People with Disability

Edited by Justin Healey

ISSUES IN SOCIETY
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People with Disability is Volume 421 in the ‘Issues in Society’ series of educational resource books. The aim of this series is to offer current, diverse information about important issues in our world, from an Australian perspective.

KEY ISSUES IN THIS TOPIC
Disability is part of human diversity. There are many different kinds of disability, caused by accidents, illness or genetic disorders. One in five Australians have a disability, however many encounter a range of barriers, stereotypes and negative attitudes. They are more likely to experience poverty, live in poor quality or insecure housing, suffer from mental illness and have low levels of education. They are often socially isolated, with fewer opportunities to take part in community life.

How do people with disabilities live their daily lives, and what levels of care and support are currently available to them? What protections are available to people experiencing discrimination in employment, education, accommodation, and with limited access to services and public places? This book examines disability prevalence and support in Australia, and explores issues involving disability rights and discrimination.

SOURCES OF INFORMATION
Titles in the ‘Issues in Society’ series are individual resource books which provide an overview on a specific subject comprised of facts and opinions.

The information in this resource book is not from any single author, publication or organisation. The unique value of the ‘Issues in Society’ series lies in its diversity of content and perspectives.

The content comes from a wide variety of sources and includes:
- Newspaper reports and opinion pieces
- Website fact sheets
- Magazine and journal articles
- Statistics and surveys
- Government reports
- Literature from special interest groups

CRITICAL EVALUATION
As the information reproduced in this book is from a number of different sources, readers should always be aware of the origin of the text and whether or not the source is likely to be expressing a particular bias or agenda.

It is hoped that, as you read about the many aspects of the issues explored in this book, you will critically evaluate the information presented. In some cases, it is important that you decide whether you are being presented with facts or opinions. Does the writer give a biased or an unbiased report? If an opinion is being expressed, do you agree with the writer?

EXPLORING ISSUES
The ‘Exploring issues’ section at the back of this book features a range of ready-to-use worksheets relating to the articles and issues raised in this book. The activities and exercises in these worksheets are suitable for use by students at middle secondary school level and beyond.

FURTHER RESEARCH
This title offers a useful starting point for those who need convenient access to information about the issues involved. However, it is only a starting point. The ‘Web links’ section at the back of this book contains a list of useful websites which you can access for more reading on the topic.
WHAT IS A DISABILITY?

AUSTRALIAN NETWORK ON DISABILITY PRESENTS THIS DEFINITION

The Disability Discrimination Act 1992 (Cth) defines disability as:

• Total or partial loss of the person’s bodily or mental functions
• Total or partial loss of a part of the body
• The presence in the body of organisms causing disease or illness
• The malfunction, malformation or disfigurement of a part of the person’s body
• A disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction
• A disorder, illness or disease that affects a person’s thought processes, perception of reality, emotions or judgement, or that results in disturbed behaviour;

and includes a disability that:

• Presently exists
• Previously existed but no longer exists
• May exist in the future
• Is imputed to a person (meaning it is thought or implied that the person has disability but does not).

There are many different kinds of disability and they can result from accidents, illness or genetic disorders. A disability may affect mobility, ability to learn things, or ability to communicate easily and some people may have more than one. A disability may be visible or hidden, may be permanent or temporary and may have minimal or substantial impact on a person’s abilities.

Although some people are born with disability, many people acquire a disability. For example, people may have acquired a disability through a workplace incident or car accident, and people may develop a disability as they age. There is a strong relationship between age and disability, as people grow older, there is a greater tendency to develop conditions which cause disability, as identified in the table below.

<table>
<thead>
<tr>
<th>AGE</th>
<th>% of population affected by disability</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 years and under</td>
<td>3.4</td>
</tr>
<tr>
<td>65-69 years</td>
<td>40</td>
</tr>
<tr>
<td>90 years and over</td>
<td>88</td>
</tr>
</tbody>
</table>

Who are people with disability?

Disability is part of human diversity. One in five people in Australia, almost 4 million people, have a disability and this proportion is increasing with the ageing population.

People with disability purchase consumer goods, have jobs, go on holidays, access information and do all of the things that people without disability do. The only difference is that often people with disability come up against significant barriers while trying to do the things that many of us take for granted.

Types of disability

The majority of people with disability have a physical disability 83.9%, 11.3% have mental and behavioural disability and 4.8% have an intellectual or developmental disability.
The breadth of impairments and medical conditions covered by the DDA are set out below:

- **Physical** – affects a person’s mobility or dexterity
- **Intellectual** – affects a person’s abilities to learn
- **Mental illness** – affects a person’s thinking processes
- **Sensory** – affects a person’s ability to hear or see
- **Neurological** – affects the person’s brain and central nervous system
- **Learning disability**
- **Physical disfigurement** or
- **Immunological** – the presence of organisms causing disease in the body.

To be deemed a disability the impairment or condition must impact daily activities, communication and/or mobility and has lasted or is likely to last 6 months or more.

People with disability are part of every section of our community: men, women, and children; employers and employees; students and teachers; indigenous and non-indigenous; customers; and citizens. Not two people with the same disability experience their disability in the same way.

The only thing that distinguishes a person with disability is they may require some form of adaptation/adjustment to enable them to do certain things in the same way as people in the mainstream of society.

### Employment and people with disability

According to the National Disability Strategy (2011):

*Work is essential to an individual’s economic security and is important to achieving social inclusion. Employment contributes to physical and mental health, personal wellbeing and a sense of identity. Income from employment increases financial independence and raises living standards.*

Unfortunately a lot more people with disability are unemployed than those without disability. However, of the people with disability who are employed, there is representation across many occupations. Professionals, managers and administrators are the largest occupational grouping and this represents 37% of people with disability in employment. Clerical sales and service workers are the second largest grouping representing approximately 30% and the remaining occupational categories include tradespersons, production, and transport workers as well as labourers and related workers representing approximately 33% of people with disability in employment.

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**Technical definitions of disability**

Disability can be defined in different ways, depending on the type and purpose of the data collection. For instance, definitions in population surveys on disability differ from those used to determine eligibility for disability-related support services or payments. Australian Institute of Health and Welfare explains

In Australia, many data collections define disability based on the World Health Organization’s (WHO) International Classification of Functioning, Disability and Health (ICF), which uses ‘disability’ as an umbrella term for any or all of the following components:

- **Impairments** – problems in body function or structure
- **Activity limitations** – difficulties in executing activities
- **Participation restrictions** – problems an individual may experience in involvement in life situations.

Environmental factors influence the components above. All the ICF components are distinct but interrelated. On the one hand, a person’s negative experience relating to any one component may be considered to constitute disability. On the other hand, a person’s experience of disability is often complex and multidimensional, meaning that all the components together may constitute disability. A person’s functioning or disability is considered as a dynamic interaction between the person’s health condition and environmental and/or personal factors.

The Disability Services National Minimum Data Set (DS NMDS) data guide provides technical definitions related to disability support services delivered under the National Disability Agreement. The explanatory notes to the Australian Bureau of Statistics Survey of Disability, Ageing and Carers (SDAC) provide a guide to interpreting SDAC data on disability.

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Disability Services Australia offers the perspective that disability is not an attribute of the person, but the social and physical environment in which the person lives.

Disability is a normal part of the human experience. The World Health Organisation (WHO) World report on disability (2011) says that almost everyone will be temporarily or permanently impaired at some point in life, and those who survive to old age will experience increasing difficulties in functioning.

Most extended families have a disabled member, and many non-disabled people take responsibility for supporting and caring for their relatives and friends with disabilities. In Australia, some form of disability affects about one in five people.

Our perceptions of people with disability are socially and culturally conditioned. Negative attitudes and assumptions, often based on misunderstanding or ignorance, can shape the way we behave towards them. People with disability are as diverse as those without – blind people are no more alike than brown-eyed people! They are parents, partners, employees, artists, sportspeople and community members.

The preamble to the United Nations Convention on the Rights of Persons with Disabilities (2006) states that disability arises from the interaction between the impairments a person may experience and barriers that “hinder their full and effective participation in society on an equal basis with others.” The impairments can include “long-term physical, mental, intellectual or sensory impairments” whilst the barriers can be attitudinal or environmental. “Defining disability as an interaction means that ‘dis-ability’ is not an attribute of the person.”

What is the difference between impairment and disability?
Impairment refers to a loss or difference in how a body part works for example partial sight, blindness, paralysis of an arm or leg or hearing loss. Impairments result from injury, illness or genetic disorders.

While some understanding of this is helpful, our concern is not with the specifics of the impairment, but the implications it has for the support each person needs to be able to go about their daily life, doing the same things in life that we all do. Everyone is an individual and therefore the support each person requires will be different. Rather than make assumptions about the impact of a person’s condition on their ability to participate in activities of daily living, ask them what assistance or accommodations they need.

Impairments are variously disabling depending on the extent to which society/the community and the environment makes provisions for their inclusion.

Disability refers to a condition of the body or the mind that limits a person’s ability to perform activities at home or outside of the home because the person has one or more impairments. Having a disability means that a person has an impairment that causes difficulty in doing many of the things we often take for granted, such as walking, eating, washing, dressing, reading, writing, or speaking. A disability may be the result of an accident, a disease or condition, a birth defect or simply getting older. The disability may have been present since birth (known as congenital) or acquired later in life (e.g. an acquired brain injury).

Disability is not an attribute of the person, but the social and physical environment in which the person lives. It is the environment and society/the community (attitudes, stereotypes, barriers)
that disables people. The nature of the disability can be greatly reduced when environments and practices are designed to be inclusive. For example, a person who uses a wheelchair will have no difficulties negotiating a well-designed, accessible building, but is completely disabled in a poorly designed one.

Disabilities take a variety of forms and may not be readily apparent. Wheelchairs and guide dogs are obvious indicators of a disability, but in many cases a disability may be ‘hidden’ or ‘invisible’ (e.g. an intellectual disability, or mental health disability).

Disability has long been regarded as a human rights issue, a social issue, requiring social responses. People with a disability want the same things in life that we all do. To be treated with dignity, respect, acceptance, a sense of belonging, an education and opportunity to work and contribute, an opportunity to be involved in their community and society, to participate in the activities available to everyone, to live in the community with choices equal to others.

A person with disability may need assistance, formal and/or informal to live a full life and participate in all that society has to offer. That assistance can be provided by families, unpaid carers, and/or formal services. Services for people with a disability may address needs corresponding to impairments (e.g. Vision Australia for a person who is blind) or seek to improve aspects of the physical or social environment in order to remove barriers and increase participation.

DSA is an organisation that provides many different services to ‘enhance the lives of people with a disability’. To find out more about what DSA does – go to ‘Your Service Choices’ section on our website.

Remember, it is the implications of impairment and the social context of the disability that are important here, not the ‘diagnosis’. People with a disability are just people who require some additional assistance/support or equipment/resources to be able to live a full life.

Whether you know someone with a specific disability or are simply interested in learning more, the information on the following pages* can break down barriers caused by misinformation and misconceptions.

*For more information, go to www.dsa.org.au/Pages/BeInformed/Understanding-Disabilities.aspx

**Sources**

- Understandingdisability.org (2012).
- Australian Disability Clearinghouse on Education and Training (ADCET), Understanding Disability.

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People with disability are as diverse as those without – blind people are no more alike than brown-eyed people!! They are parents, partners, employees, artists, sportspeople and community members.
Having a disability means that a person is not able to do something that other people of their age and community can do because of something about their body. For example someone who has asthma may not be able to play a full game of basketball, or someone who has a vision problem cannot read the magazines that her friends are reading.

Someone can have a disability because of something to do with their legs or arms, or brain, or ears, or any other part of their body. Having a disability can mean extra challenges and sometimes difficulties to overcome, but people who have a disability can also have as many joys and achievements as other people.

Your rights
Many countries have special laws to protect people with a disability and to make sure that they can take part in the life of the community as equal members of society. Check what the law is where you live to see what it can do for you.

For example the Australian Disability Discrimination Act was based on the Disabilities Act that was developed in the USA in 1990. To develop that Act, many people who had disabilities got together and told their stories of what it was like to have a disability and how they were treated unfairly because of their disability. This was very new, because up until then most decisions about what people with a disability ‘needed’ were made by ‘experts’ or parents. It was very different for people with disabilities to be listened to.

Being treated unfairly is called discrimination. If you have a disability and feel that you are being treated unfairly, it could be discrimination.

If you have a disability your rights include:

• The right be respected, to be treated as a human being
• To have the same basic rights as other members of the community
• To have opportunities to learn and grow to your potential (what you are able to be)
• To have a reasonable quality of life similar to other people in the community
• To be involved in making decisions that affect your life
• To receive support when needed but not to the extent that it takes away someone else’s freedom
• A right to complain about services.

Living with your family
Sometimes family members, especially parents, try (or feel they need to) make all the decisions for a person with a disability. You may feel that your parents are over-protective and worry too much when you want to try something new. They may worry that if you try something new, there may be a risk for you, you might get hurt, or someone may treat you badly.

People with disabilities have the right to be involved in decisions that will affect their lives, but as with any young people, it takes time for young people and their parents to work out who decides what. Before they hand over this responsibility you may have to show them that you are able to take care of yourself.

Having a disability can mean extra challenges and sometimes difficulties to overcome, but people who have a disability can also have as many joys and achievements as other people.
Hanging out with friends

Many people find it hard to make good friends, even if they do not have a disability. People who have a disability can find it even harder to make close friends. That does not mean it’s impossible. It may mean looking for the right groups and working harder at it than others have to. It’s important to keep on trying if the first group doesn’t work for you.

The skills of making friends are important for everyone so if you are having trouble with friendships have a look at our topic ‘Relationships and health’ for some good strategies.

If you know someone you think could be your friend, but she has a disability, she may have been hurt by the comments of others, and be ‘shy’, but she may want to be a friend. Give it a go, but remember that she is a person who has the right to try things, and do things for herself. If you want to help her, always ask her if she needs help first.

Friendships are a source of fun, emotional support, sharing common interests and are basically there to make your life enjoyable. People living with a disability may find it particularly hard to have high self-esteem and to always feel good about themselves. Good friends will help with this.

Your physical health

People who have a disability often find that people only seem to think about what they cannot do or their ‘problem’, rather than what they can do. If you have a disability you still need to do all of the things that other people do to keep themselves as healthy as they can be. This includes exercise, eating well, resting and having fun! (See topics in the ‘Healthy body’ section of the site for more ideas about this).

School and work

Being healthy and being a part of your community also includes having something meaningful to do, such as school work or a job. People with disabilities have a right to schooling and work, and there are often funds available to ensure that this can happen. If you feel that you, or someone with a disability is being treated unfairly because of the health problem, this may be discrimination. Special interest groups (such as a disability support group), or government agencies may be able to help you to work out how best to tackle the difficulty.

Sexual health

Some people find it surprising that people who have a disability can also be sexually active. Maybe they think that if you can’t do all the same things as others, you also cannot feel love and be in love! They may need help to know that you are a person like everyone else, who has a disability, not a disabled person.

It often helps to share with others about yourself and how you feel about things so they can see you have the same sorts of feelings as they do. (Remember everyone has some things about them that don’t work as well as others. There is no ‘perfect’ person.)

Having got over that hump, you will still need to deal with the health aspects of loving, and being sexually active. Look at some of the topics in ‘Sexual Health’ in the Young Adult part of the site for more information.

Have a look at the topic ‘Physical disability and sexuality’ on the Better Health Channel.

For brothers and sisters

Brothers or sisters of young people with disabilities may find that they have some very strong feelings about their sibling, and about how they are treated.

• If a brother or sister with a disability is taking a lot of your parent’s time you may feel left out or even jealous at times.
• You may get angry with others if they tease your brother or sister, or yourself.
• You may feel worried about your brother or sister’s health and what will happen to him or her.
• You could feel guilty at times if you want to do something for yourself such as time alone or to go out with friends instead of helping out.
• You could feel stressed at times if you have a lot of responsibility.

Talk to your parents about it. If you don’t feel you can talk to your parents maybe try speaking to another relative or adult family friend who can talk to them for or with you.
If a sibling has a disability or illness they might need extra attention, this can be hard for other brothers and sisters. Siblings Australia is an organisation that can provide support when you are feeling stressed or finding it hard dealing with your brother or sister’s special needs. You can get online support by joining their Teensibchat at this address: www.siblingsaustralia.org.au

Your Shout is a place for brothers and sisters of siblings with a disability or chronic illness to have a say and get support.

All brothers and sisters, including those who have brothers and sisters with disabilities, sometimes want time out either on their own or to have their parents to themselves sometimes. Talk to your parents and see if you can arrange this, even if just at rare times. The topic ‘Disability – living with someone who has a disability’ explores many of the issues.

**Teasing and bullying**

It often happens that a person with a disability is teased or bullied, or maybe their brother or sister is being teased or bullied. You may know that the people doing the teasing or bullying are trying to hide their own problems by making someone else feel upset, but it can still hurt.

Here are some ideas of things you could do:

- Tell someone about it (teacher, counsellor, parent), you should not have to put up with this. They need to know how serious their comments are.
- Walk away and remind yourself that they are trying to get a reaction out of you, if you don’t react they will get bored with this game fairly quickly.
- Ask them if they understand what they are saying. For example, if they call your brother or sister a “spastic” ask them if they know what that means – they will probably become embarrassed in front of their friends because they didn’t expect that response.

See our topic ‘Harassment’ for more ideas.

**Information for Australia**

The Disability Discrimination Act (Australia) makes disability discrimination against the law in the following areas:

- Employment
- Education
- Access to premises used by the public
- Provision of goods, services and facilities
- Accommodation
- Buying land
- Clubs and associations
- Sport
- Administration of Commonwealth government laws and programs.

This can be for a disability you have now, had in the past, might have in the future or you are believed to have.

The definition for disability in this act is very wide and includes disabilities that are physical, intellectual, psychiatric, sensory and neurological (caused by brain injury). It also includes learning disabilities, physical disfigurement (e.g. scarring) and the presence of disease carrying organisms (e.g. HIV).

**REFERENCES AND FURTHER READING**

- Better Health Channel (Victoria), ‘Physical disability and sexuality’.
- Physical Disability Australia, www.pda.org.au
- Women With Disabilities Australia (WWDA), www.wwda.org.au

The information from this site should not be used as an alternative to professional care. If you have a particular problem, see a doctor or other health professional.
How many people have disability?

The Australian Bureau of Statistics Survey of Disability, Ageing and Carers (SDAC) collects information on people who self-report having disability. According to the SDAC in 2012, an estimated 4.2 million Australians had a disability. The proportion of the population with disability has remained stable over time: just under 19% of the population had disability in 2009 and 2012.

The likelihood of having a disability increased with age, ranging from 4% of the population aged 0-4 to 86% of the population aged 90 or over (Figure 7.3.1).

In 2012, nearly one-quarter (23.4%) of Aboriginal and Torres Strait Islander people living in private dwellings had a disability. After adjusting for differences in the age structure of the two populations, Aboriginal and Torres Strait Islander people were 1.7 times as likely as non-indigenous people to have disability (ABS 2014).

Of those Australians who reported a disability in 2012:

- 33% reported a profound or severe core activity limitation (that is, they always or sometimes needed help with day to day activities)
- 15% reported a moderate core activity limitation
- 33% reported a mild core activity limitation.

People with disability may also have restrictions relating to schooling or employment – in 2012, 69% of Australians with disability aged 5-64 reported having a specific schooling or employment restriction (ABS 2013).

By far the majority of people with disability live in households (98%); of these, 1 in 4 (26%) reported that they received assistance with core activities, and of these, 6% reported needing more assistance. About 3% of people with disability reported needing assistance with core activities, but did not receive it.

A government pension or benefit was reported as the main source of income for 43% of those with disability, with a further 37% reporting wages or salary as their main source of income. However, there were differences in income source by disability severity – for example, for 81% of those with a profound or severe disability, a government pension or allowance was reported as the main source of income, with 7% reporting wages or salary.

How many received disability support services under the National Disability Agreement?

The AIHW collects and reports on data collected in the Disability Services National Minimum Data Set (DS NMDS). The DS NMDS contains information on disability support services provided under the National Disability Agreement (NDA).

In 2013-14, there were an estimated 321,500 people who accessed disability support services (AIHW 2015). This includes 4,200 people who transitioned to the National Disability Insurance Scheme (NDIS) in 2013-14. The majority (59%) of users were males, and 6% were indigenous.

![FIGURE 7.3.1: PROPORTION OF THE POPULATION WITH DISABILITY, BY AGE GROUP AND SEX, AUSTRALIA, 2012](image-url)
The most common primary disability type was intellectual disability, followed by psychiatric disability. The most common support type received was ‘community support’ (that is, support to live in a non-institutional setting such as a person’s home – 44% of users) (Table 7.3.2). Another common support was ‘open employment services’ (35% of users), and for the vast majority of these users (91%) it was the only disability support service used (AIHW 2015).

How many people received disability support services under the National Disability Insurance Scheme?

The NDIS commenced at various launch sites in July 2013. Under the scheme, individuals are allocated a funding plan within which they can choose their own service providers and disability supports. As at 31 March 2015, there were 13,610 people with approved plans under the NDIS (NDIA 2015).

What is missing from the picture?

The overall number of people receiving disability support services is not available, as there is no way of assessing the overlap of people using services under the NDA, NDIS, and other disability support programs such as the Home and Community Care program and Disability Management Scheme.

Although information is available from the SDAC on formal support services, such as the use and satisfaction with these services by people with disability, there is a lack of comprehensive information on client experience with services and associated outcomes.

Where do I go for more information?

For more information relating to disability and disability support services, see: www.aihw.gov.au/disability/

REFERENCES

- ABS 2014. Aboriginal and Torres Strait Islander people with a disability, 2012. ABS cat. no. 4433.0.55.005. Canberra: ABS.


DISABILITY SNAPSHOT

This page, produced by the Australian Institute of Health and Welfare, presents snapshot information on disability and disability services in Australia, taken from:

- Australia’s welfare 2015
- The ABS Survey of Disability, Ageing and Carers 2012
- Healthy life expectancy in Australia: patterns and trends 1998 to 2012
- Access to health services by Australians with disability 2012
- Health status and risk factors of Australians with disability 2007-08 and 2011-12
- Incontinence in Australia
- Disability support services: services provided under the National Disability Agreement 2014-15
- People using both Disability Services and Home and Community Care in 2010-11.

Australian disability statistics are based on internationally agreed technical definitions of disability.

Australians are living longer and getting more disability-free years
Most of the increase in life expectancy at birth between 2009 and 2012 was in disability-free years.

18.5% of the population have disability. That’s around 4.2 million people.

6% of the population have severe or profound disability. That’s around 1.4 million people.

2.7 million people provide informal care to an older person or someone with disability or a long-term health condition. That’s around 12% of the population.

2 to 1 The proportion of indigenous people who need help with core activities is around double that of non-indigenous Australians.

1 in 5 people with disability who needed to see a medical specialist did not go mainly due to the cost.

1 in 2 (51%) people aged 15-64 with severe or profound disability reported poor or fair health, compared with 6% for those without disability.

316,500 Australians experience incontinence. The majority are female (66%).

333,800 people received disability support services under the National Disability Agreement in 2014-15.

Over 6,000 NDA service users have exited to the NDIS

1.2 million people received services from disability support services and/or the Home and Community Care program (HACC) program in 2010-11, including 54,800 who used both disability support services and HACC services, 259,400 who used only disability support services, and 879,500 who used only HACC services.

Further information
- DS NMDS data cubes
- Disability data cubes.

Health Status and Risk Factors of Australians with Disability

A Report Summary Courtesy of the Australian Institute of Health

This is a summary from a report which examines how health-related factors affect the health status of Australians with disability at the national population level. Its focus is on the prevalence of – and age at onset of – some major long-term health conditions and related health risk factors and behaviours.

Disability and self-assessment of health

Due to a range of factors – some of which may be directly related to a person’s disability – people with disability, as a group, experience significantly poorer health than those without disability. In 2011-12, half (51%) of Australians aged 15-64 with severe or profound core activity limitation (that is, sometimes or always needing help with activities of self-care, mobility or communication) rated their health as poor or fair, compared with 6% for those without disability. The gap in self-assessed health between the two population groups remained large between 2007-08 and 2011-12. The respective proportions who reported poor or fair health were 45% versus 5% in 2007-08.

Long-term health conditions

In 2011-12, people aged under 65 with severe or profound core activity limitation had a higher prevalence of various types of long-term health conditions and were 3.3 times as likely as those without disability to have 3 or more long-term health conditions (74% versus 23%).

Half (50%) of people aged under 65 with severe or profound core activity limitation had mental health conditions, compared with 8% for those without disability. For people aged under 65 with mental health conditions, those with severe or profound core activity limitation were more likely than those without disability to acquire a mental health condition before the age of 25 (39% versus 28%).

People aged under 65 with severe or profound core activity limitation were 4 times as likely as those without disability to have arthritis (21% versus 5%). For people aged under 65 with arthritis, half (49%) of those with severe or profound core activity limitation acquired the condition before the age of 45, compared with 37% for those without disability.

Health risk factors and behaviours

In 2011-12, adults aged 18-64 with severe or profound activity limitation had a higher prevalence of overweight or obesity compared with people without disability (70% versus 60%). They were 1.7 times as likely as those without disability to have arthritis (21% versus 5%). For people aged under 65 with arthritis, half (49%) of those with severe or profound core activity limitation acquired the condition before the age of 45, compared with 37% for those without disability.

Almost half (46%) of people aged 15-64 with severe or profound disability reported doing no physical exercise compared with 31% of people without disability. Between 2007-08 and 2011-12, the difference in the respective proportions doing no exercise increased by 6 percentage points (40% versus 31% in 2007-08, compared with 46% versus 31% in 2011-12).

People aged 15-64 with severe or profound disability were twice as likely as those without disability to smoke daily (31% versus 15%) and 1.8 times as likely as those without disability to start daily smoking before the age of 18 (31% versus 15%).

Adults aged 18-64 with severe or profound core activity limitation were 20 times as likely as those without disability to have a very high level of psychological distress (22% versus 1%).

Due to a range of factors – some of which may be directly related to a person’s disability – people with disability, as a group, experience significantly poorer health than those without disability.
There are many different kinds of disability, usually resulting from accidents, illness or genetic disorders. Disability may affect a person’s mobility, communication or learning. It can also affect their income and participation in education, social activities and the labour force. The collection of information about people with disability is important for many reasons including the provision of appropriate services and support.

In 2015:
- Almost one in five Australians reported living with disability (18.3% or 4.3 million people).
- The majority (78.5%) of people with disability reported a physical condition, such as back problems, as their main long-term health condition. The other 21.5% reported mental and behavioural disorders.
- More than half of those with disability aged 15 to 64 years participated in the labour force (53.4%), which is considerably fewer than those without disability (83.2%). These results are consistent with those in the 2012 SDAC.

### OLDER PEOPLE

The SDAC also collects information from older people (those aged 65 years and over) to determine how ageing impacts a person’s life and experiences. Like many other developed countries, Australia has an ageing population. There were around 3.5 million older Australians in 2015, representing one in every seven people or 15.1% of the population. This proportion has increased from 14.3% in 2012, making it increasingly important to understand the characteristics and needs of older Australians.

In 2015:
- Older Australians living in households were more active, with the proportion that participated in physical activities for exercise or recreation increasing from 44.5% in 2012 to 49.2% in 2015.
- The majority of older Australians were living in households (94.8%), while 5.2% or one in twenty lived in cared accommodation such as nursing homes.
- While the proportion of older Australians has increased, the prevalence of disability amongst them has decreased. In 2015, 50.7% of older people were living with disability, down...
In 2015:

- The average age of a primary carer was 55 years.
- Over one-third of primary carers (37.8%) were living with disability themselves.
- Females made up the majority of carers, representing 68.1% of primary carers and 55.5% of all carers.
- For people aged 15 to 64 years, the labour force participation rate for primary carers (56.3%) and other carers (77.2%) was lower than for non-carers (80.3%).

DISCRIMINATION

The 2015 SDAC introduced a new disability discrimination module.

Information was collected for people aged 15 years and over. The information collected provides an insight into many different characteristics of carers and how caring impacts on their lives. In 2015, almost 2.7 million Australians were carers (11.6%), with 856,100 people (3.7%) aged 15 years and over identified as primary carers. These patterns were similar to those in 2009 and 2012.

Notes

- Estimates have been rounded to the nearest one hundred persons.
- A person may be a carer, or a primary carer, and have disability themselves. As such, a household can be represented in more than one of these estimates due to the characteristics of only one person living in that household.
- Due to rounding the sum of sub-totals may not equal totals.

CARERS

Information about carers is another important component of the SDAC. In the survey, a carer is defined as a person who provides any informal assistance, in terms of help or supervision, to older people (aged 65 years and over) and those with disability. Assistance must be ongoing, or likely to be ongoing, for at least six months. A primary carer is the person who provides the most informal assistance to a person with disability with one or more of the core activities of mobility, self-care and communication.

In this survey, primary carer information was collected for people aged 15 years and over. The information collected provides an insight into many different characteristics of carers and how caring impacts on their lives. In 2015, almost 2.7 million Australians were carers (11.6%), with 856,100 people (3.7%) aged 15 years and over identified as primary carers. These patterns were similar to those in 2009 and 2012.
A profile of carers in Australia

Informal carers make a significant contribution to the lives of others. Caring can be very rewarding, however the time taken to care can impact on a carer’s ability to work and their opportunities to study and participate in the community.

The results of the 2015 Survey of Disability, Ageing and Carers provide a profile of carers in Australia.

Almost all primary carers cared for a family member

The average age of a primary carer was 55

More than two thirds of primary carers were female

More than half (55%) of primary carers provided care for at least 20 hours per week

56% of primary carers participated in the workforce*, compared to 80% of non-carers

Primary carers: $520

Non-carers: $900

The weekly median income* of a primary carer was $520, which was 42% lower than non-carers

2015:

- Almost one in 12 Australians with disability (281,100 people or 8.6%) reported they had experienced discrimination or unfair treatment because of their disability.
- Young people with disability (aged 15 to 24 years) were more likely to report the experience of discrimination (20.5%) than those aged 65 years and over (2.1%).
- Over one-third (35.1%) of women and over one-quarter (28.1%) of men aged 15 years and over had avoided situations because of their disability.

HOUSEHOLD CHARACTERISTICS

The SDAC captures information about individuals themselves and about the households in which they reside. This information provides some insight into the relationships that exist between people with disability or older people and their carers. In 2015, although just under one in five people reported having disability (18.3% of the total population), around one-third of Australian households contained a person with disability (35.9% or 3.2 million households). Almost half of those households contained a carer (16.5% of all households), of which just under half contained a primary carer (8.1% of all households).

In 2015, for households containing someone with disability, the age of that person and their disability status can be related to the make-up of their household:

- Where a household contained a child aged 14 years or less with disability, in almost three-quarters (74.2%) of instances a carer also lived in the household, compared with less than half (44.8%) of all households containing someone with disability aged 15 years and over.
- Four in five households containing someone with a profound or severe limitation also contained a carer (80.0%), most commonly a primary carer (59.9%). In comparison, in households containing someone with a moderate or mild limitation, less than half contained a carer (41.1%) and only 14.9% contained a primary carer.

The 2015 SDAC also showed that while older people (aged 65 years and over) made up around one in seven of the Australian population (15.1%); just over one quarter of all households contain an older person (27.0%).

In those households containing at least one older person with disability, a considerable proportion contained a carer (41.9%), compared with 14.1% of households where the older person did not have disability.

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* Labour force and income figures are for persons aged between 15 and 64 living in households.

Further information is available in Disability, Ageing and Carers, Australia: Summary of Findings, 2015 (cat. no. 4430.0) available from the ABS website (www.abs.gov.au). A pdf version of the information sheet is available from the Downloads tab of this publication.
A
terican governments fund a range of disability support services under the National Disability Agreement (NDA) and the National Disability Insurance Scheme (NDIS). These services are intended to improve the lives of people with disability, and their carers, and ensure that they have the opportunity to participate in the community.

Data on the services provided under the NDA are collected in the Disability Services National Minimum Data Set (DS NMDS). A snapshot of the latest statistics on disability support service users from the DS NMDS is provided below.

In 2014-15, around 333,800 people received disability support services, an increase of 6% since 2010-11 and of 4% since 2013-14.

People may use services from more than one service group. Forty-five per cent of people who used disability support services used community support services to help them live in a non-institutional setting. This and employment services (44%) were the most common service groups used.

Age and sex of disability support service users

More than half (59%) of all service users in 2014-15 were male, and 41% were female.

The average (mean) age of service users was 35.

The overall sex and age distribution of service users has remained relatively steady over time.

Disability group

In 2014-15, 32% of service users had a physical disability, 29% had an intellectual disability, and 29% had a psychiatric disability.

Most service users required at least some assistance with the activities of daily living (66%), activities of independent living (80%) and activities of work, education and community living (85%).
Indigenous service users

Around 19,000 disability support service users, or 6% of all service users in 2014-15, were Aboriginal or Torres Strait Islander people. Of indigenous service users in 2014-15:

- Most were aged under 50 (16,000 or 84% of indigenous service users), compared with 72% of non-indigenous service users
- 60% were male, about the same as non-indigenous service users (59%)
- 34% had an intellectual disability, 32% had a physical disability and 27% had a psychiatric disability, similar to non-indigenous service users (30%, 33% and 30%, respectively)
- Around one-third (33%) were not in the workforce, over half were in the workforce but unemployed (53%) and 14% were employed, compared with 30%, 47% and 23% of non-indigenous service users, respectively
- Community support was the most commonly used service group (54%, compared with 44% of non-indigenous service users), followed by employment services (36%, compared with 46% of non-indigenous service users).

Culturally and linguistically diverse service users

The majority of disability support service users in 2014-15 were born in Australia (86%), 10% were born in a predominantly non-English speaking country and 4% in a pre-dominantly English speaking country.

Remoteness

In 2014-15, the majority of service users lived in a major city (66%). Twenty-three per cent lived in an inner regional area, 9% lived in an outer regional area, and 2% lived in a remote or very remote area.

Forty per cent of indigenous service users lived in a major city, lower than the 68% of non-indigenous service users in 2014-15. A further 28% lived in an inner regional area, 20% lived in an outer regional area, and 13% lived in a remote or very remote area, and did so in higher proportions than non-indigenous service users (23%, 9%, and 1% respectively).

Further information

- Disability support services: services provided under the National Disability Agreement 2014-15.
- DS NMDS data cubes.

ABOUT THE NDIS
The National Disability Insurance Scheme is the new way of providing disability support, according to this fact sheet from the National Disability Insurance Agency

The NDIS will provide all Australians under the age of 65 who have a permanent and significant disability with the reasonable and necessary supports they need to enjoy an ordinary life.

The NDIS will help people with disability achieve their goals. This may include greater independence, community involvement, employment and improved wellbeing.

As an insurance scheme, the NDIS takes a lifetime approach, investing in people with disability early to improve their outcomes later in life.

The NDIS also provides people with disability, their family and carers with information and referrals to existing support services in the community.

By 2019, the NDIS will support about 460,000 Australians with disability.

Can I access the NDIS?
To become an NDIS participant a person must:
- Have a permanent disability that significantly affects their ability to take part in everyday activities
- Be aged less than 65 when they first enter the NDIS
- Be an Australian citizen or hold a permanent visa or a Protected Special Category visa, and
- Live in Australia where the NDIS is available.

The NDIS is being introduced progressively around Australia from 1 July 2016.

Can I still receive support if I do not meet the access requirements for the NDIS?
A person does not have to be an NDIS participant to receive support from the NDIS. The NDIS will connect people with disability, their families and carers, including people who are not NDIS participants, to disability and mainstream supports in their community.

To find out more about information, links and referrals to community and mainstream support services visit www.ndis.gov.au or call 1800 800 110.

When will the NDIS be available in my area?
The NDIS began in a number of trial sites around Australia from July 2013.

The NDIS is being rolled out gradually around the rest of Australia from 1 July 2016.

The NDIS is being introduced in stages around Australia to ensure it is successful and sustainable because it is a major change. Your existing supports will remain in place until the NDIS is available in your area.

People will enter the NDIS differently depending on where they live, how old they are and the type of support they currently receive. In some states and territories, the NDIS will be rolled out by area while in others people will enter by age groups.

To find out when the NDIS is coming to your area visit www.ndis.gov.au or call 1800 800 110.

People with disability have the same right as other Australians to determine their best interests and to have choice and control over their lives.

Why is the NDIS important?
Why do we need the NDIS?
People with disability have the same right as other Australians to determine their best interests and to have choice and control over their lives.

The NDIS recognises that everyone’s needs and goals are different.

The NDIS provides people with individualised support and the flexibility to manage their supports to help them achieve their goals and enjoy an ordinary life.
The NDIS replaces a disability system that was unfair and inefficient with a new, national system that is world-leading, equitable and sustainable.

This provides certainty and consistency for people with disability, their families and carers.

The NDIS is social insurance, not welfare. As an insurance scheme, the NDIS takes a lifetime approach to support, investing in people with disability early to improve their outcomes later in life.

Australians will now have peace of mind that if their child or loved one is born with or acquires a significant disability that is likely to be with them for life they will get the support they need, when they need it.

Why an insurance scheme?
The NDIS is social insurance, not welfare. As an insurance scheme, the NDIS takes a lifetime approach to support, investing in people with disability early to improve their outcomes later in life.

Who is delivering the NDIS?
The National Disability Insurance Agency (NDIA) is the independent Commonwealth government agency responsible for implementing the NDIS.

The NDIA:
• Helps empower and inform people with disability to be confident consumers
• Provides information and referrals, links to services and activities, individualised plans and where necessary, funded supports to people over a lifetime
• Provides service providers with clarity and transparency so they can grow their business and respond to need
• Raises community awareness and encourages greater inclusion and access for people with disability to mainstream services, community activities and other government initiatives.

The NDIA is partnering with the Commonwealth, State and Territory governments and well-known community organisations to deliver the NDIS in your local area.

For more information about the NDIS please contact:
www.ndis.gov.au
National Disability Insurance Agency
Telephone 1800 800 110
Find us on Facebook/NDISAus
Follow us on Twitter @NDIS

For people who need help with English
TIS: 131 450

For people with hearing or speech loss
TTY: 1800 555 677
Speak and listen: 1800 555 727

Understanding the NDIS: how does the scheme work and am I eligible for funding?

On July 1, 2016, the National Disability Insurance Scheme moved from a trial phase to a full national roll-out. Carmel Laragy briefly explores how the scheme works, why Australia needs it and the issues to be addressed before eligible Australians can receive the benefits they are entitled to.

The National Disability Insurance Scheme (NDIS) has been trialled in selected Australian sites over the past three years. It is now providing funding packages to more than 25,000 Australians under 65 who have a permanent impairment that substantially reduces their intellectual, cognitive, neurological, sensory, physical, psychological and social functioning.

The number receiving the packages is expected to grow to about 460,000 when the scheme becomes fully operational in July 2019. When NDIS participants turn 65, they have the option to stay in the scheme or receive support through aged care services. People who develop impairments from 65 years onwards receive aged care support.

There are 4.3 million Australians aged 16 to 65 with disability and many will not meet the criteria to be eligible for the NDIS. They may still receive assistance through the scheme’s newly introduced program providing information, linkages and referrals to connect people with disability, their families and carers with community and mainstream supports.

The NDIS will not replace the Disability Support Pension, which provides income support through Centrelink to people aged 16 to 65 who are unable to work because of their disability. The NDIS provides additional funding to meet the special needs of a person with disability, such as to buy a wheelchair or have assistance at home.

WHY DO WE NEED THE NDIS?
The NDIS was established in response to a 2011 Productivity Commission report that found disability services were “underfunded, unfair, fragmented and inefficient”. The commission recommended a system of flexible individual funding packages that could be used to purchase disability supports.

Before the NDIS, state governments contracted disability service providers to deliver specified services. For instance, some provided personal care in the home, while others provided day activity centres and other services for people with intellectual disability.

Service provision across different states varied. The person receiving support was usually assigned to one disability service provider and restricted to the supports that agency provided, even when they wanted something different. It was also difficult for people to change service providers.

Disability activists supported the 2011 recommendations for the NDIS scheme and its focus on choice and empowerment to help those with disability meet their goals.

The amount allocated by the NDIS varies across individuals. Some eligible people in trial sites haven’t received any funding, such as when their goals were to maintain informal contact with family and friends. By contrast, some received large allocations, including those leaving disability institutions who needed considerable support to live in a five-person group home, a shared flat, or alone with support.

The average individual allocation to date is A$39,600.

HOW DO I KNOW IF I’M ELIGIBLE FOR THE NDIS?
People with disability, or their family or advocate, can use the NDIS eligibility check list to see if they are eligible. If so, they can then apply to
receive support through the NDIS. If their application is accepted, a planning conversation is held with an NDIS representative about the person’s life situation, current supports and hopes for the future.

NDIS funding is available for “reasonable and necessary supports” for people with disability to live a life as “ordinary” as possible. The NDIS website has two useful booklets explaining NDIS eligibility, what it aims to do and how it works. These are: My NDIS Pathway – Your guide to being an NDIS participant; and NDIS Ready – Communications Toolkit.

This includes funding for:
- Helping people with personal care such as getting in and out of bed and showering, managing money, house cleaning and other domestic activities
- Aids and equipment such as wheelchairs and hearing aids
- Psychological, social and speech therapy and physiotherapy
- Social participation activities such as in clubs
- Transport so people can stay in touch with friends and their community.

Because the NDIS assigns funding to individuals, traditional service provider agencies will lose their government contracts and have to compete in a market environment to attract customers.

Supports can be purchased from any registered disability or mainstream services as long as they are in line with the person’s goals. A gym or social club membership can be included in a person’s plan.

A formal review meeting is held after 12 months, or earlier if requested, and changes made as required. Individuals with allocated funding can select a registered service provider to manage and provide their support, or they can self-manage and negotiate the supports specified in their agreed plan, including employing their support workers.

Often family members can do this work on the person’s behalf. Only 7% of participants choose to self-manage their funds, while 35% combine self-management and agency management and 58% are fully agency-managed.

POSITIVES AND ISSUES THAT NEED FIXING

Early evaluations indicate that people like having the increased control and choice offered by the NDIS. One evaluation found 76% of participants were satisfied with the scheme. People reported improvements in living conditions (71%), health and wellbeing (60%) and more social, community and civic participation (42%).

Anecdotal reports from trial sites indicate many were initially confused by the changes and needed considerable information and support before they could use the NDIS effectively. The recent introduction of information, linkages and capacity-building (ILC) and local area co-ordinators (LACs) services is designed to address this problem.

But the NDIS has been likened to “a plane that took off before it had been fully built and is being completed while it is in the air”.

People with social, cognitive and emotional impairments may find it challenging meeting requirements to apply for the scheme, seek information and negotiate their supports, even with the help provided. The most disadvantaged may miss out, particularly those from low socioeconomic and diverse cultural backgrounds.

Service providers face uncertain futures with governments ending their block funding. They have to compete to attract customers who choose their services. The government has been successful in stimulating competition and the service provider market is still evolving.

The NDIS is trying to address these issues. It is early days and the full impact of the scheme is to be determined.

Carmel Laragy is Senior Research Fellow, RMIT University.
CHAPTER 2
Disability rights and discrimination

Know your rights: disability discrimination

THE AUSTRALIAN HUMAN RIGHTS COMMISSION EXPLAINS

What is disability discrimination?

Disability discrimination is when a person with a disability is treated less favourably than a person without the disability in the same or similar circumstances.

For example, it would be ‘direct disability discrimination’ if a nightclub or restaurant refused a person entry because they are blind and have a guide dog.

It is also disability discrimination when there is a rule or policy that is the same for everyone but has an unfair effect on people with a particular disability.

This is called ‘indirect discrimination’.

For example, it may be indirect disability discrimination if the only way to enter a public building is by a set of stairs because people with disabilities who use wheelchairs would be unable to enter the building.

How can I be protected from disability discrimination?

The Disability Discrimination Act makes it against the law to treat you unfairly because of your disability.

You are also covered if you had a disability in the past, may develop a disability in the future or if people think you have a disability.

People who are relatives, friends and carers of people with a disability are also protected by the Disability Discrimination Act.

What does the Disability Discrimination Act do?

If you have a disability, the Act protects you against discrimination in many areas of public life, including:

• **Employment** – getting a job, terms and conditions of a job, training, promotion, being dismissed
• **Education** – enrolling or studying in a course at a private or public school, college or university
• **Accommodation** – renting or buying a house or unit
• **Getting or using services** – such as banking and insurance services, services provided by government departments, transport or telecommunication services, professional services like those provided by lawyers, doctors or tradespeople, services provided by restaurants, shops or entertainment venues
• **Accessing public places** – such as parks, government offices, restaurants, hotels or shopping centres.

Kimberley was employed as a part-time receptionist in a busy medical practice.

The employer became aware that Kimberley had previously claimed workers compensation for occupational overuse syndrome and she was dismissed from the medical centre a few weeks later.

She claimed that she was told that the reason for her dismissal was her previous compensation claim.

The complaint was resolved with the employer providing Kimberley with financial compensation.

A small business operator, who is blind, complained that he could not use a government website because it didn’t provide an accessible version of the content.

The man needed to use the website regularly for his work.

As a result, the government department agreed to upgrade its website in line with web content accessibility guidelines.

The Act also protects you if you are harassed, because of your disability, in employment, education or in getting or using services.

How is ‘disability’ defined?

The definition of ‘disability’ used in the Act is broad. It includes physical, intellectual, psychiatric, sensory, neurological and learning disabilities. It also includes physical disfigurement and the presence in the body of disease-causing organisms, such as the HIV virus.
The Act covers disabilities that people have now, had in the past, may have in the future or which they are believed to have.

**What is harassment?**
Harassment occurs when someone makes you feel intimidated, insulted, humiliated or places you in a hostile environment.

Harassment because of a disability, such as insults or humiliating jokes, is against the law if it happens in a place of employment or education, or from people providing goods and services.

**What about discrimination and harassment at work?**
A person with a disability has a right to the same employment opportunities as a person without a disability.

If a person with a disability can do the main activities or ‘inherent requirements’ of a job, then they should have an equal opportunity to do that job.

In some cases, an employer may need to make some workplace changes so that the employee can best perform the job, such as providing an enlarged computer screen or installing ramps.

Employers are not required to make workplace changes if it would cause major difficulties or unreasonable costs. This is called ‘unjustifiable hardship’.

However, employers would need to show how making those changes would cause such hardship. Many adjustments involve little or no cost, and the Australian Government’s Workplace Modifications Scheme can assist where there are costs in modifying the workplace or purchasing equipment for eligible employees with disability.

Employers should also have policies and programs in place to prevent discrimination and harassment in the workplace.

**When is disability discrimination not against the law?**
Like other anti-discrimination laws, the Disability Discrimination Act says that in some circumstances treating someone differently because of their disability won’t be against the law. This is known as an exception or exemption.

For example, the Disability Discrimination Act says it may not be against the law to refuse to employ a person with a disability if, because of their disability, they cannot perform the inherent requirements of a job.

However, the Act also says that employers must consider how the person with a disability could be provided with reasonable adjustments to help them do the job. An adjustment is reasonable if it does not impose ‘unjustifiable hardship’ on the employer.

As mentioned earlier, unjustifiable hardship also applies to other situations. For example, it may not be against the law to only provide entrance to a cinema or theatre by a set of stairs if the owner can show that it would cause unjustifiable hardship to modify the building to provide wheelchair access.

**What if I’m not able to do the tasks that make up the job?**
It is not against the law to refuse someone a job if, because of their disability, they can’t perform the ‘inherent requirements’ of the position.

In other words, you must be able to carry out the essential duties of the job.

For example, a person with low vision may not be able to meet the ‘inherent requirements’ of a job as a delivery driver.

**What can I do if I experience discrimination?**
You may want to deal with the situation yourself by raising it directly with the person or people involved or with a supervisor, manager or discrimination/harassment contact officer.

**Making a complaint to the Commission**
If this does not resolve the situation, or you do not feel comfortable doing this, you can make a complaint to the Australian Human Rights Commission. You can also have someone such as a solicitor, advocate or trade union make a complaint on your behalf.

It does not cost anything to make a complaint to the Commission.

Your complaint needs to be put in writing. The Commission has a complaint form that you can fill in and post or fax to us or you can lodge a complaint online at our website. If you are not able to put your complaint

Two friends complained that they had been forced to leave a bar because one of them was accompanied by a guide dog.
The complaint was resolved and the bar owner provided an apology, financial compensation and a donation to a charity.
in writing, we can help you with this. The complaint should say what happened, when and where it happened and who was involved.

A complaint can be made in any language. If you need a translator or interpreter, the Commission can arrange this for you.

**What will happen with my complaint?**

When the Commission receives a complaint about something that is covered by the *Disability Discrimination Act*, the President of the Commission can investigate the complaint and try to resolve it by conciliation.

The Commission is not a court and cannot determine that discrimination has happened. The Commission’s role is to get both sides of the story and help those involved resolve the complaint.

Commission staff may contact you to get further information about your complaint.

Generally, the Commission will tell the person or organisation the complaint is against (the respondent) about your complaint and give them a copy of the complaint. The Commission may ask the respondent for specific information or a detailed response to your complaint.

Where appropriate, the Commission will invite you to participate in conciliation. Conciliation is an informal process that allows you and the respondent to talk about the issues and try to find a way to resolve the complaint.

If your complaint is not resolved or it is discontinued for another reason, you can take your complaint to the Federal Court of Australia or the Federal Magistrates Court.

**What can I do to prevent discrimination?**

You, and other people from the community, can help ensure that people with disability have the same opportunities as other Australians to participate in the political, economic and social life of our communities by letting us know what is happening.

The Commission looks at the many different areas of life that can be improved for people with a disability, such as public transport, employment, e-commerce, going to the cinema and using the Web.

The Commission collects the views of everyone involved through public inquiries, round tables and other processes.

We then make practical suggestions to government, business and other organisations about how things can be changed for the better.

**What about employers and other organisations?**

The Commission provides advice and assistance to employers and other organisations about how they can prevent discrimination and meet their responsibilities under the *Disability Discrimination Act*.

We do this directly and through information and resources on our website.

We also run community education programs and support organisations to develop Disability Action Plans.

Action plans are a way for an organisation to plan the elimination, as far as possible, of disability discrimination from the provision of its goods, services and facilities.

You can find out more about what we’re doing by visiting: www.humanrights.gov.au/disability_rights/

**Where can I get more information?**

The Australian Human Rights Commission’s contact details are:

**Postal address**
Australian Human Rights Commission
GPO Box 5218 Sydney NSW 2001
Street address: Level 3, 175 Pitt Street
Sydney NSW 2000
Phone: (02) 9284 9600 or 1300 369 711
TTY: 1800 620 241 (toll free)
Fax: (02) 9284 9611
Email: communications@humanrights.gov.au
Website: www.humanrights.gov.au

**Complaints**

Complaint Info line: 1300 656 419 (local call)
Email: complaintsinfo@humanrights.gov.au
Online: You can make a complaint online by going to

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*Zack and Eva, who have hearing impairments, said they were unable to enjoy performances at their local entertainment venue because the venue does not have adjustments to accommodate the needs of people with hearing impairments.*

*The complaints were resolved through conciliation, with an agreement that the venue operator would install a hearing support system and invite the complainants to trial the system.*

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If you need an Auslan interpreter, the Commission can arrange this for you. If you are blind or have a vision impairment, the Commission can provide information in alternative formats on request.

If you are thinking about making a complaint, you might also want to consider getting legal advice or contacting your trade union.

There are community legal services that can provide free advice about discrimination and harassment. Contact details for your closest community legal centre can be found at [www.naclc.org.au/directory](http://www.naclc.org.au/directory).

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**Convention on the Rights of Persons with Disability**

**An overview from the Australian Federation of Disability Organisations**

**What is the Convention on the Rights of Persons with Disabilities?**

The Convention on the Rights of Persons with Disabilities (CRPD) is an agreement by countries around the world to make sure that people with disabilities and people without disabilities are treated equally. The CRPD was adopted by the United Nations General Assembly on 13th December 2006; it opened to signatures on 30th March 2007 and came into force on 3rd May 2008 following ratification by the 20th State Party.

Australia ratified the Convention and its Optional Protocol on 17 July 2008 and joined other countries around the world in a global effort to promote the equal and active participation of all people with disability in society and community life.

**What is the Committee on the Rights of Persons with Disabilities?**

The Committee is a body of 18 independent experts which monitors implementation of the CRPD. The members of the Committee serve in their individual capacity, not as government representatives. They are elected from a list of persons nominated by the States at the Conference of the State Parties for a four year term with a possibility of being re-elected once.

**What is the Optional Protocol to the Convention?**

The Optional Protocol which entered into force at the same time as the Convention, establishes two additional mandates for the Committee:

1. The receipt and examination of individual complaints
2. The undertaking of inquiries in the case of reliable evidence of grave and systematic violations of the Convention

The principles (main beliefs) of the CRPD are

a. Respect for everyone's inherent dignity, freedom to make their own choices and independence.
b. Non-discrimination (treating everyone fairly).
c. Full participation and inclusion in society (being included in your community).
d. Respect for differences and accepting people with disabilities as part of human diversity.
e. Equal opportunity.
f. Accessibility (having access to transportation, places and information, and not being refused access because you have a disability).
g. Equality between men and women (having the same opportunities whether you are a male or female).
h. Respect for the evolving capacity of children with disabilities and their right to preserve their identity (being respected for your abilities and proud of who you are).
any people will have a disability at some stage in their lives. For some, the disability will be temporary. Others may be affected for a lifetime.

Whatever the type or impact of a disability, everyone has the right to be an active member of their community and to have a say in the decisions that affect their lives.

The United Nations Convention on the Rights of Persons with Disabilities, which Australia ratified in 2008, sets out the role of governments to make this a reality. However, negative attitudes, physical barriers and difficulties accessing necessary supports still limit the opportunities of people with disabilities to find work, study, socialise and be included in community life.

In Australia, the Disability Discrimination Act protects people across Australia from unfair treatment in many areas of public life. It also promotes equal rights, equal opportunity and equal access for people with disabilities.

About

- Around 6.8 million Australians (40 per cent) aged 18 years and over report having a disability or long-term health condition. Most (87 per cent) are restricted in carrying out at least one everyday activity, such as self-care, mobility or communication.
- The likelihood of having a disability increases as people age. For example, seven per cent of children aged under 15 years, 15 per cent of people aged 15 to 64 years and over half (53 per cent) of people aged 65 years and over report having some form of disability.
- In 2009, 290,000 children aged 0 to 14 years reported having a disability. Over half (57 per cent) had a profound or severe disability and almost one in five (18 per cent) had a moderate or mild disability.

Key issues for people with disabilities

- People with disabilities are more likely to experience poverty, live in poor quality or insecure housing and have low levels of education. They are often socially isolated, with fewer opportunities to take part in community life.
- Mental health problems and mental illness are among the greatest causes of disability, diminished quality of life and reduced productivity.
- Australia ranks lowest among OECD countries for the relative income of people with disabilities. Overall employment rates for people with disabilities remain low, with workforce participation at around 54 per cent compared to 83 per cent for people without a disability.
- In NSW, young people with mental health disorders and/or cognitive impairment are at least six times more likely to be in prison compared with young people without a disability.
- Despite progress towards making all public transport in Australia fully accessible by 2022, 1.2 million people with disabilities report difficulties using public transport.
- More than a quarter of people who report sexual assault have a disability. Ninety per cent of women with intellectual disabilities have been sexually abused.

Positive developments

- In 2009, children with disabilities had significantly

Negative attitudes, physical barriers and difficulties accessing necessary supports still limit the opportunities of people with disabilities to find work, study, socialise and be included in community life.
higher rates of participation in school compared to children without disability (82 per cent and 77 per cent respectively). This reflects a growing number of children with disabilities staying in school for longer.13

- Most people with disabilities (94 per cent) have the support they need to live in private residences; 74 per cent live with others and 20 per cent live alone. People with disabilities are also more likely to own their own home outright (24 per cent) compared with people who do not have disabilities (16 per cent).14

- In July 2013, the National Disability Insurance Scheme was rolled out in Tasmania, South Australia, Victoria (Barwon area) and NSW (Hunter area). From July 2014, it will commence across the ACT and in the Northern Territory (Barkly region) and Western Australia (Perth Hills area). The full national scheme will commence progressively from July 2016.

**Did you know?**
The life expectancy of Australians born with Down Syndrome has more than tripled in the four decades to 2002, increasing from 18 years to 60 years.

A contributing factor to this positive outcome is the shift in public attitudes regarding Down Syndrome.15

**Find out more**
- Australian Human Rights Commission, Twenty Years, Twenty Stories; Celebrating 20 years of the Disability Discrimination Act (2013)
- Department of Social Services, National Disability Strategy 2010-2020 (2011)

**Disability Rights**

4 in 10

Australians aged 18 yrs and over report having a disability or long-term health condition

Australia ranks lowest among OECD countries for the relative income of people with disabilities

1.2 million people with disabilities report difficulties using public transport

Mental health problems and mental illness are among the greatest causes of disability, diminished quality of life and reduced productivity

Workforce participation of people with disabilities and without disabilities

54% with disabilities
83% without disabilities

1 in 4

WOMEN WITH INTELLECTUAL DISABILITIES HAVE BEEN SEXUALLY ABUSED

9 in 10

people who report sexual assault are people with disabilities


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Issues in Society | Volume 421

People with Disability


Face the facts: Disability rights 2014.

Language is an incredibly powerful tool, and can be used to create a sense of empowerment, pride, identity and purpose. Contrary to the old adage “sticks and stones may break my bones, but words will never hurt me,” improper use can have a devastating impact, even with the best intentions. It can be difficult to keep up with what is the acceptable terminology in relation to disability, so we’ve compiled a brief refresher for you.

**Focus on the person, not the impairment**

In Australia, best practice language is to use ‘person with disability’ or ‘people with disability’.

Person-first language is the most widely accepted terminology in Australia. Examples of person-first language include: person with disability, person who is deaf, or people who have low vision. Put the person first, and the impairment second (when it’s relevant). Other terms that are growing in popularity and acceptance are ‘person living with disability’, and ‘person with lived experience of disability’. These terms are inclusive of people who may have experienced disability in the past, but don’t any longer, and also people who are carers.

We also prefer to say ‘person without disability’, and do not recommend the terms ‘non-disabled’ or ‘able-bodied’.

**Don’t use language that implies a person with disability is inspirational simply because they experience disability**

People with disability are just living their lives, they are no more super-human than anyone else. Implying that a person with disability is courageous or special just for getting through the day is patronising and offensive.

**Conversely, don’t make out that people with disability are victims or objects of pity**

Just because a person experiences disability does not make them weak, a victim or someone to be pitied. Examples of language that can imply people should be pitied include ‘suffering from …’, ‘struck down by …’, and ‘afflicted by/with …’. We try to remove the emotion from the language, for example, ‘Paul experiences depression’, ‘Ravi developed Multiple Sclerosis’, or ‘Katya has epilepsy’.

**People are not ‘bound’ by their wheelchairs**

The term wheelchair-bound is one that is commonly used in mainstream media, and it is one that really irritates (and often offends) many people with disability, and anyone with any knowledge of the Social Model of disability. A person who uses a wheelchair is not bound by the chair; they are enabled and liberated by it, it can become an extension of their body. ‘Confined to a wheelchair’ is equally as negative. AND uses ‘wheelchair user’ or ‘person who uses a wheelchair’, instead.

**‘Disclosure’ can imply secrets and lies**

At AND we are moving away from the traditional terminology of ‘disclosure of disability’ (in a workplace setting), as it can make it seem like the person is about to divulge a secret of epic proportions. We avoid ‘declaration of disability’ for similar reasons. We also tend to steer clear of the increasingly popular phrase ‘identify as a person with disability’, as this brings with it a whole range of other issues around identity and belonging. Someone may have impairment, but still not identify as a person with disability. We now tend to use the simple phrase ‘choose to share information about their disability/impairment’, when talking about a person’s choice to let their employer or colleagues know about their disability or specific requirements.

**Avoid euphemisms and made up words**

‘Differently abled’, ‘people of all abilities’, ‘disAbility’, ‘diffAbled’, ‘special needs’ and the like, are all euphemistic and can be considered patronising. While the intention is usually good, these phrases tend to fall into the trap of making people with disability out to be special or inspirational, just for living with disability (see above point).

**Change the focus from disability, to accessibility**

In recent years, AND members have increasingly referred to Accessibility Action Plans or Access and Inclusion Plans, rather than Disability Action Plans. This makes the focus much more inclusive, and incorporates the requirements of a diverse range of people who may have access needs, including older people, parents and carers of young children, and travellers. Similarly, car parks, lifts and bathrooms are now appropriately described as accessible, rather than disabled.

**Relax, and don’t get caught up in semantics**

While the above information may seem daunting if it’s new to you, the most important thing you can remember is to simply focus on the person, rather than the disability. Don’t be so afraid of saying the wrong thing that you don’t say anything at all – relax, and just be willing to communicate.
Talking to and about people with a disability

The Australian Federation of Disability Organisations offers advice on how to talk to people with disabilities

When a person has a disability, it doesn’t define who they are. Each person with a disability is a unique individual with their own personality, interests and skills.

Respectful language
The words you use to describe people with a disability may come from the language you’ve heard others use or perhaps you still use the words you heard when you were growing up.

Talking to someone with a disability
When you’re talking with a person with a disability, just be yourself. Make sure you:

• Establish and maintain eye contact as much as possible.
• Talk directly to the person with a disability. Don’t talk to their companion, support worker or sign-language interpreter instead.
• Never speak about the person as if he or she can’t understand or can’t speak for him or herself.
• Don’t assume a person with a disability can’t do things. They might use assistive devices or technology to talk, walk or drive a car.
• Don’t talk about “fixing” or “making the person better”. They might feel fine just as they are.
• Ask someone with a disability first before offering help – they may be very capable of taking care of their own needs.
• If you’re with someone who uses a guide dog or service animal, don’t pat or talk to the animal. These animals are working so shouldn’t be distracted.
• Don’t assume a person with a disability also has other disabilities, e.g. someone who has low vision can still hear you. There is no need to shout.

Here are some of the right and wrong ways of talking about a person with a disability.

<table>
<thead>
<tr>
<th>WORDS TO AVOID</th>
<th>ACCEPTABLE ALTERNATIVES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Normal person</td>
<td>Person without a disability</td>
</tr>
<tr>
<td>Paraplegic, quadriplegic</td>
<td>Person with paraplegia, person with quadriplegia</td>
</tr>
<tr>
<td>Defect, deformity</td>
<td>Person with a disability</td>
</tr>
<tr>
<td>Confined to a wheelchair, wheelchair bound</td>
<td>Uses a wheelchair</td>
</tr>
<tr>
<td>Cripple, crippled</td>
<td>Physical disability</td>
</tr>
<tr>
<td>Dumb</td>
<td>Non-verbal</td>
</tr>
<tr>
<td>Disabled</td>
<td>Person with a disability</td>
</tr>
<tr>
<td>Dwarf, midget, little person, vertically challenged</td>
<td>Short-statured person</td>
</tr>
<tr>
<td>Epileptic</td>
<td>Person with epilepsy</td>
</tr>
<tr>
<td>Fit, attack, spell</td>
<td>Seizure</td>
</tr>
<tr>
<td>Handicapped</td>
<td>Person with a disability</td>
</tr>
<tr>
<td>Insane, lunatic, maniac, mental patient, mental, psycho, psychopath, crazy, demented, skitzo</td>
<td>Person with a mental health difficulty</td>
</tr>
<tr>
<td>Invalid</td>
<td>Person with a disability</td>
</tr>
<tr>
<td>Retarded, tard, moron</td>
<td>Person with an intellectual disability</td>
</tr>
<tr>
<td>Mongol, mongoloid, mong, downsy</td>
<td>Has Down syndrome</td>
</tr>
<tr>
<td>Physically challenged, intellectually challenged</td>
<td>Person with a disability</td>
</tr>
<tr>
<td>Spastic, spaz</td>
<td>Person with a disability, person with cerebral palsy</td>
</tr>
<tr>
<td>Special needs</td>
<td>Person with a disability</td>
</tr>
<tr>
<td>Institution</td>
<td>Mental health clinic</td>
</tr>
</tbody>
</table>

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WHAT IS DISABILITY ADVOCACY?

Fact sheet information from Disability Advocacy Support Unit, a statewide service established to resource the disability advocacy sector in Victoria

Disability advocacy is acting, speaking or writing to promote, protect and defend the human rights of people with disability.

Disability includes impairments of physical, sensory or mental functions which may affect undertaking activities or participating in community life. It may be caused by accident, trauma, genetics or disease. A disability may be temporary or permanent, total or partial, lifelong or acquired, visible or invisible.

Disability advocates may advocate for themselves, another person, or a group of people with disability. They work through issues that have an adverse impact on rights for an individual or group, or on a society-wide level. Advocates may be paid or operate on a voluntary basis.

Types of disability advocacy commonly referred to are:

• Self-advocacy – undertaken by someone with disability who speaks up and represents themselves. Support and training for self-advocacy is available through community-based groups.
• Individual advocacy – a one-on-one approach, undertaken by a professional advocate, relative, friend or volunteer, to prevent or address instances of unfair treatment or abuse.
• Group advocacy – involves advocating for a group of people with disability, such as a group of people living in shared accommodation.
• Citizen advocacy – where community volunteers advocate for a person with a disability, such as an intellectual disability, over the long-term, supported by a Citizen Advocacy organisation.
• Systemic advocacy – involves working for long-term social changes to ensure the collective rights and interests of people with disability are served through legislation, policies and practices.
• Legal advocacy – where a lawyer provides legal representation in the justice system, pursues positive changes to legislation, or gives legal advice to people with disability about discrimination and human rights.

What disability advocates do

Disability advocacy may include:

• Providing information to people with disability about their human rights and identifying instances of discrimination
• Assisting people with disability to uphold their rights by speaking with and writing to people and organisations to raise awareness of problems and seek solutions
• Helping people with disability negotiate complaints processes or legal action to enforce their human rights
• Writing submissions and lobbying government to make changes that promote and protect the rights of people with disability
• Campaigning for social change by speaking to the media to raise awareness and highlight situations where people with disability are treated unfairly.

Disability advocates often require a variety of skills, including:

• Disability awareness, how to communicate with and support people with different disabilities
• Understanding laws, legal instruments and jurisdictions
• Understanding processes within oversight and complaints handling bodies
• Applying a human rights approach to advocacy
• Negotiation skills
• Lobbying and running effective campaigns.

Professional disability advocates often develop these skills through in-house customised training within disability advocacy organisations, or through a range of community-based short training programs.

Disability advocacy is not:

• Providing counselling
• Making decisions for another person
• Providing mediation
• Providing case management.

Advocates can speak out for themselves or for others who are at risk of being disadvantaged or treated improperly as a result of a disability. This can include missing out on jobs or services, being pressured to make a decision or choice, or being abused or neglected.

Disability advocacy is acting, speaking or writing to promote, protect and defend the human rights of people with disability.
**Why we need disability advocacy**

Throughout history, people with disability have been hidden away or subjected to abuse, ignorance and prejudice. The power of disability advocacy over the past century has radically shifted thinking to recognise the rights of all people with disability to live in the community, with choices equal to others.

Disability advocacy came from the disability rights movement. In the 1970s and 1980s, significant battles were fought for the rights of people with disability, including the right to have access to a range of in-home, residential and other community support services necessary to support living an independent, unsegmented life.

Disability activists joined forces, like those working for civil, women’s and indigenous rights, to demand equal treatment, equal access and equal opportunity for people with disability. They challenged stereotypes, rallied for political and institutional change, and lobbied for self-determination – on the streets, in the courts, across the media, within services and in the halls of power.

Today, over 4 million Australians with disability still face many barriers and further significant change is needed to ensure they enjoy the same rights and freedoms as other people. Disability advocacy continues to promote equal opportunity for people with disability to participate in all areas of life including:

- **Safety** – More than 70 per cent of women with disability have been victims of violent sexual encounters at some time in their lives and a staggering 90 per cent of women with an intellectual disability have been subjected to sexual abuse.\(^1\)
- **Employment** – 53 per cent of people with disability of working age are in the labour force, compared with 83 per cent of people without disability. People with disability have nearly twice the unemployment rate of those without disability.\(^3\)
- **Education** – 36 per cent of people with disability of working age have completed high school, compared with 60 per cent of people without disability.\(^1\)
- **Health** – 35 per cent of people with disability report poor or fair health compared with 5 per cent of people without disability.\(^3\)
- **Income** – The relative income of people with disability in Australia is approximately 70 per cent of those without disability, the lowest of all 27 countries in the OECD. As a result, people with disability are more likely to live in poverty.\(^4\)

> “The good things in life are universal and include being treated with dignity, respect, acceptance; a sense of belonging; an education; developing and exercising one’s capacities; a voice in the affairs of your community and society; opportunities to participate; a decent material standard of living; a normative place to live; and opportunities for work and self support.”

Wolfensberger et al 1996.\(^2\)

**Shifting models of thinking**

Over decades, disability advocates have fundamentally shifted traditional models of thinking about disability to a new understanding where society as a whole takes responsibility for enabling inclusion.

The ‘medical model’ of disability focuses on the person’s impairment or physical or mental medical condition and regards the person as the ‘problem’ and unable to do certain things. This thinking has been fundamental in approaches like sending children to ‘special’ schools or employing people with disability only in sheltered workshops.

The ‘charity model’ of disability sees people with disability as in need of ‘help’, unable to do things for themselves. While many charities offer vital support, much traditional fundraising emphasised the helplessness of people with disability and risked undermining their autonomy, independence and rights. It is a model often adopted by mainstream media.

The ‘social model’ of disability is the most empowering for people with disability because it makes a distinction between impairment and disability and looks to remove barriers that restrict life choices. It holds that ‘disability’ does not come from having to use a wheelchair, for example, but from being unable to use stairs to get to work or board a train.

Other examples might include:

- A teenager with a learning disability wants to live independently in their own home but is unsure how to pay the rent. Under the social model, the person would be supported so that they can pay rent and live in their own home.
- A child with a vision impairment wants to read the latest best selling book that his or her sighted friends are enjoying. Under the social model, full-text audio recordings are made available when the book is first published.

Impairment is the lack of all or part of a limb, or having a defective limb, organ or mechanism of the body while disability is the loss or limitation of opportunities that prevent people who have impairments from taking part in the normal life of the community on an equal level with others due to physical, social, organisational and attitudinal barriers.

**REFERENCES**

2. C Frohmader and T Sands, Australian Cross Disability Alliance (ACDA) Submission to the Senate Inquiry into violence, abuse and neglect against people with disability in institutional and residential settings, 2015.
The Hon. Susan Ryan AO, Age and Disability Discrimination Commissioner, on behalf of the Australian Human Rights Commission, has conducted a National Inquiry into employment discrimination against older Australians and Australians with disability.

The terms of reference for the Inquiry were provided by the Attorney General, Senator the Hon. George Brandis QC, and asked the Australian Human Rights Commission to:

- Examine the barriers to employment for people with disability and older people, and
- Make recommendations about practices, attitudes and Commonwealth laws that should be changed, and actions that should be taken in order to address employment discrimination.

**Key data**

The data included in the *Willing to Work Report* highlights the widespread nature of discrimination against people with disability in employment:

- In 2015, 53.4% of people with disability were participating in the labour force, compared with 83.2% of people without disability. This figure has changed very little over the past 20 years.
- People with disability are less likely to be employed full-time (27.0%) than people without disability (53.8%).
- Australians with disability are more likely to be unemployed (10.0% compared with 5.3% for those without disability) and face longer periods of unemployment than people without disability.
- Almost one in 12 Australians with disability (8.6%) reported that they had experienced discrimination or unfair treatment because of their disability in the past year.
- 20.5% of young people with disability (aged 15-24 years) reported experiencing discrimination.
- Almost half of people with disability aged 15 to 64 years with disability who were unemployed (46.9%) or employed full-time (46.2%) and over a third of those employed part-time (34.6%) reported that the source of discrimination was an employer.
- 35.1% of women and 28.1% of men reported that they had avoided situations because of their disability in the past 12 months.
- In 2014-15 the Australian Human Rights Commission received 3,529 enquiries and 742 complaints about disability discrimination. More than a third of enquiries (35.4%) and complaints (41.0%) were in the area of employment.

53.4% of people with disability were participating in the labour force, compared with 83.2% of people without disability. This figure has changed very little over the past 20 years.
The Inquiry’s findings and recommendations

The Willing to Work Report contains 56 recommendations, 72 examples of good practice from a range of employers, and 44 case studies outlining individual experiences. The recommendations are grouped into three key themes:

1. Priority Government commitments
2. Improving existing systems
3. What employers and business can do.

Priority Government commitments

Employment discrimination against people with disability is ongoing and systemic. At the recruitment stage, bias, inaccessibility and exclusion are recurring issues. People with disability face a conundrum regarding if, when and how to disclose their disability and can experience barriers in accessing necessary workplace adjustments and opportunities for career progression. Discrimination is underpinned by negative assumptions and attitudes that are held by many employers and throughout the community about the productivity and capability of people with disability and perceptions that they present a higher work health and safety risk.

In order to address these negative assumptions and stereotypes about people with disability, the Inquiry makes a number of recommendations, which include:

• The development and implementation of a national workforce strategy to lift the workforce participation of Australians with disability.
• The expansion of the role of the Workplace Gender Equality Agency (WGEA) to become the Workplace Gender Equality and Diversity Agency, extending its current functions to Australians with disability.
• The development and delivery of a sustained, focused national community education and information campaign to lift awareness of the economic benefits of employing people with disability and to dispel myths and stereotypes to change the way we value the contributions of people with disability.
• That the Australian Government consider leveraging its position as a major buyer of goods and services to encourage the labour force participation of Australians with disability.
• That Australian state, territory and federal governments take deliberate action to employ and retain more people with disability within their own respective workforces.

Improving existing systems

The Inquiry found that there are government policies and programs in place which act as barriers to increasing workforce participation of people with disability and are therefore in need of review. The recommendations to improve these existing systems include:

• Amendments to the social security system to facilitate people’s transition from income support to work by providing clearer information and extending the period of eligibility to concession cards for individuals who obtain work.
• Measures to improve support for young people with disability to transition from school to work. For example, by allowing all school leavers with disability to access employment services and by providing funding for the development of guidance materials for teachers about supporting students with disability to transition from school to work.
• Reforms to the disability employment services framework should be based on the principles of choice and control which underpin the National Disability Insurance Scheme.
• The promotion of the range government supports available to employers through Disability Employment Services, JobAccess, the Employment Assistance Fund and the National Disability Resource Coordinator.
• State, territory and federal governments should work together to examine best practice injury prevention and return to work practices and embed these in all Australian workers compensation schemes.
• Changes to the Employment Assistance Fund to improve access to reasonable workplace adjustments for people with disability, including:
  - Expanding the Employment Assistance Fund to support work experience and internships, in order to enable greater job readiness for people with disability
  - Increasing the funding available through the Employment Assistance Fund for Auslan interpreting and captioning
  - Change the process for obtaining funding for reasonable adjustments so that adjustments are paid for directly by JobAccess.
• The Inquiry makes recommendations for amendments to the federal discrimination laws and the Fair Work Act 2009 (Cth) to facilitate access to justice for people with disability who do experience discrimination in employment.

What employers and business can do

Employers, businesses and the organisations that represent them, have a critical role to play in recruiting, retaining and training people with disability. However, the Inquiry heard that employers may lack the knowledge, awareness and skills necessary for developing inclusive workplaces which support employees with disability. They may also be unaware of government programs and supports that can assist them.

The Willing to Work Report offers a suite of strategies for employers to lift representation and ensure non-discriminatory recruitment, retention and training practices while maintaining and improving productivity.

• Leadership commitment: CEOs and organisational leaders should communicate their business’s commitment to inclusive and diverse workplaces to all staff. This should be supported by an organisational strategy which outlines the business case for a diverse workforce and could include goals such as:
  - Meeting voluntary targets for employment of people with disability
  - Monitoring and reporting on performance against these targets and ensuring inclusive practices in relation to recruitment
  - Networking and mentoring for and of employees with disability.
• Ensuring non-discriminatory recruitment and retention practices: Businesses should ensure that their recruitment and retention policies do not discriminate against people with disability. This could include reviewing recruitment processes to ensure that they are accessible and making promotional and training opportunities equally available to all employees, including those with disability.
• Building workplace flexibility: As a critical recruitment and retention tool, businesses normalise flexible work by making job design, work location and hours flexible for all, as far as the demands of the role allow.
• Provide targeted education and training in the workplace: In order to build inclusive, respectful workplaces employers provide staff with support and training about their rights and responsibilities at work, internal grievance processes, flexible leave options, any employee driven networks and the nature and impact of discrimination.
Employers should support managers and supervisors in creating and managing diverse teams and flexible workplaces by assisting with job redesign, building skills to manage employees flexibly, providing information for managers for example mental health guidelines, manager support and training on the nature and impact of discrimination.
• Build healthy workplaces: Businesses should invest in health and wellbeing programs for staff. Implementing healthy work practices can be key to preventing chronic conditions and promoting good health. This could involve training of staff and managers about health, implementing ergonomic assessments or subsidising gym memberships.

NOTES
4. People with disability were significantly more likely to still be looking for a job 13 weeks or longer after they first started (65.5%) compared with those without disability (56.1%), Australian Bureau of Statistics, Disability and Labour Force Participation, 2012 (2015). At www.abs.gov.au/ausstats/abs@.nsf/mf/4433.0.55.006 (viewed 17 March 2016).

Disability and labour force participation

One of the priority outcomes of the National Disability Strategy 2010-2020 is to ‘increase access to employment opportunities as a key to improving economic security and personal well-being for people with disability ...’. Employment can provide financial independence, a better standard of living and improved physical and mental health. Entering employment can provide individuals with increased confidence, expanding their social network and social skills as well as opportunities to develop a career by gaining new work skills and knowledge.

Recent decades have seen major developments towards achieving workplace equality for all Australians, including those with disability. The Disability Discrimination Act 1992 (DDA) aims to protect people from discrimination because of their disability. Following a Productivity Commission Review in 2004, the DDA was changed to further protect the equality of opportunity for people with disability. In addition to legislative protection, since 2009 employment support has been provided through the National Disability Agreement (NDA).

Although there have been improvements in anti-discrimination legislation, Survey of Disability, Ageing and Carers (SDAC) data show that people with disability are still less likely to be participating in the labour force than other Australians. According to data from SDAC, there has been little change in the labour force participation rate for people with disability aged 15-64 years in comparison to the similar decline in unemployment for people without disability. The difference in labour force participation rates between people with and without disability has remained consistent over time.

**Labour force participation rates by age by whether has a disability, 2012**

The participation rate for people with disability varied with age, a similar pattern to people without disability. The difference in labour force participation between people with and without disability increased with age.

**Labour force participation rates**

Labour force participation rates provide a measure of the proportion of the population who are either employed or actively looking for work. Between 1993 and 2012, the labour force participation rate for working-age people (15-64 years) with disability was relatively stable. In 1993, the rate was 54.9%, and this was broadly similar in 2012 at 52.8%. Conversely, over the same period, the participation rate for working-age people without disability increased from 76.9% in 1993 to 82.5% in 2012.

Over the nineteen years from 1993 to 2012, the unemployment rate for 15-64 year olds with disability decreased from 17.8% to 9.4%, in line with the similar decline in unemployment for those without disability (from 12.0% in 1993 to 4.9% in 2012). However, in 2012 the unemployment rate for people with disability continued to be significantly higher than for those without disability.

In 2012, nearly half (47.3%) of all working-age people with disability were not in the labour force, that is they were neither employed nor actively looking for work. One-third (33.6%) of these people were permanently unable to work, while one-fifth (19.3% or 201,500) had no employment restriction, reporting that it was not their disability which was preventing them from working.

**Age and sex**

Labour force participation rates for people with disability varied with age, a similar pattern to people without disability. The difference in labour force participation between people with and without disability increased with age.

The participation rate for people with disability peaked in the 25-34 year age group while for those without disability, participation peaked at 45-54 years. People aged 55-64 years with disability had the lowest participation rate (40.9%) of all the age groups. Their lower participation rate may partly reflect the desire for retirement or difficulties experienced by mature-age job seekers, which can discourage some from looking for work.

There were differences in labour force participation between working-age men and women among those with disability, with women (49.0%) less likely to participate than...
men (56.6%). This was also true for people without disability (76.5% and 88.5% respectively).

STATE OR TERRITORY
For people with disability, labour force participation rates were highest in the ACT and lowest in Tasmania, compared with those without disability where NT had the highest participation rates and NSW has the lowest. A similar pattern can be seen with the unemployment rate. For people with disability, the ACT experienced the lowest unemployment rate (4.9%) and Tasmania had the highest (14.9%). Where as, for people without disability, NT had the lowest rate with 2.6% and Tasmania had the highest at 5.3%.

DISABILITY TYPE
People can be affected by more than one type of disability and therefore be classified into one or more disability groups. Of the five main disability groups, the most common in 2012 was physical restriction, which affected two-thirds (67.5%) of working-age people with disability. This was much higher than the proportion of people with psychological disability (21.7%) or sensory and speech disability (20.4%).

The type of disability that an individual has can affect their likelihood of participating in the labour market. People with sensory or speech impairment had the best labour market outcomes with a participation rate of 56.2% and an unemployment rate of 7.7%. People with a physical restriction had the next highest participation rate of 47.4% and an unemployment rate of 8.2%. The disability group with the lowest participation rate (29.1%), and the highest unemployment rate (20.4%) was people with a psychological disability. People with sensory or speech or a physical impairment may be able to benefit from assistive technologies but this is not the case for people with psychological disability such as mental illness. People with mental illness may experience disruption to their work attendance and career due to the episodic nature of their disability.

DISABILITY SEVERITY
The severity of disability is an indication of a person’s limitations in the core activities of communication, mobility and self-care. Of people aged 15-64 years with disability, one-quarter (24.8%) had profound or severe disability, while nearly half (47.9%) had moderate or mild disability. Just over one-quarter (27.4%) of people with disability did not have a core activity limitation, yet they may have had a schooling or employment restriction.

LABOUR FORCE PARTICIPATION RATES BY STATE OR TERRITORY BY WHETHER HAS A DISABILITY, 2012

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As with disability type, the severity of a person's disability is reflected in their ability to participate in the labour force. Generally, labour force participation decreases as the severity of disability increases. In 2012, those aged 15-64 years with moderate or mild disability had a participation rate of 52.5%, while those with profound or severe disability had a labour force participation rate of 29.7%. This pattern was evident across all types of disability. For example, the participation rate of those with moderate or mild physical restriction was 48.8%, while those with profound or severe physical restriction had a participation rate of 26.3%.

To see a pattern in unemployment rates, severity and type of disability need to be analysed together. For example, the unemployment rate for people with intellectual disability or psychological disability was high in comparison with other disability groups, regardless of severity. Those with moderate or mild intellectual disability (34.9%) or psychological disability (24.7%) had a higher unemployment rate than those with moderate or mild physical disability (8.1%) or sensory and speech disability (7.6%). This may partly reflect the unique barriers that people with intellectual disability or psychological disability face in accessing education and work.

**EMPLOYMENT RESTRICTIONS**

Some people with disability experience employment restrictions such as being restricted in the type of job they can do or the number of hours they can work, or needing special assistance in the workplace. People with disability who had an employment restriction were far less likely to be participating in the labour force (44.0%) than those without an employment restriction (71.3%).

Of the 68.1% of people with disability who had an employment restriction, three of the most common restrictions were the type of job, difficulty changing jobs or getting a preferred job and the number of hours they could work. People with profound or severe disability were the most likely to have some kind of employment restriction (84.8%).

**EMPLOYMENT**

In Australia in 2012, over one million working-age people with disability (47.7%) were in paid employment, comprising 8.8% of the total Australian workforce. Men with disability (51.3%) were more likely to be employed than women with disability (44.4%).

**HOURS WORKED**

Generally, people with disability who were employed were more likely than people without disability to work part-time (39.8% and 29.6% respectively). The number of hours usually worked by people with disability was associated with the severity and the type of their disability.

People with profound or severe disability who worked were more likely to work part-time hours than those with less severe disability. Nevertheless, almost half (48.2%) of those with profound or severe disability who were working, worked full-time.

Among the five disability groups, psychological and intellectual disability have greater association with fewer working hours. Almost one-third (32.9%) of people with psychological disability who worked, usually worked no more than 15 hours, followed by people with intellectual disability (30.7%). In contrast, about two-thirds of employed people with sensory or speech disability (65.3%) or physical disability (59.3%) worked full-time.

**UNDEREMPLOYMENT**

Not only were people with disability more likely to be employed part-time, they were also more likely to be underemployed. Almost one-third of the people with disability (32.4%) who were working part-time wanted to work more hours, compared with just over one-quarter of people without disability (27.1%). The level of underemployment varied with the severity of the disability, ranging from 22.0% of those with a profound core activity limitation to 38.2% of those with an educational or employment restriction only.

The level of underemployment also varied depending on the type of disability a person had – people
with an intellectual or psychological disability were more likely to be underemployed (38.8% and 36.2% respectively) than people with a physical restriction (29.4%).

## Occupation and Industry

Almost one-fifth (19.9%) of working-age people with disability who were employed in 2012 worked as professionals, followed by labourers (15.2%) and clerical and administrative workers (14.1%). The distribution of people across different occupations is similar for people with and without disability with the exception of Labourers, who had a significantly higher proportion of people with disability (15.2%) compared with those without (9.0%).

However, there was some variation of occupations according to the type of disability. For example, almost one-half (44.3%) of employed people with intellectual disability were working as labourers, such as packers and product assemblers or cleaners and laundry workers, in 2012, while one-fifth (20.4%) of employed people with a physical disability were in professional occupations, such as school teachers or mid-wifery and nursing professionals.

Both people with and without disability had similar distributions across industry groups. Some industries had a higher than average (9.3%) disability prevalence rate, particularly Agriculture, forestry and fishing (15.0%), Administrative and Support Services (12.7%) and Health care and social assistance (12.3%).

People with disability who were working were more likely to run their own business (11.6%), and/or work from home (33.7%), than employed people without disability (8.8% and 28.4% respectively). Such situations may enhance the flexibility of working arrangements, making it easier for people with disability to participate in the labour force.

## Assistance Needed

Employers and disability employment service providers may need to make special arrangements to ensure that employees with disability have a suitable environment in which to work. In 2012, 10.3% of employed people with disability required some type of special work arrangement such as being provided with special equipment or being allocated different duties.

The type of disability influenced whether assistance was needed in the workplace and the kind of assistance required. Employed people with an intellectual or psychological disability were likely to require special working arrangements, with nearly one-quarter (24.7% and 20.3% respectively) receiving assistance, such as a support person to assist or train them on the job. People with a physical disability who were working were less likely to require special working arrangements, with around one in ten (11.2%) receiving special working arrangements. For this disability group, assistance provided took the form of special equipment (37.4%).

The severity of disability also influenced whether a person required any special work arrangements, with 8.5% of employed people with moderate or mild disability needing special work arrangements compared with over one-quarter (28.0%) of those with profound or severe disability.

The disability group with the lowest participation rate (29.1%), and the highest unemployment rate (20.4%) was people with a psychological disability.

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### Not in the Labour Force Participation Rate by Age by Whether Has a Disability, 2012

The unemployment rates of men and women with disability were not significantly different (9.5% and 9.3% respectively).

As with the labour force participation rate, the unemployment rate varied among disability groups and the severity of a person’s disability. People with sensory or speech disability had the lowest unemployment rate (7.7%). Conversely, people living with psychological or intellectual disability had the highest unemployment rates (20.4% and 20.0% respectively). People with a profound core activity limitation also had a higher unemployment rate (10.3%) than those with a mild core activity limitation (9.5%).

The amount of time unemployed people with disability had been looking for work was longer than people without disability. People with disability were significantly more likely to still be looking for a job 13 weeks or longer after they first started (65.5%) compared with those without disability (56.1%). The disability group with the highest proportion of people still looking for work for 13 weeks or longer was people with head injury, stroke or brain damage (80.5%).

Two-thirds of unemployed people with a profound or severe core disability were looking for work for 13 weeks or longer after they first started (65.5%).

The type of disability influenced whether assistance was needed in the workplace and the kind of assistance required. Employed people with an intellectual or psychological disability were likely to require special working arrangements, with nearly one-quarter (24.7% and 20.3% respectively) receiving assistance, such as a support person to assist or train them on the job. People with a physical disability who were working were less likely to require special working arrangements, with around one in ten (11.2%) receiving special working arrangements. For this disability group, assistance provided took the form of special equipment (37.4%).

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### Not in the Labour Force Participation Rate by Age by Whether Has a Disability, 2012

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activity limitation (68.5%) reported their condition was the main reason they were having difficulty finding work. More than half the unemployed people with a head injury, stroke or brain damage or psychological disability (57.7% and 57.0% respectively) also reported this as the main difficulty they experienced in their job seeking attempts.

One in seven unemployed people with disability reported they will need supports or special arrangements at work. The most commonly reported support arrangements needed for this population were being allocated different duties (5.6%) and training/retraining (4.8%).

**PEOPLE NOT IN THE LABOUR FORCE**

In 2012, of people aged 15-64 years with disability, 47.3% were not in the labour force, that is they were neither employed nor actively looking for work. This is significantly higher than people without disability (17.5%).

Of all people with disability who were not in the labour force, more than half were women (55.0%). In comparison, over two-thirds (66.8%) of people without disability who were not in the labour force were women. Nearly half (42.7%) of people with disability who were not in the labour force were aged 55-64 years. Of people aged 55-64 years with disability and not in the labour force, one-fifth (20.2%) reported long-term illness or injury as a reason for not wanting to work, much higher than for people of the same age without disability (2.3%).

Being permanently unable to work was reported by one-third (33.6%) of those with disability who were not in the labour force as the main reason for not wanting, or not being able to work. Other main reasons for not being in the labour force were having a long-term illness or disability (16.5%) or being satisfied with their current arrangements/retired (for now) (5.8%). Of people with disability who were not in the labour force, the majority found it difficult to find a job due to their illness or disability.

People aged 15-64 years with a more severe disability, were less likely to be in the labour force, with 80.0% of those with a profound core activity limitation not participating in the labour force, compared with 35.1% of those restricted in schooling or employment.

People with a psychological disability were less likely to be in the labour force (29.1%) than people with sensory or speech impairment (56.2%).

**LOOKING AHEAD**

The Australian Government, through the National Disability Agreement, provides support to people with disability who wish to enter employment. Under the National Disability Strategy 2010-2020, federal, and state and territory governments are making a concerted effort to improve and increase employment services for people with disability.

In addition, planned reforms to the Australian welfare support system, including the National Disability Insurance Scheme, aim to create increased opportunities for people with disability to enter and maintain employment. Increases in labour force participation may improve both financial security and personal wellbeing for people with disability.

**NOTES**

Education rights for children with disability

Whether they attend mainstream or special schools, children with disability have the same education rights as all other children. In Australia, the right to educational opportunities is protected by law, according to Raising Children Network.

Your child with disability: education rights and entitlements

In Australia, all children aged six years and over have to go to school. Your child with disability has the right to go to a mainstream government, independent or Catholic school, regardless of her level of disability. She might also be able to go to a government or independent special school. You can decide which option you think is best for your child and your family.

Special schools have eligibility criteria that your child must meet before he can enrol. To find out whether your child is eligible to go to a special school, it’s best to contact any schools you’re interested in.

At school your child might be entitled to services and resources like teacher aides, special equipment and therapy services.

Disability Standards for Education 2005

Your child’s education rights are protected by a law called the Disability Standards for Education 2005.

The Disability Standards for Education 2005 are part of the Commonwealth Disability Discrimination Act 1992. These Standards set out the rights of students with disability and how education providers, like schools and universities, must help students with disability.

The main aim of the Disability Standards for Education is to give students with disability the same educational opportunities and choices as all other students.

Who is protected under the Disability Standards for Education?
The Standards protect any person with disability who is enrolled in, has been enrolled in, or who has approached an education provider about enrolling in a preschool, school, college, university, TAFE or any other organisation that educates people.

Who has obligations under the Disability Standards for Education?
The Standards cover the following education providers:

- Preschools and kindergartens (but not child care centres)
- Public and private schools
- Public education and training places, like TAFE
- Private education and training places, like private business colleges
- Universities
- Organisations that prepare or run training and education programs.

What obligations do education providers have?
The Standards say that education providers must consult, make reasonable adjustments and get rid of harassment and victimisation.

An ‘adjustment’ is something the provider does to make sure a student with disability has the same opportunities as other students to take part in the provider’s programs. ‘Reasonable’ adjustments balance everyone’s needs – the student with disability, other students, staff and the education provider.

Reasonable adjustments might include things like changing seating arrangements in a classroom so that a student with a wheelchair can move around independently, or using videos with captions for a student who has a hearing impairment.

If an education provider can show that making an adjustment is unjustifiably hard, it’s not against the law for the education provider not to make that adjustment.

The main aim of the Education Standards is to give students with disability the same educational opportunities and choices as all other students.
When do the Disability Standards for Education apply?
The Standards cover the entire time that a person goes to a school or education or training course – from the time she applies to enrol right up to the time she finishes.

The Standards say it’s against the law to discriminate against someone because of disability at any of the following times:
• When an education provider is deciding what will be taught in a course
• When a person is enrolling in a school or course
• While a person is taking part in school activities or a course
• If a person needs support services to take part in school activities or a course
• When a person finishes school or a course
• If a person is suspended or expelled from a school or course
• If a person is harassed or victimised while taking part in school activities or a course.

Discrimination in education
The Australian Disability Discrimination Act 1992 says it’s against the law for education providers to discriminate against students with disability.

If a school suggests it might be better for your child to go somewhere else, the main thing is to negotiate what would be best for your child. You could get more advice or get an advocate to support you.

If an education provider doesn’t carry out its obligations to a person with disability in line with the Disability Standards for Education, that person (or someone on his behalf) can make a formal complaint to the Australian Human Rights Commission.

National Disability Insurance Scheme and education
The National Disability Insurance Scheme (NDIS) is a national scheme that funds reasonable and necessary supports to help people with disability reach goals throughout life. The NDIS will fund supports that enable your child with disability to go to school.

Types of supports that the NDIS might fund include:
• Support for daily living activities at school like eating or getting around
• Transport so that your child can go to school
• Equipment or technology to help your child, like a wheelchair or hearing aid
• Support for the move from primary school to secondary school, or from school to post-school options.

You can find out more about school for children with disability, including school options, choices, enrolment and support. http://raisingchildren.net.au/school/disability_school.html

Acknowledgements
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Last updated or reviewed 16 January 2017.
Governments in Australia, New Zealand and the UK are failing children with disabilities by not providing necessary learning support and by allowing issues to permeate without intervening. Schools are deliberately disregarding disability standards through rejecting school places, denying the opportunity of access to activities and offering minimal, if any, support to children with disabilities. And research shows that this is becoming more of a concern.

Early education expert Kathy Colgan’s report on inclusion for children and young people with a disability in Australia, as well as the findings of two recent Senate inquiries released in November 2015 and January 2016, have all commented on the exclusion of children with a disability from education.

According to recent research from Gill Rutherford, a special needs education expert at the University of Otago:

“Essentially we value the normal over the abnormal, thus our resources are aimed at normalising. The normalising approach of special education, therefore, is one that conceals the rights of students in and of themselves as human beings not regardless of difference but because of difference.”

In the UK, research shows that teacher assistants (TAs) are being used as substitute teachers for those kids with the greatest pedagogical needs and this leads to those children having diminished outcomes.

‘There’s no school place for your child’

The New South Wales auditor-general’s report published this month was a further reinforcement of how schools, and more importantly education systems, are failing children with a disability across Australia but specifically in NSW.

Concern was raised that one in four of the 300 respondents said they had been told there was no place for their child at their local school. When children were given a place, the report found that teachers often refused or were reluctant to make adjustments, due to poor attitudes towards disability. The reasoning being that students with disability do not need an adjustment, despite individual student medical reports demonstrating otherwise.

In addition to these issues, there were accounts of bullying by staff, of support teachers not having appropriate training and qualifications, and school principals not being held accountable for ensuring adjustments were made for students.

More training needed

The report recommended that the Department of Education should provide guidance on reasonable adjustments, encourage more teachers to complete both modules of the disability standards training and use school learning and support officers more effectively in the classroom.

Simple measures such as ensuring prospective teachers’ understanding of support for students with disability and reviewing how schools support the behavioural needs of students with disability were also suggested. Such measures seem obvious.

Meeting the diverse needs of learners

This is not a simple funding issue. It is the cultural attitudes towards children with a disability that lead to exclusion. If we fail to recognise all children as learners and having capability, our low expectations will perpetuate attitudes of discrimination and failure.

A public education should be for all, not only those with acceptable criteria. It is a recognised human right.

In a comment made by NSW Education Minister Adrian Piccoli about the need to spend more money on supporting disadvantaged students to keep them out of jail, he said:

“Prisons are not filled with kids who went to $30,000 private schools; they’re full of people with speech problems and autism, who had a pretty poor experience at school. This is an equity issue.”

His blanket labelling of children with autism as criminals is unhelpful and highlights the attitudinal ignorance reported in the auditor-general’s report. But it also points to a wider problem within the education system. Both the Labor and Liberal parties are correct in their respective policies of a need for increased funding and/or accountability both for education in general and specifically for children with a disability.

Increased funding will provide materials and staffing to allow adjustments to allow children to access the curriculum and schools. Funding will support staff training in the means and methods to implement tailored support for all students; but schools and education authorities need to be held accountable for their funding to ensure it does support the students it is aimed for.

David Roy is Lecturer in Education, University of Newcastle.
School is not always a safe place for students with disability – this has to change

In a study, children with disability reported being insulted and physically abused while at school. A report by research academic Sally Robinson

The United Nations has been asked to investigate dozens of incidents in which children with disabilities were allegedly assaulted, locked in dark rooms and restrained in Australian schools.

Although there is no research as to how widespread this problem is, these cases point to a wider concern that students are experiencing a range of harms in schools, and that teachers are struggling to support students with increasingly complex needs.

Multiple inquiries have shown that system failures within the education sector often result in abuse and trauma.

Following extensive hearings, last year’s Senate Inquiry into violence, abuse and neglect of people with disability recommended the elimination of restrictive practices against children as a national priority.

A recent large report by the Victoria Human Rights and Equal Opportunity Commission into experiences of school students with disability found that of the 900 teachers who responded, 60% reported having used restraint. Just over half also said they were inadequately trained to deal with this situation.

The costs of this are too high for children and families, and alarm many working in schools.

Taking concerns about harm of students to the UN is a strong indication that existing systems are not working for at least some students with disability.

Distress and discord

Restraint, however, is the tip of the iceberg for students with disability.

In 2014, we conducted qualitative research about safety and harm in school for students with cognitive disabilities. We found that the needs and rights of children with disabilities were not well recognised.

Children, young people and their families reported harms ranging from cruel insults and threats to physical assaults, broken bones, and sexual assault.

Students talked predominantly about the ongoing (sometimes daily) interpersonal abuses they face or faced, mostly from other students but also from educators and transport staff, and how these impacted on their confidence, happiness and wellbeing.

They felt unheard and isolated, unable to ask for help or that help was not provided when they sought it.

Families raised more critical incident types of injury and assault, and talked about the resulting distress and discord these harms caused. They also mentioned the difficulties they had in trying to resolve both the causes and the effects of the harm.

Families described poor communication, negative attitudes of school personnel, and a lack of adequate concern expressed by schools for the harm experienced by their child.

Complexity meets low expectations

Teachers and administrators in schools and associated support professionals, including child protection and disability support workers and psychologists, spoke more systemically about the impact of low expectations, discrimination and lack of access to needed support.

Many of them perceived the abuses experienced by students with cognitive disability (including intellectual disability, autism, acquired brain injury and learning disabilities) arising in response to these entrenched cultural and structural barriers.

They saw both students and school environments becoming increasingly complex, and felt they had to draw on fewer resources (financial, collaborative and cultural)
to best support students with cognitive disability, particularly in mainstream schools.

They particularly stressed difficulties in both finding out what they needed to know to better support students, and in sharing this information with colleagues who might be unwilling to take up inclusive practice. They said how difficult it could be to support individual children when leadership was poor or systems were not in place to support action. The rights of children with disability to the educational and social benefits of inclusive education were at times poorly recognised.

What helped?
In situations where harm or abuse of students was responded to well by schools, a number of elements were at play.

Individual issues were dealt with effectively and promptly, and within a climate created by strong leadership. This set a tone in which inclusion of all students was expected, harm of students was not tolerated, and achievements of all students were celebrated.

For students, this meant being known and valued by someone, being acknowledged, listened to, and having concerns taken seriously. These connections gave them somewhere to turn if things were not going well, increased the likelihood that they would be believed and that action would be taken.

Many children and young people in our study did not feel that they had someone in their school who filled this role.

The need for better linkages and stronger measures
At a systems level, it was clear from an analysis of law and policy that better linkages are needed between the existing legal and policy frameworks in education, disability and child protection.

The rights and interests of students with disability need to be prioritised within these frameworks and made more visible as a priority group in national policy.

The Australian Law Reform Commission points to the piecemeal nature of regulatory efforts across the country as insufficient to protect the rights of people with disability who are subject to restraint. However, recent initiatives at a national level, including the development of a national quality and safeguards system for the NDIS, provide a timely opportunity to inform a uniform approach to regulating restrictive practices. This applies nationally across a range of settings, including schools.

Action is needed at a national level to promote safety and to eliminate restrictive practices. This should be through legislation and policy, which is then reflected in responsive, respectful practice in schools at the local level.

Safe cultures and focused strategies
The creation of safe school cultures is critical in preventing harm. Positive behaviour support, engagement by the principal through all levels of the school in inclusion building activities at all levels of the school, and the promotion of a culture in which diversity is acknowledged and respected are core components of positive school cultures. These promote safety for all students, but especially students with disability.

Specific strategies to minimise the risk of abuse are more likely to succeed, such as clear, responsive policies at a local level; a focus on professional learning for teachers and other staff, as well as educative support for students and families. This also includes early intervention to prevent student to student harm and guidance for students and staff in critical areas such as resolving conflict.

Families described poor communication, negative attitudes of school personnel, and a lack of adequate concern expressed by schools for the harm experienced by their child.
Equal before the law? How the criminal justice system is failing people with disability

A SPEECH BY ALASTAIR MCEWIN, DISABILITY DISCRIMINATION COMMISSIONER

Today I would like to discuss with you the criminal justice system in relation to human rights. In particular, I will explore the extent to which people with disability are treated differently within the justice system compared to members of the broader community.

Introduction

Rose (‘Rosie’) Ann Fulton, a name you may be familiar with. In 2014, she caught the nation’s attention as the 23-year-old NT resident who spent at least 18 months in prison without conviction for crimes relating to a motor vehicle. She had been found unfit to plead by a WA Court because she had an intellectual disability and was sent to Kalgoorlie prison because no other suitable accommodation was available for her. Following media attention, public outcry and a petition signed by 120,000 Australians, the NT Government intervened to see Ms Fulton returned to her home in Alice Springs.

So what has become of Rosie Ann Fulton?

Just a few months ago, Ms Fulton was rearrested for assaulting a police officer and disorderly conduct in a police station. She was sentenced to 21 days’ jail.

Ms Fulton’s guardian Ian McKinlay was quoted in the media saying that the residential care model devised for her by the Health Department had failed. He said: “The support has slowly collapsed down to next to nothing ... For all intents and purposes she’s back on the streets, taking drugs, being exploited and is at serious risk.”

And in news from last Friday, the United Nations Committee on the Rights of Persons with Disabilities released its views on the case of Marlon Noble. That name may also be familiar to you. Mr Noble, an Aboriginal man who has an intellectual disability, was charged with child sexual abuse in Western Australia. He was deemed unfit to stand trial but was nevertheless detained in prison for more than 10 years. The Committee found that because the authorities did not provide alternatives and support services for Mr Noble, this detention converted Mr Noble’s “disability into the core cause of his detention”. And, further, the Committee noted that throughout Mr Noble’s detention, “the whole judicial procedure focused on his mental capacity to stand trial without giving him any possibility to plead not guilty and test the evidence submitted against him.”

What are we seeing here?

A grim picture of disability, disadvantage, discrimination. Our repeated failure as a nation to respect the basic human right of all Australians, including people with disability, to have equal access to justice. It is ten years since the Convention on the Rights of Persons with Disabilities was adopted by the United Nations. Yet we are still seeing people with disability treated as inferior to others in the criminal justice system.

Sadly, Ms Fulton’s and Mr Noble’s cases are not isolated ones. Many Australians who need communication supports, or who have complex and multiple support needs, are not having their rights protected, and are not being treated equally, in the criminal justice system.

People with disability continue to be ‘outsiders’, struggling to understand and be understood in formal systems not designed with them in mind and, for a long time, without their input.

Case for change

In 2014 the Australian Human Rights Commission, under the leadership of former Disability Discrimination Commissioner Graeme Innes, published the report Equal before the law: towards disability justice strategies. In developing this report, the Commission consulted with victims, witnesses, those accused of crime and offenders.

I would like to look briefly at the situation described in that report and consider what if any progress has occurred.

Evidence and submissions examined by the Commission supported the conclusion that people with disability have higher rates of interaction with the criminal justice system than other Australians. For example, more than a quarter of people who report sexual assault have a disability.

The situation of people with intellectual disability or mental illness who come in contact with the criminal justice system, especially young people, is particularly precarious and concerning.

• In NSW, young people with mental health disorders and/or cognitive impairment are at least six times more likely to be in prison compared with young people without a disability.

• Research by the Australian Institute of Criminology revealed that between 1989 and 2011, of the 105 people shot by police, 42 per cent had a mental illness.

• A 2013 inquiry by the Senate Legal and Constitutional Affairs References Committee also found that people who interact with the criminal justice system often have: high levels of hearing impairment, cognitive disabilities, acquired brain injury, mental illness and language impairment.

The evidence also suggests that it is women, children, Aboriginal and Torres Strait Islander people, and people from a culturally and linguistically diverse background with disabilities, who are even less likely to have equitable access to justice.
• Ninety per cent of women with intellectual disabilities have been sexually abused.

• According to the Survey of Disability, Ageing and Carers (SDAC) conducted by the Australian Bureau of Statistics (ABS) in 2012, Aboriginal and Torres Strait Islander people were 1.7 times more likely as non-indigenous people to be living with disability. The rate of imprisonment for Aboriginal and Torres Strait Islander prisoners was 15 times higher than the rate for non-indigenous prisoners at 30 June 2013, which was consistent with 2012.

The report identified five key barriers which limit or prevent access to justice for people with disabilities. The first barrier concerned programmes, assistance and other community supports addressing violence, prevention and disadvantage, which may not be readily accessible to those with disabilities.

The second barrier dealt with the supports people may need, to participate in the criminal justice process.

• In an anonymous submission to the Commission, it was noted when deaf people go to the police station, their request for an interpreter is commonly denied. An example was given of an incident where two police officers attended a deaf couple’s house and expected the deaf couple’s child to interpret for them. The submission noted that “It is very inappropriate to use family members as interpreters, even more so to use children, who should not be exposed to adult situations and conversations such as Police matters.”

• Another submission observed that while children under the age of 16 years old are permitted to give their statement via audio or video taped evidence, no such opportunity exists for those who are over 16 years of age but have an impaired cognitive functioning that is similar to that of a 12 year old.

The third barrier concerned negative attitudes and assumptions about people with disabilities, which often result in us being viewed as unreliable, not credible or not capable of giving evidence, making legal decisions or participating in legal proceedings.

The fourth barrier dealt with accommodation and programmes for people deemed ‘unfit to plead’. These people are often detained indefinitely in prisons or psychiatric facilities, without being convicted of a crime.

• In 2014, the Commission conducted an inquiry into the case of four men with intellectual and cognitive disabilities who had been held for many years in a maximum security prison in the Northern Territory. Each complainant had been found unfit to stand trial or found not guilty by reason of insanity. For two of these men, if they had been found guilty, they would have received a sentence of 12 months. Instead they were imprisoned for four and a half years and six years respectively.

• In the Commission’s report on this inquiry, it was noted that with respect to one of the men, the impact “of custody in a maximum security prison was severe. Chief Justice Martin found that [he] was unable to live under conditions in a prison where he can associate with other prisoners ... he was isolated in a small single cell and the opportunities for him to be permitted outside this cell were restricted to two or three hours per day.”

The situation of people with intellectual disability or mental illness who come in contact with the criminal justice system, especially young people, is particularly precarious and concerning.
The last barrier we identified concerns prisoners. Supports and adjustments may not be provided to prisoners with disabilities so that they can meet basic human needs, and participate in prison life. This can result in delays and difficulties exiting prison, or exiting with successful chances of re-integration.

These barriers lead to breaches or potential breaches of Australia’s human rights obligations under a number of international treaties and conventions. These would include among others the Convention on the Rights of Persons with Disabilities, the Convention Against Torture and in the cases of multiple discrimination, the Declaration on the Rights of Indigenous Peoples, Convention on the Elimination of all Forms of Discrimination against Women and other instruments.

Not only is there a human rights imperative to ensure equality before the law, there is also a strong economic imperative. Cost-benefit analyses indicate significant savings for governments when support is provided early, and diversion options from the criminal justice system are available. For every dollar spent on diversion between $1.40 and $2.40 in government costs is saved – big money when the Australian community spends $11.7 billion annually on the criminal justice system.

But more than any figure or statistic I can quote, it goes against our moral and social conscience as society that Australians with disability should be denied the opportunity to participate equally and be treated with dignity and respect, whether they be victims, offenders, witnesses, jurors, or participants in the criminal justice system.

**Call for Disability Justice Strategies**

Since criminal justice is ultimately a matter for the states and territories, the Commission recommended in its report that each jurisdiction in Australia develop a Disability Justice Strategy. It was recommended that such strategies should, in ways that are relevant and appropriate to the particular characteristics of the jurisdiction, address a core set of principles and include certain fundamental actions.

The first principle was about ensuring the right of people with disability to appropriate communications support. Communication is the cornerstone of a person with disability’s participation in the justice system and essential to their personal autonomy and decision-making.

- In a recent inquiry into Equality, Capacity and Disability in Commonwealth Laws, the Australian Law Reform Commission encouraged the move towards ‘supported decision-making’ recognising the equal right of people with disability to express their will and preferences and be supported, where such support is needed.
- Actions that could be taken to improve communication and supported decision-making could include providing access to an interpreter service, communication support worker or hearing assistance. Conditions of bail, bonds and restraining orders should also align with the person’s capacity to comply and be communicated appropriately.

Other principles outlined in the report covered:

- Early intervention and wherever possible diversion into appropriate programs.
- Increased service capacity and appropriately resourced support.
- Effective training addressing the rights of people with disabilities and appropriate responses to violence and abuse.
- Consultation with people with disability and involvement as active partners in the development, implementation and monitoring of relevant policies and programs.
- Finally, specific policy and legal measures to address the intersection of disability and gender to achieve appropriate responses.

A number of states and territories acknowledged the Commission’s findings and have developed Disability Justice Strategies or other initiatives. These include among others:

- The Government of South Australia, which has developed a Disability Justice Plan 2014-2017.
- The NSW Department of Justice has a Disability

• In Tasmania, a Steering Committee and Community Reference met for the first time this year to discuss the development of a Disability Justice Strategy for Tasmania. Further meetings will take place through 2016 and it is anticipated the draft Disability Justice Strategy for Tasmania will be presented to the Attorney-General in early 2017.

There is more to do
However, as the cases of Rosie Ann Fulton, Marlon Noble and others illustrate, it is clear that we still have a lot of work to do.

Recently a case has been referred to the UN Human Rights Council involving the treatment of an intellectually disabled Aboriginal man, who had been repeatedly sedated and strapped to a restraint chair in the maximum security wing of an Alice Springs prison.

Ensuing revelations about the shocking treatment of juveniles in the Don Dale Youth Detention Centre have prompted the Prime Minister to set up a Royal Commission into the Child Protection and Youth Detention systems of the Northern Territory.

From time to time, high profile cases such as these come to our attention. We are shocked, we respond, and at times some intervention or repreive follows.

But how many more stories are left unheard?
It is estimated that there are at least another 30-40 cases of people with intellectual disability being detained in the Northern Territory without conviction.

And what of that victim of sexual assault who was unable to communicate her story to the police because of her disability? The person with brain injury who could not understand the complicated language of the court and his bail conditions, moreover comply? And that woman who is deaf who could not participate in a jury because no Auslan interpreting was made available to her?

There is clearly a lot more we have to do to improve the situation of people with disability, everyday Australians, who come into contact with the criminal justice system. This is where Disability Justice Strategies and other systemic improvements come into play.

Systemic change must occur in the criminal justice system and this must be done in consultation with people with disability.

I would like to take this opportunity to recognise and commend the legal services, disability support workers, guardians, carers, peak bodies and advocacy groups who work tirelessly to provide support and assist people with disability to navigate the justice system.

Amidst resource, time and funding pressures, these dedicated individuals and organisations are leading the way in this battle for access.

The bigger picture
It is also important to see these issues in context.

The criminal justice system is just a window into the broader issues of disadvantage, discrimination and exclusion that people with disability and other vulnerable groups face every day in Australia. Issues which I know would not be foreign to Reverend Costello and many of you here today.

Here is a brief picture:
• One in five people in Australia has a disability, that’s 4.3 million Australians.
• The World Health Organisation and World Bank Group have reported that people with disabilities are more likely to experience poverty, live in poor quality or insecure housing and have low levels of education. They are often socially isolated, with fewer opportunities to take part in community life. Australia ranks lowest among Organisation for Economic Co-operation and Development (OECD) countries for the relative income of people with disabilities.
• Overall, employment rates for people with disabilities remain low, with workforce participation at around 54 per cent compared to 83 per cent for people without a disability. Initial results from the 2015 ABS Survey of Disability Ageing and Carers indicate that these figures have remained steady since 2012.
• In 2014-15, the Commission received 3,529 enquiries and 742 complaints about disability discrimination. More than a third of enquiries (35.4%) and complaints (41.6%) were in the area of employment.

Equality before the law and access to justice is not the sole burden of the state governments, police, the courts, disability services. It is our collective responsibility as Australians to ensure that the fundamental human right of equal access to justice is not denied to those of us with a disability in Australia.

As Disability Discrimination Commissioner, my proposed priorities, based on initial consultations and reviews, will be: employment, education, housing, NDIS and criminal justice system. There are of course many other areas of life where discrimination against people with disability is prevalent, however resources and time preclude me from taking on a wide range of issues.

I look forward to working together with all of you to build pathways to justice in our criminal systems. But more than that, pathways to inclusion for people with disability in our communities. To quote Reverend Costello in closing: “Ultimately, we have got to co-operate for our common destiny”.

Thank you.

Mr Alastair McEwin is Disability Discrimination Commissioner, Australian Human Rights Commission.

We count what matters, and violence against people with disability matters

The Senate inquiry into violence, abuse and neglect against people with disability heard many horrific stories of violence experienced by adults and children with disability. By Anne Kavanagh and Sally Robinson

They experience violence at the hands of intimate partners, parents, informal carers, service providers, teachers, medical professionals, co-residents in institutional settings, and others.

Greens senator Rachel Siewert, handing down the report, observed:

One of the issues that is really clear is that we do not have good data around prevalence. We do not collect this data ... Yet that is the only way that we can understand what is going on.

This echoes the concerns of Australian disability researchers in submissions to the inquiry.

Data is essential for political accountability. Violence against people with disability – 18% of the Australian population – is endemic, yet data about it is largely missing.

This lack of data impedes the development of effective policies and programs to prevent and respond to violence against people with disability. It also hampers advocacy efforts.

The lack of data lets governments, services and the community – all of us – off the hook.

28% of women with disability reported sexual violence (compared with 15% of other women).

What do we count now?

It is well recognised internationally that high-quality population-based prevalence data is needed to respond adequately to violence. In Australia, the ABS Personal Safety Survey (PSS) is regarded as the source of the best data on violence.

In 2012, for the first time, the survey included questions about disability. This enabled comparisons to be made between people with and without disability.

The chilling results of a comprehensive analysis of these comparisons were reported at the Population Health Congress in September. These results will soon be published in the Australian and New Zealand Journal of Public Health.

Findings included that since 15 years of age:

• 28% of women with disability reported sexual violence (compared with 15% of other women)

• 25% of women with disability reported partner violence (compared with 13% of other women)

• 35% of women with disability reported emotional abuse (compared with 19% of other women), and

• Men with disability also reported higher levels of sexual violence and partner violence than men without disability, but lower levels than women with disability.

The prevalence of all forms of violence was higher among people with disability.

What counts as violence?

But these statistics don't tell the whole story. This is because of how the PSS collects data. The family and other formal and informal carers who people with disability rely on for support may be perpetrators, but the PSS doesn't collect information about that.

People with disability also experience what legal researcher Linda Steele calls “lawful violence”. This is violence that against any other person would constitute a serious crime or even torture, but against people with disability is “treatment”.

People with disability may be uniquely vulnerable to forms of
violence like solitary confinement, forced medication, physical restraint, withholding food, medication or equipment, rough handling and so forth. Yet this is not counted in the PSS.

The survey includes only people living in private dwellings. This leaves out some of the settings in which people with disability are over-represented. That includes group homes, large residential facilities, psychiatric facilities, aged care facilities, prisons and so on. These settings lend themselves to higher levels of violence and abuse.

The PSS also will only run interviews with individuals. This means anyone who requires any support with communication (like deaf people or people with communication needs) is automatically excluded. It also samples only adults despite international data showing the prevalence of violence against children with disabilities is much higher.

So, while the PSS shows that people with disability are at higher risk of violence than people without disability, the picture is far from complete.

Other mainstream data collections are also inadequate. Child protection data does not report information on disability of either the child or parent/s, despite numerous commitments to do so under the National Framework for Protecting Australia’s Children. Information about disability is not in the crimes data reported by the Australian Institute of Criminology.

Additionally, our major data collections on disability – the Survey of Disability, Ageing and Carers and the Disability Services National Minimum Data Set – do not collect information on violence.

That is a missed opportunity the inquiry highlighted. Only at the request of the Senate committee has data from the National Disability Abuse and Neglect Hotline been released. It reflects a problematically low reporting rate when compared, for example, with the new NSW Ombudsman’s Reportable Conduct Scheme.

How to make violence against people with disability count

We count what matters, and what matters counts. This is at the heart of accountability. We need information on the types of violence, where it occurs, how often, and who are the perpetrators.

People with disability need to be at the forefront of defining violence to ensure we capture the full complexities of their experiences.

Men with disability also reported higher levels of sexual violence and partner violence than men without disability, but lower levels than women with disability.

The inquiry recommended questions about disability and violence be included in population surveys conducted by the ABS and recorded in datasets – such as child protection data – held by the Australian Institute of Health and Welfare.

These improvements would help us properly understand the extent of the violence. We could then respond better to the pervasive and hidden human rights violations against some of the most marginalised people in our community.

As Labor senator Claire Moore said in her evidence to the inquiry:

... data is not just evidence that is put out – not just figures and numbers. Data reflects the lived experience of people ... Data is the extraction of information that we can do better.

This article was co-authored by Dr Jess Cadwallader, Advocacy Project Manager, Violence Prevention, at People with Disability Australia. It draws in part on her presentation to a symposium on Power and Accountability at the University of Sydney in November 2015.

Anne Kavanagh is Head, Gender and Women’s Health Unit, Centre for Health Equity, University of Melbourne.

Sally Robinson is Research Fellow, Centre for Children and Young People, Southern Cross University.
The Paralympics is changing the way people perceive disabilities

In addition to being sporting role models, another important role for that Paralympic athletes can undertake is to use their profile for political activism, write Marion Gray and Michele Verdonck

The prevailing view of disability in times past was a medical one, where the individual was seen as ill and their condition was a problem with the individual. Perceptions of disability were also based on fear of difference and a perceived need to be ‘normal’.

These negative views influenced the way people interacted with individuals with disabilities and impacted the way people with disabilities viewed their own roles in society, including their involvement in sport.

In more recent times, there has been a push to promote a social rather than medical perspective on disability. The social view shows us that people with disabilities are less restricted by their own impairments than by the barriers put on them by the society.

This change in thinking has led to people having the right to access and participate in all levels of society, including sport. But as more individuals with disabilities have engaged in sport, and have been showcased in events such as the Paralympics, has this changed perceptions of disability?

Role models

Media coverage of Paralympic games has helped change societal perspectives. There was some criticism of the coverage of the earlier games as being patronising, but “pitying” language is becoming less common in media coverage today. Unfortunately, a notable exception is the recent statement by Brazilian journalist Joaquim Vieira, who called the games a “grotesque spectacle” and “a circus act ... to fill the agenda of political correctness”. This comment shows that some individuals – including some journalists – are still lagging when it comes to encouraging a change in societal attitudes towards disability.

The portrayal of positive life stories is one way of changing negative views, as was the case with British wheelchair tennis player Lucy Shuker. This is where the Paralympians receive more medals, they are viewed by many people, including policy makers, as heroes who have overcome adversity.

As potential “heroes”, Paralympic athletes are not only role models for other aspiring athletes, especially for those with a disability, but are also admired by society as a whole for their achievements.

Some notable role models include those who have won medals as well as gaining other mainstream awards. One example is the University of the Sunshine Coast’s student and swimmer Blake Cochrane, who has a world record and two gold medals from the London Paralympics, and a recent silver medal at Rio. He is the first person to win back-to-back university sportsperson of the year awards.

This feat shows that para-athletes are now increasingly being judged alongside other sporting peers with or without a disability. Another swimmer, Ellie Simmonds from Britain, received an OBE for her many achievements in Paralympic sport.

There are also those who have had success in both Paralympic and mainstream Olympic arena. One example is Natalie du Toit and Australia’s own Melissa Tapper. Melissa is currently competing in Rio and is the first Australian to have competed in both games.

Potentially more influential are people like Abdellatif Baka of Algeria, who won the T13 1,500m in a new Paralympic and Olympic world record time.

The Paralympics have not only changed attitudes in the sporting arena. Another example of a role model changing perceptions is Australian comedian, writer and broadcaster Adam Hills, who also has a disability. He has achieved mainstream success as presenter of the UK show The Last Leg, which stemmed from being involved in a panel show for the 2012 London Paralympics.

In addition to being sporting role models, another important role for that Paralympic athletes can undertake is to use their profile for political activism.

In doing so they can enhance societal change through continuing to highlight the ongoing inequalities faced by people with disabilities. The Paralympic Games showcases athletes at the pinnacle of sport, yet is it a reminder that sport at the highest level should be accessible to all people.

Marion Gray is Professor, Occupational Therapy, University of the Sunshine Coast.

Michele Verdonck is Senior Lecturer, Occupational Therapy, University of the Sunshine Coast.

WORKSHEETS AND ACTIVITIES

The Exploring Issues section comprises a range of ready-to-use worksheets featuring activities which relate to facts and views raised in this book.

The exercises presented in these worksheets are suitable for use by students at middle secondary school level and beyond. Some of the activities may be explored either individually or as a group.

As the information in this book is compiled from a number of different sources, readers are prompted to consider the origin of the text and to critically evaluate the questions presented.

Is the information cited from a primary or secondary source? Are you being presented with facts or opinions?

Is there any evidence of a particular bias or agenda? What are your own views after having explored the issues?

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MULTIPLE CHOICE 56
Brainstorm, individually or as a group, to find out what you know about people with disability.

1. **What is disability, and what are some examples?**

2. **What is the difference between disability and impairment? (Provide examples)**

3. **What is disability discrimination, and how can it affect people with disability? (Provide examples)**

4. **What does the term ‘reasonable adjustment’ mean in relation to people with disability?**
DISCUSSION ACTIVITIES

Complete the following activity on a separate sheet of paper if more space is required.

There has been a push to promote a social rather than medical perspective on disability. The social view shows us that people with disabilities are less restricted by their own impairments than by the barriers put on them by the society.

Gray, M and Verdonck, M, *The Paralympics is changing the way people perceive disabilities.*

Consider the above statement. Form into groups of two or more people and identify three famous people with a disability. Using the space provided below list the three people you have identified, their achievements, their disability and any societal barriers you feel they may have faced throughout their career. Compare your list with other groups in the class.

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____________________________________________________________________________________
“Disability advocacy came from the disability rights movement. In the 1970s and 1980s, significant battles were fought for the rights of people with disability.”

Disability Advocacy Resource Unit, What is disability advocacy?

Use the internet to research the history of the disability rights movement. Pay specific attention to the progress made during the 1970s and 1980s and how these developments paved the way for people with disability to achieve greater recognition of their rights. Write a few paragraphs identifying at least three (3) social and/or political changes that have assisted people with disability to achieve equal rights.

1. ____________________________

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2. ____________________________

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3. ____________________________

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____________________________________________________________________________________________________
Complete the following activity on a separate sheet of paper if more space is required.

A person with a disability has a right to the same employment opportunities as a person without a disability. If a person with a disability can do the main activities or ‘inherent requirements’ of a job, then they should have an equal opportunity to do that job.


Consider the above statement. Identify a possible employment opportunity for a person with the disability listed below. Using the space provided list the employment position and the main activities that would be involved. For each situation, explain if you believe there would be any restriction for a person to fulfil that opportunity and why? Also include any ‘reasonable adjustments’ that may be required.

VISION IMPAIRMENT

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A PERSON WHO USES A WHEELCHAIR

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SPEECH IMPAIRMENT

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________________________________________________________________________
Complete the following multiple choice questionnaire by circling or matching your preferred responses. The answers are at the end of this page.

1. The majority of people with disability have which of the following type of disability?
   a. Intellectual
   b. Mental
   c. Behavioural
   d. Physical
   e. Sensory
   f. Learning

2. Which of the following are examples of a physical disability? (Select any that apply)
   a. Dyslexia
   b. Epilepsy
   c. Multiple sclerosis
   d. Polio
   e. Amputation
   f. Down syndrome
   g. Spina bifida
   h. Quadriplegia

3. In what year did Australia ratify the Convention on the Rights of Persons with Disabilities?
   a. 1976
   b. 1978
   c. 1986
   d. 1988
   e. 1996
   f. 1998
   g. 2006
   h. 2008

4. There are many terms that should be avoided when talking about people with disability. From the list below select the more appropriate term.
   a. ‘Psycho’
   b. ‘Retarded’
   c. ‘Wheelchair-bound’
   d. ‘Spastic’
   e. ‘Paraplegic’
   f. ‘Dumb’
   g. ‘Normal’
   h. ‘Handicapped’
   i. ‘Mongoloid’

   1. Person without a disability.
   2. Non-verbal person.
   3. Person with paraplegia.
   4. Person who has Down syndrome.
   5. Person with disability.
   6. Person with an intellectual disability.
   7. Person with cerebral palsy.
   8. Person who uses a wheelchair.
   9. Person with a mental health difficulty.

MULTIPLE CHOICE ANSWERS

1 = d; 2 = b, c, d, e, g, h; 3 = h; 4 – a = 9, b = 6, c = 8, d = 7, e = 3, f = 2, g = 1, h = 5, i = 4.
1 in 5 people in Australia, almost 4 million people, have a disability and this proportion is increasing with the ageing population (Australian Network on Disability, What is a disability?). (p.1)

The majority of people with disability have a physical disability 83.9%, 11.3% have mental and behavioural disability and 4.8% have an intellectual or developmental disability (ibid). (p.1)

The Australian Disability Discrimination Act was based on the Disabilities Act that was developed in the USA in 1990 (Women’s and Children’s Health Network, Living with a disability). (p.5)

51% people aged 15-64 with severe or profound disability reported poor or fair health, compared with 6% for those without disability (AIHW, Disability). (p.10)

In 2011-12, people aged under 65 with severe or profound core activity limitation had a higher prevalence of various types of long-term health conditions and were 3.3 times as likely as those without disability to have 3 or more long-term health conditions (74% vs 23%) (AIHW, Health status and risk factors of Australians with disability 2007-08 and 2011-12). (p.11)

Adults aged 18-64 with severe or profound core activity limitation were 20 times as likely as those without disability to have a very high level of psychological distress (22% vs 1%) (ibid). (p.11)

While the proportion of older Australians has increased, the prevalence of disability amongst them has decreased. In 2015, 50.7% of older people were living with disability, down from 52.7% in 2012 (ABS, 4433.0 – Disability, Ageing and Carers, Australia: Summary of Findings, 2015). (p.12)

Young people with disability (15-24 years) were more likely to report the experience of discrimination (20.5%) than those aged 65 years and over (2.1%) (ibid). (p.14)

In 2009, 290,000 children aged 0-14 years reported having a disability. Over half (57%) had a profound or severe disability and almost 1 in 5 (18%) had a moderate or mild disability (AHRC, Face the facts: Disability rights, 2014). (p.25)

Australia ranks lowest among OECD countries for the relative income of people with disabilities (ibid). (p.25)

Despite progress towards making all public transport in Australia fully accessible by 2022, 1.2 million people with disabilities report difficulties using public transport (ibid). (p.37)

More than a quarter of people who report sexual assault have a disability (McEwin, A, Equal before the law? How the criminal justice system is failing people with disability). (p.44)

Research by the AIC revealed that between 1989 and 2011, of the 105 people shot by police, 42% had a mental illness (ibid). (p.44)

90% of women with intellectual disabilities have been sexually abused (ibid). (p.45)

It is estimated that there are at least 30-40 cases of people with intellectual disability being detained in the NT without conviction (ibid). (p.47)

25% of women with disability reported partner violence (compared with 13% of other women) (Robinson, S and Kavanagh, A, We count what matters, and violence against people with disability matters). (p.48)

Men with disability report higher levels of sexual violence and partner violence than men without disability, but lower levels than women with disability (ibid). (p.48)

Throughout history, people with disability have been hidden away or subjected to abuse, ignorance and prejudice (Disability Advocacy Resource Unit, What is disability advocacy?). (p.30)

53% of people with disability of working age are in the labour force, compared with 83% of people without disability. People with disability have nearly twice the unemployment rate of those without disability (ibid). (p.30)

In 2014-15 the Australian Human Rights Commission received 3,529 enquiries and 742 complaints about disability discrimination. More than a third of enquiries (35.4%) and complaints (41.0%) were in the area of employment (AHRC, Willing to Work: National Inquiry into Employment Discrimination against Older Australians and Australians with Disability). (p.31)

In 2012, there were 2.2 million (14.4%) Australians aged 15-64 years, of ‘prime working age’, with disability. Just over half (51.0%) of people with disability in this age bracket were women (ABS, 4433.0.55.006 – Disability and Labour Force Participation, 2012). (p.34)

Over the 19 years from 1993 to 2012, the unemployment rate for 15-64 year olds with disability decreased from 17.8% to 9.4% (ibid). (p.34)

Almost one-fifth (19.9%) of working-age people with disability who were employed in 2012 worked as professionals, followed by labourers (15.2%) and clerical and administrative workers (14.1%) (ibid). (p.37)

The Commonwealth Disability Discrimination Act says it’s against the law for education providers to discriminate against students with disability (Raising Children Network, Education rights for children with disability). (p.40)

More than a quarter of people who report sexual assault have a disability (McEwin, A, Equal before the law? How the criminal justice system is failing people with disability). (p.44)

In NSW, young people with mental health disorders and/or cognitive impairment are at least six times more likely to be in prison compared with young people without a disability (ibid). (p.44)

Research by the AIC revealed that between 1989 and 2011, of the 105 people shot by police, 42% had a mental illness (ibid). (p.44)

90% of women with intellectual disabilities have been sexually abused (ibid). (p.45)

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GLOSSARY

**Autism Spectrum Disorders**
Lifelong neurodevelopmental disabilities that involve an abnormality of brain development and function. The three spectrum disorders are: Autistic Disorder; Asperger’s Disorder; and Pervasive Developmental Disorder.

**Carer**
A person who provides informal care or help to a person with disability.

**Convention on the Rights of Persons with Disabilities**
The Convention on the Rights of Persons with Disabilities is an agreement by countries around the world to make sure that people with disabilities and people without disabilities are treated equally. It was adopted by the United Nations General Assembly on 13th December 2006 and Australia ratified the Convention and its Optional Protocol on 17 July 2008.

**Disability advocacy**
When a person is acting, speaking or writing to promote, protect and defend the human rights of people with disabilities.

**Disability advocate**
A person who advocates for themselves, another person, or a group of people with disability. They work through issues that have an adverse impact on rights for individuals or groups, or on a society-wide level. Advocates may be paid or operate on a voluntary basis.

**Disability**
A disability refers to impairments of physical, sensory or mental functions which may affect undertaking activities or participating in community life. It may be caused by accident, trauma, genetics or disease. A disability may be temporary or permanent, total or partial, lifelong or acquired, visible or invisible.

The definition of ‘disability’ used in the Disability Discrimination Act is broad. It includes physical, intellectual, psychiatric, sensory, neurological and learning disabilities. It also includes physical disfigurement and the presence in the body of disease-causing organisms, such as the HIV virus. The Act covers disabilities that people have now, had in the past, may have in the future or which they are believed to have.

**Discrimination**
Discrimination occurs when someone is treated less favourably than another person in a similar circumstance. Disability discrimination occurs when someone is treated unfavourably because they have a disability.

**Impairment**
Refers to a loss or difference in how a body part works, for example partial sight, blindness, paralysis of an arm or leg or hearing loss. Impairments result from injury, illness or genetic disorders.

**Intellectual disability**
Refers to any set of conditions resulting from genetic, neurological, nutritional, social, traumatic, or other factors. These conditions could occur prior to birth, at birth, or up to the age of 18 that affects intellectual development. Its impact can range from minimal to severe.

**Mental health condition**
Refers to a health condition that creates an alteration in thinking, mood, or behaviour associated with distress or interference with personal functions. It may be temporary or long lasting and can range from mild to severe. Also known as mental illness, mental disorder, and psychosocial disability.

**National Disability Insurance Scheme**
The NDIS is a national scheme with the aim of providing targeted support and better coordination and access to services for people with disability. It is a single national system, which means regardless of what kind of disability, people will be able to equally access existing services.

**Physical disability**
Refers to any permanent condition that involves total or partial loss of a bodily functions, or total or partial loss of a part of the body and prevents normal body movement and or control. Examples of lifelong physical disabilities include: amputation, paraplegia, quadriplegia, polio, epilepsy, spina bifida, acquired spinal injury, muscular dystrophies, multiple sclerosis and cerebral palsy.

**Reasonable adjustment**
Also known as workplace adjustments. A reasonable adjustment is when a change is made to a work process, practice, procedure or environment that enables an employee with disability to perform their job in a way that minimises the impact of their disability.

**Sensory disability**
Refers to a disability of the senses (e.g. vision impairment, hearing loss, deaf blindness). Other examples of sensory disabilities are Sensory Integration Dysfunction (SID) and Autism Spectrum Disorders.
WEB LINKS

Websites with further information on the topic

Australian Centre for Disability Law  www.disabilitylaw.org.au
Australian Federation of Disability Organisations  www.afdo.org.au
Australian Human Rights Commission  www.humanrights.gov.au
Australian Network on Disability  www.and.org.au
Carers Australia  www.carersaustralia.com.au
Children and Young People with Disability Australia  www.cyda.org.au
Department of Human Services  www.humanservices.gov.au
Disability Advocacy Network Australia  www.dana.org.au
Every Australian Counts  www.everyaustraliacounts.com.au
First Peoples Disability Network  www.fpdn.org.au
Inclusion Australia  www.ncid.org.au
Intellectual Disability Rights Service  www.idrs.org.au
National Disability Insurance Scheme (NDIS)  www.ndis.gov.au
National Disability Services  www.nds.org.au
People with Disability Australia  www.pwd.org.au
Women With Disabilities Australia  http://wwda.org.au

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