



## POSITION PAPER ON THE RIGHT TO

# A

# HOME

# OF ONE'S OWN

“a familiar or usual setting : congenial environment; *also* : the focus of one's domestic attention *<home is where the heart is>*”

“The ache for home lives in all of us, the safe place where we can go as we are and not be questioned.”

**Maya Angelou**

“The strength of a nation derives from the integrity of the home.”

**Confucius**

“The home should be the treasure chest of living.”

**Le Corbusier**

## About QAI – our values and beliefs

Queensland Advocacy Incorporated (QAI) is an independent community-based advocacy organisation that has for over twenty-five years campaigned for the rights of vulnerable people with disability in Queensland. With a focus on the fundamental needs of the most vulnerable people in our community, QAI has a history of avant-garde advocacy for people with disability to have supports to live an inclusive life in the community.

At QAI, we believe that all human beings are equally important, unique and of intrinsic value. Everyone should be seen and valued as a whole person, first and foremost. The human condition is such that societies tend to devalue those who do not fit within their models of perfection. These groups, including people with disability, are socially marginalised. As an organisation we seek to bring about a common vision where all human beings are equally valued.

*The archaic conception that institutional care is 'best' for people with disability is no longer the prevailing mindset of our society. What is becoming the exemplar is the notion and practice of social inclusiveness. It is disappointing that today we still use such language to defend and support the right to live in a home of one's own.*

*Wolf Wolfensberger's theory of 'normalisation' and its application serve to influence the perception of the community about people with disability and encourage acceptance, welcoming and a place to belong.*

*However, as is common in practice, systems have perverted the intention of many great ideas and unwittingly created something entirely different (which have led to today's decaying regimes in group homes and other institutionalised residential complexes).*

*At the hands of well-meaning professionals, bureaucrats and other stakeholders, the application of The Normalisation Principle and the Principle of Least Restrictive Alternative evolved into a poor imitation of a real life in the community, which has not served to provide the role models or opportunities for social interactions. It has unfairly coloured popular impressions of people with disability by creating indelible associations with charitable care and control, and the medical model of disability.<sup>1</sup>*

Instead of supporting people with the resources they need to live in the community, our historical failings are replicated and small to large institutions still thrive. Despite the reform process of the mid 1990's, there is a return to the cycle of new building – the notion that bricks and mortar and 'warehousing' of people is both economical and a way to keep people safe.

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<sup>1</sup> Submission To The Office Of The Public Advocate "People With Disability In Long-Stay Health Care Facilities" QAI, August 2013.

## **The scope of this paper**

Queensland Advocacy Incorporated acknowledges the valuable work of other organisations that seek to bring about positive changes that will in the long term see every person with a disability supported to live in a home of their own choosing, that is culturally appropriate, accessible and secure. The Australian Network for Universal Housing, Queenslanders with a Disability Network, Griffith University, The Summer Foundation and many more are likeminded groups that are working to advance the agenda for affordable, accessible and attainable homes for people with disability.

QAI is focussing attention on the vulnerable people with disability who do not have the opportunity or voice to express their own wants and wishes directly, and who are often forgotten in places like boarding houses, hostels, nursing homes, group homes, the streets, the family home where they feel they may never leave, and in unsuitable unaffordable private rentals, or those at risk of falling into any of the above. We are not attempting to promote a model but rather very strict principles that should be applied to any and all concepts in the agenda for housing for people with disabilities.

## **Setting the Tone for the Conversations**

In order to consider the immediate support needs of individuals it is vital that they are engaged in discussions about what they want. Certainly families and supporters should be consulted, but it is long overdue that the people themselves are encouraged and supported to communicate in whatever means, their choices about their future. This will require considerable concerted and detailed efforts to allow residents to explore opportunities and options that they may (in some cases) never have experienced in their lifetimes.

When people with disability are invited to discuss their wants and wishes about their living arrangements and locations it is important to start the discussion with respectful listening and language that reflects that respect.

Our language conveys commitment not merely information. The words used can shape lives whether intentional or not, whether we know it or not. The language we use conveys what is understood and has meaning in community.

When we consider the language used by certain groups and the purpose of that language for example:-

Bureaucrats, service providers, clinicians, academics and others use language to:-

➤ identify, define, categorise and classify – to put people in ‘groups’  
so that people are:

➤ placed, treated, managed – determined FOR

and creates a culture of :

- labelling people, particularly by their diagnosis, thus reinforcing this in the general community perception.

Consider how the use of Language impacts on feelings of self-worth, reputation and image, life opportunities and autonomy, communication and behaviour for us all. Then consider the impact of how language is used and where it is focussed in the way it can either damage or elevate quality of life for people with disability.

It is imperative that all conversations with and about people with disability are both in the same context and language that is used for everyday Australians, and with the same level of respect, dignity and democratic processes as for every other person. It is the only way to truly respect the NDIS aim of responding to “nothing about us without us” plea from people with disabilities themselves in reference to the right to self-determination.

### **Consider what makes a home**

It is reasonable to assume that a ‘home’ is comfortable, situated in a location of one’s choosing, and that the occupant or occupants have chosen to live there, either alone by their own design or with people of their choosing.

Common practices dictate that a person’s level of support needs should be uppermost when considering where a person should live. If one believes that to be true then how valid is the word ‘home’?

Support to live in a home of one’s own, in the location of choice, with whom they wish is no extraordinary dream but has been unattainable for a large number of people with disability.

To limit a person’s right to choose where, how and with whom they live, based on the person’s support needs seriously erodes the person’s rights as an ordinary citizen.

People with disability want to live in homes like anyone else. Our organisation hears from people about their housing wants and wishes. For too long too many people have either languished in congregate care arrangements such as institutions, group homes large and small, hostels and boarding houses, and quite often far removed from their families, informal supports and natural networks. Sometimes they have merely existed while experiencing abuse, neglect, violence, fear, humiliation, degradation.

Long waiting lists for public housing, unaffordable private rentals, and a lack of appropriate individualised support to live the dream has forced people to accept untenable offerings.

A home is every person’s refuge, haven and domain. Support staff and other visitors including clinicians, guardians and therapists must respect that they are visiting the person’s home and it is not an office.

## International Conventions

Australia and the State of Queensland have been leading promoters of human rights. The Federal Government is a signatory to more than eighteen conventions specifically relating to human rights and is a keen promoter of such rights in international forums.

The right to housing is entrenched in a number of international Human Rights instruments such as the *Universal Declaration of Human Rights*,<sup>2</sup> the *Convention on the Elimination of Discrimination Against Women*,<sup>3</sup> the *Convention on the Elimination of All Forms of Racial Discrimination*,<sup>4</sup> the *Convention on the Rights of the Child*,<sup>5</sup> the *International Covenant on Economic, Social and Cultural Rights* (ICESCR)<sup>6</sup> and the *Convention on the Rights of Persons with Disabilities* (CRPD) which provides that:

States Parties recognise the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realisation of this right without discrimination on the basis of disability.<sup>7</sup>

### What Constitutes Adequate Housing?

The authoritative 'General Commentary'<sup>8</sup> (1991) by the Committee on Economic, Social and Cultural Rights provides extensive interpretation of the right to 'Adequate Housing' [Article 11(1)]. Considerations encompassed include:

Legal security of tenure

Availability of services, materials, facilities and infrastructure

Affordability

Habitability

Accessibility

Location, and

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<sup>2</sup> Article 25 (1) Adopted and proclaimed by UN General Assembly resolution 217 A (III) or 10 December 1948.

<sup>3</sup> Article 14 (2) and 16 (h) Adopted and proclaimed by UN General Assembly resolution 34/180 of 1979.

<sup>4</sup> Article 5 (e) (iii) Adopted and proclaimed by UN General Assembly resolution 2106 (xx) of 21 December 1965.

<sup>5</sup> Article 27 Adopted and proclaimed by the UN General Assembly resolution 44/25 of 20 November 1989.

<sup>6</sup> Article 11(1) Adopted by the UN General Assembly resolution 2200 A (XXI) of 16 December 1966. 6 Ibid. 7 "The right to adequate housing (Art. 11(1): forced evictions" (1997) Office of Commissioner for Human Rights; General Comment 7 at 1. 8 Ibid. at 14.

<sup>7</sup> Article 28, Convention on the Rights of Persons with Disabilities, adopted 13 December 2006, 2515 UNTS 3, entered into force 3 May 2008.

<sup>8</sup> <http://www.refworld.org/docid/47a7079a1.html>

## Cultural adequacy

These considerations are explored further in this paper but in the context of houses and living arrangements for people with disability.

## Legal Security of Tenure

'Legal Security of Tenure' attracts considerable attention within the General Commentary. It takes a variety of forms, including public and private rental accommodation, cooperative housing, leasehold, owner-occupation, emergency housing and informal settlements, including occupation of land or property.

No matter what their tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. The commentary also states that: Forced evictions are prima facie incompatible with the requirements of the Covenant.<sup>9</sup> This is of vital importance for people who are vulnerable and are already a high proportion of homeless persons.

## Appropriateness of support

The practice of successive government referrals of people with disability to private boarding houses and hostels has been a major contributing factor to the hidden cycle of abuse, neglect crime and death. Following the death of a person at a private supported facility, a Coroner's report (2002) recommended that Disability Services Queensland review its system whereby a person with a disability of whatever nature, and for whom the Department is primarily responsible, is placed in a residential facility suitable to their needs.

Following the release of the Coroner's Report, the then Minister for Disability Services made a public commitment to an independent review of the processes used by DSQ when referring people with a disability to private sector residential facilities. The Minister had also instructed Disability Services Queensland to cease referring individuals with complex support needs and challenging behaviour to private residential facilities for long-term placements.<sup>10</sup>

In fact the referral of people with high and complex support needs to private boarding houses and hostels **does not meet the considerations of availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location, or cultural adequacy**. Despite the Minister's directive to cease such referrals, the practice continued due to a lack of other more appropriate options.

*"In a civil society, it is reprehensible to allow very vulnerable people to live together in large numbers, where they have limited rights, where they are open to abuse, neglect and exploitation, where there is no regulation of the standards of facilities or supports,*

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<sup>9</sup> "The right to adequate housing (Art. 11(1): forced evictions" (1997) Office of Commissioner for Human Rights; General Comment 7 at 1.

<sup>10</sup> University of New South Wales Consortium April 2005 "Review of Disability Services Queensland Referral Processes to Private Residential Facilities"

*where fundamental needs cannot be met in a dignified way, where lives are wasted and where some in the industry are making profit from such misery.”<sup>11</sup>*

Following a roundtable collaboration between The Office of the Public Advocate, Queensland, Micah Projects Inc and participating agencies Queensland Public Interest Law Clearing House Incorporated; Queensland Health, Mental Health Outreach Team; Pindari Supported Accommodation and Assistance Program Service, Salvation Army; HART 4000; Kyabra Support Service; and the School of Human Services and Social Work, Griffith University in 2007 and a forum in 2008, the pilot research project found that boarding houses and hostels and rooming houses as a form of accommodation, for vulnerable people with disability and complex support needs was highly unsuitable. The researchers did not ask about this form of accommodation, respondents raised issues and concerns unprompted.<sup>12</sup>

Aged care and pension systems in Australia are designed for home owners rather than people with disability on low incomes. After-housing poverty rates are higher for non-home owning older households. Those people have less capacity to modify their homes as they get older and, in most cases, are unable to find more suitable housing in the private market.

One of the consequences is the increasing isolation and disability that older people in unsuitable or inaccessible housing face. People in those circumstances move into residential aged care at an earlier age as there are no other options available to them, which can also be as costly, if not more so than private rental.

**People with disability who have been referred to boarding houses, hostels, group homes, etcetera, rather than a home of their choosing are effectively homeless persons.**

### **Adequate Funded Supports**

The underpinning issue to this problem lay in the perpetual problem of a lack of individualised portable funding. Still today a significant number of people with disability remain living with their aging parents. Programs such as the Elderly Parent Carer Initiative have exacerbated the lack of autonomy and authority that a person with disability has over their own life. This type of approach has failed people with disability when inadequate or lack of funded supports prolongs dependency on parents who are aging and resigned to providing care until they die or are no longer able.

People forced to share care in group living arrangements have little choice about the location, or co-tenants or design of their house.

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<sup>11</sup> “Opening Doors To Life - Setting A Positive Agenda With People With Disability With High Or Complex Support Needs Living In Boarding Houses And Hostels” Queensland Advocacy Incorporated May 2001.

<sup>12</sup> “Complex options or complex needs? Addressing the housing and support needs of people with impaired decision-making capacity who experience chronic homelessness” 2010 Funded by a Griffith University Industry Collaborative Scheme grant, with funding contributed by Micah Projects Inc., Office of the Public Advocate Queensland, HART 4000, and Mission Australia.

The residents of boarding houses and hostels have been neglected, forgotten and ignored unless the status of their residence is accredited as “Level 3”, and this too has failed to provide a home instead of an institutionalised setting with inadequate and often inappropriate support. This is exacerbated by the problems associated with congregating people with high and complex support needs, and the diverse needs of people with mental illness, intellectual impairment, and other social issues.

While the NDIS is promising changes for many people with disability, unless there is a specific targeted approach from the Department, a significant number of eligible NDIS potential participants residing in the congregate shared setting of boarding houses and hostels will be overlooked.

**QAI proposes the following 8 principles for housing choices for people with disability:-**

1. A Home of One’s Own like Everyone Else. There must be a presumption that independent living in community is always the best option and elimination of segregated, congregate and socially isolated environments.
2. People with disability have the freedom to choose where and with whom they live.
3. Institutional environments increase risk of abuse, neglect and diminishment of skills and will be phased out and closed.
4. People with disability have access to the appropriate well-funded self-directed support supports and services to live freely in the community. Adequate, affordable and user-directed support is crucial to preventing abuse, neglect and harm; deliver enhanced outcomes, and cost no more ( and often less) than traditionally run services
5. Affordable housing
  - is a foundation for meeting other needs (including employment, health, income support), social engagement and opportunities for freely-given natural supports through relationships; and supports the inclusion and participation of persons with disability in community life
6. Accessible housing
  - Universal Housing Design – it’s desirable and good for everyone!
7. Security of tenure
  - No-one should feel like their home is tenuous
8. Subsidy programs assist low income earners with rent (including private rental), home ownership or modification.

## **ACTIONS TO IMPLEMENT THE PRINCIPLES**

### **Principle 1 - A Home of One's Own like Everyone Else**

Our society has a prevailing 'hangover' from the outdated thinking that portrayed people with disability as without power, citizenship, status, rights and autonomy. This too has remained in the minds of some family members, community in general and even some people with disability. It is often reinforced because the language that is commonly used by clinicians, bureaucrats, service providers, etcetera is either unconsciously or deliberately used to define people rather than identifying issues impacting upon people or to identify and resource support needs. Our language conveys commitment not merely information. The words used can shape lives whether intentional or not, whether we know it or not. The language we use conveys what is understood and has meaning in community.

Language in the context of the NDIS and 'housing' needs to remain the same as the language used in the general community. Real estate developers, agents, property managers etcetera use the words Homes, not housing stock, accommodation, or other words that convey 'different' or 'other'. Words such as 'Marginalised Housing', 'Specialist Disability Accommodation' are embedding prejudices and separatist notions about people with disability and pre-empting determinations about the lives of people with disability.

It is unreasonable to assume that people who have never had opportunities to lead a decent but ordinary life in a home of their own, will be able to immediately know what they want in a home, or where or how they would like to live.

**Support for decision making** about the choices and certitude about a home of one's own is essential to the NDIS 'choice and control', and the time and opportunity to plan the move and to trial if necessary, a variety of types of home, locations and if preferred, other people with whom to share including people who do not have a disability. **'NOTHING ABOUT US WITHOUT US'**.

#### *"Commitment to the Support*

*Some people may require more time in order to make complex decisions that are outside the scope of their experiences. For example a person who has only lived in the family home, or who has lived most of their life in an institution should be supported to explore or sample some options of different types of residences. It may be appropriate for some people to view open house inspections of flats, units, duplexes, etc. Careful planning may be necessary, such as discussion about their desirable criteria such as whether the home should be near to shops, parks, transport. Others may prefer to trial a particular type of residence for a short time to experience and understand either what is wanted or at least determine what is not wanted. Supporters must respect and enable whatever is required for valid and authentic decision making support."<sup>13</sup>*

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<sup>13</sup> "Decisions About My Life? The Choice Should be Mine" QAI's Position Statement on Supported Decision-Making. November 2014

## Action:

- Resource independent vision-building processes that assist people with disability and their families/supporters to explore and envision genuine community living options instead of 'contemporary' institutional options.
- The NDIA and each and every government department must redress the current language approaches and cease to use terms that define people by a diagnosis, categorise and group people, and use language that acknowledges the autonomy and authenticity a person has over their own life. Language will be respectful, used to identify issues and support needs on an individual basis, and to allocate resources to address those needs and resolve those issues to support people to an ordinary but good life: Living Well. This will address some of the cultural shift in mindset needed in the service sector and the community in general, and create welcoming and inclusive communities.

## Principle 2 – Freedom of Choice

It is incongruent to hold the values and vision of the intent of the National Disability Insurance Scheme while people for whom the scheme is intended are still offered congregated living options via coerced shared care arrangements in order to save costs. Linking support needs to living arrangements erodes or negates any freedom to choose where, how or with whom a person lives.

People with disability, family members, supporters, advocates and academics, gathered at a forum and agreed that to date, the notion and integrity of 'choice' is not realised for many people with disability.

**There should be no question of who gets to choose.** The choice must always be the choice of the person themselves and not the choices of other conflicting interested parties. QAI supports the authentic voice of families as supporters for decision making for their loved ones with disability as the closest people who know the person best. However valid and authentic decisions will always support choices that enable the person to a life of their own rather than merely advocating for supports or services for themselves. When a person with disability (no matter the type or level of support need) is enabled to direct their own lives, there is no need for respite or services for the family as these are natural outcomes.

Projects like the Elderly Parent Carer Innovation Initiative in Queensland is a failure to address the rights and support needs of the person with disability, thus forcing them to stay with aging parents who are never allowed to retire from their caring role. The NDIS is intended to enable people with disability to a life of their own in all respects. Support to live how they wish, engaging and participating in life as other Australians enjoy. So too, can family members of a person with disability, if this is implemented always enable the person at the heart of the matter. QAI strongly objected to this initiative as it did not serve either the person with a disability nor their family members.

## Lessons from the past:-

- ❖ *When the adult has a disability, the option to move into a home of their own is often not there.*
  - *Approximately 80% of adults with disabilities still live with their parents in the parental home*
- ❖ *Even when the adult with disability moves away from the parental home, approximately half move into institutions, homes or hostels specifically for people with disabilities. In this group are the people who are most likely to be in need of some form of accommodation support.*
- ❖ *When an adult with disability has need for support to live in a home of their own their options for community based housing and accommodation support are very limited.*
  - *Traditional services catering for housing and accommodation support have segregated people from their communities rather than including them as neighbours and citizens.<sup>14</sup>*

“A Bed in a House is Not a Home” Queensland Parents of People with a Disability August 1992. This publication is an illustration of the duration of the issue and for the perennial nature of advocacy for the right to have a home of one’s own.

It is important that to deliver the “Choice and Control” aim of the NDIS that the choices are made without conflict of interest. **Therefore the provision of personalised supports and services must be separate from any housing services or management of the property.**

Choices cannot be confined or restricted because of the lack of the type of home or living arrangement a person wants and needs. Accessibility is more than only physical access. Some people with intellectual impairment will want and need to live alone while other people will want to share, but not necessarily with other people with disability.

Choices should not be restricted because of misconceptions that segregated institutional models of care are a ‘cheaper’ social support option for government. In most cases institutional models of support are, in fact, more expensive than community based models. A person’s choice in their living arrangements should not be constrained by inadequate funding that force the person to share their supports and or into being congregated.

### **Action:**

- Policy principles and practice must capture the autonomy and authority of people with disability and their legal right to make decisions, with support where and when necessary about their housing, support and living arrangements.<sup>15</sup>

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<sup>14</sup> “A Bed in a House is Not A Home” Queensland Parents of People with a Disability August 1992.

<sup>15</sup> “Your Voice” Housing Policy Forum, QDN, Thursday 3 December 2015

- Allow time, support and where necessary advocacy for people without natural informal supports to support decision making and exercising choice about where, how and with whom to live.
- Promote, encourage and enable people with disability to exert control over the resources, individualised funding, supports and or services they require to live with dignity in the community, ensuring that people with disability are able to choose where and with whom they will live.
- Ensure people with disability have skills, training and support they may require to exercise their rights and obligations under individualised funding arrangements.
- People with disability are not 'placed'. People are not coerced or directed into multiple dwellings that accommodate disproportionate numbers of people with disability, including 'cluster housing', 'villas', 'key-ring facilities', boarding houses or group homes or institutions.
- When a person's choice of type of home or living arrangement particularly in social housing or similar models (such as purpose built bespoke housing called SDA) and it is not readily available in the desired location, other short term arrangements including subsidies for private rental must be made available for the interim until reasonable options are found to fit the person's housing needs.

**Principle 3 - Institutional environments increase risk of abuse, neglect and diminishment of skills.**

**Where abuse and neglect occurs:**

- Boarding houses
- Hostels
- Nursing homes
- Group homes
- Family homes
- Hospitals
- Places of detention

<http://www.theguardian.com/society/2016/mar/01/people-learning-disabilities-human-connor-sparrowhawk-winterbourne-view>

Consultations about Quality and Safeguards for the NDIS and the Senate Inquiry revealed the broad concern about abuse, and neglect of vulnerable people with disability. Without replicating QAI's submission on both in this paper we draw your attention to

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Violence\\_abuse\\_neglect/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Submissions) and can provide a copy of our submission to the Queensland Office of the Public Advocate “People with Disability in Long Stay Health Facilities” for further information.

Institutional life can be described as anywhere people are congregated and or segregated, and where the need to share care (even if living alone), impinges on their freedom to engage in life’s activities at a time or place of their own design or choice. Institutional life can occur in the family home if there isn’t sufficient supports or funding to enable a person a life of their own, but also we define institutions as including ‘cluster housing’, ‘villas’, ‘key-ring facilities’, boarding houses or group homes.

*One could argue that the only advantage of institutions might be for bureaucratic and administrative purposes, while deinstitutionalisation and the new lifestyles of people with intellectual disability in the community are suited to addressing the needs of individuals. For the maintenance of positive lifestyle outcomes community living needs to address issues of the social environment including interrelationships between people with and without intellectual disability in the social domain.<sup>16</sup>*

**Action:**

- Develop, in partnership with people with disability, their families and their representative organisations, housing and support policy guidelines and frameworks that ensure that resources, including individualised funding are provided to implement the rights contained in the Convention on the Rights of Persons with Disability and ensuring that support service provision is separate from housing provision and management.
- Close residential institutions accommodating people with disability, including those operated by non-government and private sectors; allocate and provide the resources necessary for people to move to individualised community housing and support options that will support their inclusion and participation in the neighbourhoods of their choosing. While some people may require transition to accommodate the change, experience has shown that most people have favourable outcomes when the move is well planned, is directed by the person and their supporters and is done without unnecessary delay. People who move into a home of their own are often underestimated at how well they respond.
- Ensure people have adequate time to view alternative options for a home they’d like to move to and that there is a well-planned and coordinated move including transition if and when required with and for individual people.

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<sup>16</sup> “Deinstitutionalisation and changes in Life Circumstances of Adults with Intellectual Disability in Queensland”  
J. L. Young 2001

- Ensure that prisoners with disability and people in any form of detention have support and planning in place for their move to housing before they exit the system of incarceration. This must happen to break the catch 22 situation that currently exists where people exiting detention cannot get housing without an income, and can't get an income without an address.
- Maintain the Office of the Public Guardian's Community Visitor Program or something similar. The OPG's Community Visitors independently monitor three different types of accommodation called 'visitable sites' where vulnerable adults live. Visitable sites are:
  1. Disability accommodation provided or funded by the Department of Communities.
  2. Authorised mental health services.
  3. Private hostels (level 3 accredited)
- QAI recommends that visitable sites are expanded to include any place where a person with disability is subjected to the use of Restrictive Practices.
- Visitable sites should include boarding houses and hostels.
- QAI recommends that where a person resides in a private dwelling and lives under the imposition of Restrictive Practices (particularly if the person employs and self-direct their own supports) there must be
  - Consent from the person (resident)
  - That visits are unannounced, ad hoc and only once per year, except where
  - There is a reasonable degree of suspicion of abuse or neglect.
  - The underpinning factor to visitable sites must lie in the linkage with funded supports, and or the use of Restrictive Practices.<sup>17</sup>

**Principle 4 – People with disability have access to the appropriate well-funded self-directed support supports and services to live freely in the community.**

**Adequate, affordable and user-directed support is crucial to preventing abuse, neglect and harm; deliver enhanced outcomes, and cost no more ( and often less) than traditionally run services.**

As mentioned several times previously, people are at risk of a loss of autonomy and control over their living arrangements if their funded supports are inadequate. Moreover, those supports when directed by the person are more likely to be appropriate, timely, delivered in the style that best suits the person's support needs, is more responsive, and often more

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<sup>17</sup> QAI Submission to Disability Services and Other Legislation Amendment Bill 2015, 21<sup>st</sup> January, 2016  
<http://www.parliament.qld.gov.au/work-of-committees/committees/HCDSDVPC>

economical. When the person directs their own support they have control, and are IN control with better relationships with support personnel and better social outcomes for the person.

In Queensland host provider services are an optimal way for people with disability and their families to begin to take control of supports and services, by directing those supports and services while having the encouragement and assistance of an organisation that can provide information about responsibilities and opportunities, training sessions, and as much or as little user pays services for payroll, recruitment, employee training etcetera.

While there have been some NDIS 'participant readiness' sessions conducted across each state this cannot possibly reach all eligible people with disability and is not going to target people with the highest support needs who do not have informal supports. In other words this information is unlikely to be delivered to the people for whom it is the most important and for whom the NDIS will potentially make the biggest impact.

**Adequate, affordable and user-directed support is crucial to preventing abuse, neglect and harm; deliver enhanced outcomes, and cost no more ( and often less) than traditionally run services.**

**Action:**

- Instigate a national campaign to promote the benefits of self-directed supports via all media outlets.
- Individual stories from people who are using self-directed supports can be part of the campaign.
- Some examples can be found via host provider websites and other social media but this may need to be also offered in alternative formats using images and plain language or easy English.
- Compare and contrast stories are often the best way to show people how their lives can be transformed.
- Provide people with disability with any support they may require to exercise their rights and obligations under individualised funding arrangements.

**People with disability have access to the support services to live freely and safely in the community.**

As outlined previously it is vital that people with disability have not only adequate support but that the support is appropriate, responsive, and where possible is directed by the person with disability and or their family or informal supporters.

**Action:**

- Allocate adequate funds through the NDIS to ensure that people have the support they need to sustain their chosen living arrangements. People who require minimum

support should not be made more vulnerable to homelessness if they need occasional support to manage their homes.

Supports and services must be focussed on delivering

- Personal supports and services are distinctly separate from housing provision and management. People should be able to change support services without having to move house, and the separation of provision will eliminate conflicts of interest and overwhelming control and abuse of the person with disability.
- Personal care
- In-home support
- Supports and services for self-directing and self-managing Plans under the NDIS
- Supports and services for recruitment and training of staff
- Improving daily living skills in the context of the person's home
- Community support services
- Residential services and tenancy advocacy
- Establish services to find suitable housemates (both with and without disability) to share with people with disability in social housing. Similar services could be formed to suit private rental based on existing web-based services.

*There is an expectation of providers of support to change and adapt to what people need and want in their neighbourhoods rather than a centrally but distant location – however, there is a role for providers to have specialised niche services to supply on demand.*

*In many instances, individuals may have their funds managed by the service so the service system may not be very different from the way it is now. The risk is that things will stay the same.*

*Providers of support may use independent persons to rate their service and publish this rating (e.g. Trip Advisor or as RACQ with insurance) but as any practices consumer will attest, this is not reliable.<sup>18</sup>*

## **Principle 6 - Affordable housing**

*In Australia, almost 70 per cent of Australians live in owner-occupied housing, around 25 percent rent and the remaining 5 per cent live in social housing. For some Australians housing affordability is about trying to meet rental payments on a property in an outer*

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<sup>18</sup>QAI Submission to National Disability Insurance Scheme Quality And Safeguarding Framework October 2015  
21 Discussion Paper on Housing Affordability – Australian Labor March 2015

*suburban area. For others, it might be about being able to purchase a home in an area that allows them to be close to family and friends. Others see housing affordability as measured in terms of the proportion of income a household needs to spend on a mortgage or their rental payments.*<sup>19</sup>

Affordable housing is a topical issue for all Australians but it is critical for people with disability at this time as the NDIS moves towards full roll-out. A home of one's own is a foundation for meeting other needs (including employment, health, income support), social engagement and opportunities for freely-given natural supports through relationships; and supports the inclusion and participation of persons with disability in community life.

### **Social and Public Housing**

Pensioners and people dependent on welfare or disability payments are priced out of the private rental market, and face fierce competition for social housing - a much needed safety net. An adequate supply of social housing means older Australians are better able to age in place and not have to forgo daily essentials simply to pay their rent. People with disability are not left to fend for themselves in substandard dwellings that make no allowance for their particular needs. Women escaping domestic violence are not forced to stay in motels or, worse still, remain in abusive relationships. Social housing is better able to meet the needs of disadvantaged groups as it offers lower rents, more secure and stable tenure and appropriately modified housing, but supply is limited and waiting lists far too long.

The heavy demand means that people have to demonstrate that they are in greater need than others on the waiting list, while those already housed in community housing have to demonstrate their continuing disadvantage to remain eligible. Rather than encourage people to improve their circumstances, for example through gaining employment or working extra hours, the shortage of affordable housing and the need to demonstrate disadvantage has the opposite effect. When people with disability have access to secure, appropriate and affordable homes, they become more productive members of the community, easing demand on health, police and other social services.

There is an inadequate supply of social housing, which affects people with specific needs most keenly. Government must continue to fund public housing and to lift the number of public houses as a percentage of Australia's housing stock, and commit to achieving a higher proportion of overall social housing as a percentage of Australia's housing stock. This additional investment in social housing should go some way to ensuring that people with special needs are housed in affordable and appropriate houses.

#### **Action:**

- Reinststate the successful National Rental Affordability Scheme (NRAS delivered 2,800 dwellings in Queensland in the last five years, all with private investment and well

above the average of delivery on a per capita basis, by borrowing other people's capital and make the affordable housing equation work.)

- Reinvest in new affordable housing stock in a wide variety of types, and locations. Government funding for housing has shifted over the past 50 years from direct capital investment in affordable housing properties, to providing preferential tax treatment for investment in private housing with rent assistance for people on lower incomes, leading to enormous shortfall.

### **Private Rental**

The Henry Review observed the growing gap between the cost of renting and household income.

*In 2009, the ratio of rents to average weekly earnings had risen to its highest level since the late 1980s. The review explained: As at 5 June 2009 there were 418,000 individuals and families paying more than 30 per cent of their income in rent even after receiving Rent Assistance; 129,000 of these were paying more than 50 per cent of their income. Many of these people, especially age pensioners and disability support pensioners (who make up around one-quarter of Rent Assistance recipients) are likely to have limited capacity to increase their incomes. The number of Rent Assistance households paying more than 30 per cent of their income in rent is at its highest level since 2000.<sup>20</sup>*

- Subsidise private rental to median priced market properties so that people with disabilities can access affordable private rental either on an ongoing basis or in the interim until suitable social or public housing is available to them. Subsidies should equate the rental to what a person would pay for a similar public or social housing premise in the same area. This is vital for people with disability who are unable or unlikely to find paid employment.

### **Affordable Home Ownership**

- QAI believes funds should be directed to individual people to build or purchase homes in locations of their choosing rather than only providing funds to service providers in order to separate housing from support provision and also to enhance affordable housing opportunities for people with disability. This should be the priority rather than funding providers who seek to profit from the NDIS and people with disability. It is well understood that when funds are directed to a third party costs are inflated.
- While we object to the term “special disability accommodation’ as coined by the NDIA QAI agrees that this purpose built bespoke build will address the needs of many Australians with disability. This type of build is not merely for physical accessibility and we will discuss this further under Principle 7. The proposal for people with

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<sup>20</sup> The Australia's Future Tax System Review 2010

disability and or their family members to purchase or build a home suitable for the person's housing needs, register as a "SDA" provider and residence in order to access equitable arrangements as housing providers is a good start. QAI is concerned that the NDIA may restrict or deny eligible people with disability and their families from this opportunity based on misconceptions about the needs of some people.

- There is opportunity which must be taken for people living in existing public and social housing to be enabled to use their rent to purchase the property with interest free loans. In the event of death or vacating the property, the house must return to the social housing provider or the state for recycling through the system.

### **Principle 7 - Accessible Homes**

Universal Housing Design – it's desirable and good for everyone!

Queensland Advocacy Incorporated is one of 250 supporters of the Australian Network for Universal Housing Design (ANHUD) review of the -AS 4299 Adaptable Housing (1995) to align with the 2010-2020 National Disability Strategy and for future inclusion in the National Construction Code. QAI also agrees with the ANUHD on their suggestion that the Australian Government also consider the impact on the Aged Care reforms, in particular, the Home Care Packages Program in keeping older people supported at home for as long as possible.

Access is not only physical. For many people with social, cognitive and intellectual impairments, a home of their own will need other individual attributes that are requisite for the person to sustain their safe and appropriate living arrangements. Some people will want to be living in a quiet street away from busy roads, or will need or wish to be in a street where neighbouring houses are at a distance, or will need to be of a special construction type (double glazed windows, heavily reinforced walls etc). Some people will need to have a sizeable back yard and gardens or be near to open parklands with room to run.

#### **Action:**

- Homes invested as Social housing will be retrofitted for accessibility and adaptability over time. Social housing that cannot be economically retrofitted for accessibility and adaptability will be replaced. These measures will be subject to explicit, measurable targets
- Specifically target and provide appropriate public and social housing for people with disability who have special housing needs in regard to build type, location, neighbourhoods and surrounds.
- Provide appropriate information to people with disability and their families/supporters about housing options including opportunities under the NDIA "Specialist Disability Accommodation" (SDA) and insist funding be prioritised to people with disability above housing service providers.

- Ensure that people who require purpose-built homes or who wish to purchase homes that meet their requirements are not disallowed from the SDA registration opportunity.
- New social housing homes will be accessible and adaptable to the Platinum Standard recommended by the Liveable Housing Design Guidelines developed as an outcome of the National Dialogue on Universal Housing Design.

### **Principle 8 - Security of tenure**

Forced evictions are incompatible with States' obligations, but the Commentary acknowledges that in certain circumstances evictions are justified, provided they are carried out "in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality"<sup>21</sup>.

Queensland tenancy legislation does not allow rooming house residents the opportunity for 'genuine consultation'. Nor does it require providers to give 'reasonable notice ... prior to the date of the eviction' as anticipated by the General Commentary of the UNCESR and Australia's obligations under the UNICESR.

The implementation of the ICESCR differs from State to State, but Queensland legislation is not consistent with the minimum tenure standards set out in the ICESCR. Queensland's rooming and hostel legislation does not require any application to an intermediary tribunal before a tenant can be evicted.

Providing tenants an opportunity to respond to claims before they are evicted ensures that security of tenure is better protected and the principles of natural justice served.

### **Alternatives**

Parity in termination proceedings for tenants (that is, a Tribunal process for all eviction proceedings) is just and practical. Many Queensland community boarding house managers use ordinary tenancy agreements with their boarding house residents.

Community boarding house providers work almost exclusively with people with disability, and do so without resorting to powers of summary termination and ejection sections 370 & 375<sup>22</sup>. We also note that other Australian jurisdictions including Victoria and South Australia have due process provisions for termination of rooming accommodation agreements.

A practical alternative remedy for objectionable behaviour that ensures the safety of other residents is provision for 'time-out'. A resident may be banned from the premises for a specified period (for example, for 24 hours). If the provider does not want the resident to remain after time out, they may apply to the Tribunal for an appropriate order.

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<sup>21</sup> The right to adequate housing (Art. 11(1): forced evictions" (1997) Office of Commissioner for Human Rights; General Comment 7 at 1.

<sup>22</sup> Residential Tenancies and Rooming Accommodation Act 2008 (Qld).

Victorian tenancy legislation has similar provisions that cover parties to agreements in 'managed premises' (boarding houses, caravan parks) where there are 'serious acts of violence'.<sup>23</sup>

### **Forced Evictions**

A lessor's entitlement to use 'reasonable force' is not a suitable remedy for ordinary failures to handover. The use of 'reasonable force' is inappropriate and a potential for abuse when there has been no third-party adjudication of a dispute. Tenants' fear of immediate and forcible eviction at any time is the 'bottom line' in tenancy regulation: a loophole that undermines other legislative protections.

People who have been evicted have had their personal property destroyed or placed in storage by social and public housing and charged excessive and unaffordable fees to have their property returned to them. Some of the evictions have eventuated because the person has been unwell, in hospital or in detention and unable to contact their housing service centre.

It's not economical or efficient to continue to move people out of their public or social housing arrangements without addressing the issues that are the foundation for the eviction. People with disability have a right to dignity and support for the issues that impact on their daily lives. There is a need to improve tenancy regulation in both the public/social housing arena as well as the private rental sphere.

### **Action:**

The National Disability Strategy 2010–2020 was endorsed by COAG on 13 February 2011 and sets out six priority areas for action. Housing is under the objectives of inclusive and accessible communities and under Economic security. The Strategy recognises the importance of having antidiscrimination measures, complaints mechanisms and advocacy, which would have an important role in ensuring that people with disability are treated fairly in the rental market.

- Rental and tenancy contracts which are governed by legislation and related standards will be implemented as per generic tenancy agreements.
- Regulation of tenant 'blacklists' by using privacy laws
- Access to the provision of adequate housing will be afforded to people with disability without discrimination as per Section 25 of the Disability Discrimination Act 1992.
- Need measures, such as tax incentives, to encourage landlords to improve the energy efficiency of their properties and to allocate funding to make required modifications for tenants with disability.

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<sup>23</sup> Sections 368 - 380 Residential Tenancies Act 1997 (Vic).

## Public and Social Housing Policy Reform

- Continuity of housing will not be affected by temporary interruptions such as -
  - mental health treatment
  - imprisonment or forensic confinement
- Eliminate 'anti-social behaviour' provisions in policy and create respectful conversations to discuss issues and seek supports to promote harmony in multiple dwellings, neighbourliness. Ensure that conversations and any communication is directed with preventative and trust-based approaches
- Place a higher priority on the obligations and responsibility of social housing providers when it comes to house modifications for those with particular housing needs.
- Any decisions regarding cessation of tenancy must be independently reviewable
- Tenancy advice and advocacy, anti-discrimination measures and complaint mechanisms must be incorporated into every aspect of housing for people and can be funded out of bond capital.

### **Principle 9 – Subsidy programs to assist low income earners with rent (including private rental), home ownership or modification, recognise the greater cost of living with a disability.**

As mentioned above there is a dire need to redress the current public and social housing models and QAI is aware of new developments and proposals that will require new developments to include accessible targeted homes for people with disability. QAI supports innovations suggested by the Summer Foundation, ANUHD and other organisations. Inclusionary zoning is an innovation that all communities should endorse and support provided that there is a natural integration in community life. **QAI does not support any projects that congregate people with disability or requires them to share their supports and or services.** Again we reiterate that people should always have sufficient funding allocated to meet their disability support needs. QAI does not support developments that place people with disability on the periphery of society or in disability 'ghettoes'.

However, we do not believe that there should be a reliance on the abovementioned proposals as being the only solution. Where these developments are built will provide some answers for people who want and choose to live in those locations and in those types of builds. A person choosing to move to one of these homes should also not be required to stay there forever. Like any other person in Australia people with disability should be able to move around according to their lifestyle or employment options.

In line with the approach of NDIS funding, subsidies are an allocation of funds that must be designed to be accessed at the transition points in life. For example school leavers or young people may wish to rent or access social housing and to share with friends (not necessarily

other people with disabilities). Some people may have lived in shared housing, and wish to live on their own. People who are contemplating their future, starting a family etcetera may wish to build or purchase a home. It is important that such subsidies are available as and when people require them.

**Action:**

- Ensure that subsidies are available at transition points in the person's life.
- Any person with disability who is approved for public or social housing and has special needs and is unable to find suitable housing for those needs should have their private rental subsidised so that they pay no more than a social/public housing tenant.
- Any person who has special needs requiring modification to their home or private rental should have funding allocated to make those modifications. Landlords should be encouraged to view this as an asset and improvement to their rental property.
- Alternatively, provide tax incentives to private landlords who which to modify homes so that they are accessible and where the landlord agrees to market the property to people with disability.
- Support options of family members' leveraging home equity of their homes to purchase properties for their family member with disability.

While Queensland Advocacy does not profess to be the expert in home building, development or economics that support and innovate home ownership, our organisation has specific expertise in understanding the vulnerability of people with disability and the perils that confront them on a daily basis.

This organisation is attuned to the potential threats that loom for people who are excluded and devalued, but also for people not yet made marginalised. It is our mission to work towards the changes in our society, our laws, our practices and our cultural values about people with disability that will improve their lives as well as their families, their friends and supporters and therefore create healthier and more welcoming communities.

With this uppermost in mind, we offer to work with people with disability, family members and other like-minded organisations and government to end the practices that exclude, harm, obscure, and downgrade the potential and contributions that people with disability bring to our common humanity. We can begin by working towards a Home of One's Own.