Giancarlo de Vera via email at [giancarlod@pwd.org.au](mailto:giancarlod@pwd.org.au) or on 0413 135 731.

Yours sincerely

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