



Queensland Advocacy Incorporated

Our mission is to promote, protect and defend, through advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

*Systems and Individual Advocacy for vulnerable People
with Disability*

Submission to

Senate Select Committee on COVID19

Impact of COVID19 Restrictions

on

People with Disability in Queensland

“The mere suggestion that not speaking for a day can give you an appreciation of the social isolation that comes with the experience of disability, particularly those whose impairments prohibit them from communicating verbally, is insensitive at best.”

Stella Young

“Variety is what I would recommend: As variety is the spice of life in food, so it is in exercise. Change it up. But most of all, don't overdo it.”

Martina Navratilova

Ph: (07) 3844 4200 or 1300 130 582 Fax: (07) 3844 4220 Email: gai@gai.org.au Website: www.qai.org.au

2nd Floor, South Central, 43 Peel Street, STH BRISBANE QLD 4101

QAI endorses the objectives, and promotes the principles, of the Convention on the Rights of Persons with Disabilities.

Patron: His Excellency The Honorable Paul de Jersey AC

Committee Secretary
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Closing 28th May, 2020

Phone: 02 6277 3892
Fax: 02 6277 5706
covid.sen@aph.gov.au



About Queensland Advocacy Incorporated

Queensland Advocacy Incorporated (QAI) is an independent, community-based systems and individual advocacy organisation for people with disability. QAI's mission is to promote, protect and defend, through advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

QAI has an exemplary track record of effective systems advocacy, with thirty years' experience advocating for systems change, through campaigns directed to attitudinal, law and policy reform and by supporting the development of a range of advocacy initiatives in this state. In recent years, issues pertaining to the design and implementation of the National Disability Insurance Scheme (NDIS) have been a core focus of our systemic advocacy. QAI also provides highly in-demand individual advocacy through our individual advocacy services – the Human Rights Legal Service, the Mental Health Legal Service, Justice Support Program, National Disability Insurance Scheme Appeals Support Program and NDIS Decision Support Pilot, the Disability Royal Commission Advocacy Program and the Education Advocacy Service.

Our individual advocacy work has historically focused on the rights and lives of highly vulnerable adults with disability and the impact of serious issues that inhibit and restrict people from living a good, ordinary life.

QAI believes 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.

This paper raises significant issues impacting the lives of people with disability, their families and carers during this unprecedented time of COVID19 restrictions.

Background

The federal and state governments have implemented never seen before measures to slow the spread of COVID19 (Coronavirus) through the community. These restrictions, whilst necessary, have significant impact on people with disability and cause further disruption and disadvantage to our lives.

QAI and other disability advocacy organisations believe that people with disability have not been properly considered by government decision makers during this process and that more immediate consultation needs to be held with our community so that appropriate support measures can be put in place before further trauma is caused. Systems and processes also need to be clarified so that people with disability also can feedback their experiences during this time.

QAI's Advocacy – COVID 19

On 4th March, 2020 QAI wrote to the CEO of the NDIA, the respective Ministers of the Department of Social Services (DSS), the CEO of the peak organisation National Disability



Services, the Queensland State Manager for National Disability Services, and the Queensland Public Guardian raising concerns about the silence on any concerted and cohesive policy for ensuring the health and safety and well-being of vulnerable people with disability living in congregated living arrangements. We noted that the website for National Disability Services had information about protection of health and wellbeing of staff but no statement about ensuring protection for the health and wellbeing of the people for whom they provide supports and services. In fact, the website noted : “At this stage there is no formal advice from the National Disability Insurance Agency (NDIA) for providers relating to the coronavirus. We will monitor and when it becomes available, include this advice here.”

We asked that the decision-makers issued urgent explicit public directives and actions to promote and protect the health and well-being of people with disability, particularly those supported by direct support service providers, and imminent action for people living in supported accommodation.

We also inquired about what procedures might be instigated if a number of people in shared care/living arrangements become ill. Will they be sent to hospital? What measures will be implemented if people are confined to their homes? What protections will be implemented that do not in any way inhibit their rights to conduct their lives as other citizens in similar circumstances?

This request was not afforded a response so QAI followed up again on 27 March 2020 with the same recipients and included the State Director NDIS Quality and Safeguards Commission, the Commissioner for the NDIS Quality and Safeguards Commission and the Qld Public Advocate in this correspondence. In this correspondence, we requested decision-makers from DSS and the NDIA for extreme and urgent declaration of supports to all people with disability as “essential services”. We sought information from the NDIS Quality and Safeguards Commission about what protective oversight and monitoring would be implemented into how supports and services would be delivered in congregate and shared care arrangements. We asked if there would be a strengthening of reporting requirements and a higher level of scrutiny of these settings combined with robust oversight and recommended a fortification of the Community Visitor Program to augment this.

We sought assurances and requested a public announcement from National Disability Services that no supports or services would be withdrawn but would be delivered differently (ie: individually).

It is critical that supports and services are creative about ways to engage people socially with their community without close physical presence. Language is important as it conveys meaning to what is understood in community and those who implement government decisions. QAI considers that the terms ‘social distancing’ and ‘self-isolation’ are trigger words that imply shutting people in rooms, in houses, and away....away from perceived risk of infection, but more likely away from scrutiny, away from the things that bring people joy, away from life – and potentially place them in more danger or harm. QAI prefers to use the terms ‘spatial distancing’ as far too many people with disability endure social isolation on a daily basis.



A response to QAI's emails was received from the Quality and Safeguards Commission on 14 April 2020*. The response referred to the NDIS Code of Conduct and the NDIS Practice Standards and advised us that the Commissioner had issued a notice that providers were required to notify them if changes to support occurred or if a direct COVID19-related situation required a change, and that all providers were obliged to abide by state and territory rules for this period. It seems that governments and statutory bodies and service providers held discussions but did not include people with disability in those consultations, nor did any of these entities inform people with disability, except by decree.

A response from the Department of Social Services was received on the 21st April, 2020 outlining the measures taken by government to support people with disability during this pandemic. QAI submits that these measures were overdue and instigated because of national robust advocacy. "16 April 2020, National Cabinet endorsed the Management and Operational Plan for COVID-19 for People with Disability (the Plan) which has been released on the Australian Government Department of Health's website. The Plan ensures a national approach to protecting and supporting people with disability, their families and carers – with wide-ranging guidance on managing and preventing the transmission of COVID-19. The Plan can be found at <https://www.health.gov.au/resources/publications/management-and-operational-plan-for-people-with-disability>.

Further, QAI is disappointed that the first measures introduced were financial supports directed to service providers rather than consulting with people with disability in the first instance about protecting their health and wellbeing. 'The increased funding complements the range of measures announced by Minister Robert on 21 March 2020 to assist National Disability Insurance Scheme (NDIS) participants and providers during COVID-19. These measures are already in place and include financial assistance to providers including advance payments, a 10 per cent COVID-19 loading on some supports, changes to cancellation policies and extending NDIS plans for up to 24 months. More information on these measures can be found at www.ndis.gov.au.

The experiences of People with Disability

Autocratic Removal of Rights and Abdication of Responsibilities

The failure to mention people with disability in the governments' public announcements about COVID19 restrictions has caused a great deal of confusion within the community about how particular restrictions apply to their lives. Without public acknowledgement that disability services and support workers are essential supports and services and the implementation of clear guidelines, service providers have autonomously made decisions about how to manage this situation. QAI submits that these decisions should have been made in a considered and consultative way, establishing consistent guidance reached in consultation with people with disability, who should be enabled to direct their support in times of crisis. The lack of guidance and direction in this regard has had associated implications, for example, the failure to ensure the provision of Personal Protective Equipment for people with disability and their support workers, is indicative of careless afterthought.



Another consequence of this lack of appropriate leadership has been a reduction in the types of services on offer. Some service providers, without consulting with the people they are paid to serve, and without Health Directives or a mandate to act, arbitrarily withdrew supports unnecessarily, while deeming that some supports including in-home supports are 'non-essential'.

QAI has received reports of service providers reducing specific types of support to clients and thus endangering the safety and potentially the lives of people with disability. These supports are not necessarily restricted to group activities, but also those deemed 'non-essential in-home supports'. QAI submits that this is inappropriate, as those in receipt of in-home supports generally find them essential.

QAI has also received reports of service providers reducing core supports without consultation causing further disadvantage to our community by forcing people with disability to rely on informal support, such as the support provided by family members. This not only causes issues for the individual with disability but also impacts on the family who may already be unable to work because of forced restrictions on certain sectors of the workforce.

QAI has attempted to garner cross departmental support to improve the quality of life for people residing in hostels. Personal care support providers and advocates, including QAI's advocates have been in contact with people who have been subjected to lock-downs, denied access to their community access supports, denied access to private phone conversations, or meeting with their advocates by managers of hostels. COVID19 has been misused by unscrupulous hostel owners and managers many of whom have a history of coercion and control. QAI has advocated for twenty years to affect change in this supported accommodation realm and despite the deaths, the abuse and the advent of the NDIS, it appears that some providers have not changed their practices.

Restrictive Practices

QAI is concerned that as a direct result of the new restrictions imposed on the broader community, some providers are using COVID19 to justify the use of restrictive practices without any authorisation for their usage. This is particularly prevalent for vulnerable people particularly living in group homes and supported accommodation.

QAI has received reports of supported accommodation providers refusing to allow external service provider support workers to enter their facilities to work with their clients to deliver personal care or take them out for appointments, shopping or exercise. QAI has reason to believe that unlawful restrictive practices are being justified under COVID19 restrictions to manipulate and control some people with disability.

We note the tabling of the *Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill 2020* by the Queensland Attorney-General, as a means of providing a lawful basis for actions of this nature. In particular, the Bill proposed insertion of a new Part to the *Disability Services Act 2006* (Qld), to create civil and criminal immunity for service providers utilising particular Restrictive Practices who are deemed at risk of failing to comply with a public health direction due to their disability. This Bill was tabled on 19 May



2020, categorised as urgent (with the effect that the ordinary Parliamentary Committee review process was bypassed) and passed on 21 May 2020. QAI submits that it is problematic both in terms of its substantive content – we consider that the potential human rights infringements are not justified in the circumstances, nor are they consistent with the Government’s response to the management of COVID19 more generally, which is moving to a relaxing rather than tightening of measures – and also insofar as the Bill renders lawful conduct that has been occurring since the beginning of this pandemic. This highlights the unlawfulness of the practices of Service Providers to date and highlights the inadequacies of current oversight mechanisms.

QAI is also deeply concerned by the cessation of external oversight mechanisms, such as Community Visitor schemes, in response to the pandemic. In the context of an escalation of measures that engage and potentially violate the human rights of vulnerable people with disability, external oversight is of critical importance.

The letter QAI received from the Quality and Safeguards Commission* included the Fact sheet: Coronavirus (COVID-19) – Behaviour support and restrictive practices intended to guide NDIS Service Providers on supporting people with restrictions on community movement are in force due to COVID19. At first glance this fact sheet appears to issue the correct advice regarding ensuring respect for individuals’ rights and choice and control and that following the Chief Medical Officer’s directive to isolate any person who tests positive for COVID19 is not a restrictive practice. In fact, this is reiterated several times. In examining the fact sheet QAI finds:

The “Practical guidance for NDIS participants with behaviour support needs” is helpful and provides advice about seeking alternatives to group or public gatherings so that individual people are not overly restricted from their usual activities. It also provides information about business continuity plans, and the need to mitigate known triggers for people (including boredom, communication difficulties etc.) and offers acceptable alternative activities and ways to keep people connected to family and friends. The suggestion that providers should “consider rostering support staff with whom the person is familiar or gets along with” is very passive given that the section refers to participants described as having ‘behaviour support needs’. This should be standard practice for all providers, all the time.

However, QAI is deeply concerned about key parts of this fact sheets, as follows:

1. the messaging in the “Behaviours of concern after risk mitigation strategies are implemented” section of this fact sheet. At the outset, the fact sheet advises service providers that if a Public Health Order to self-isolate or quarantine causes a person with disability such distress and/or anxiety, confusion or anger, any new environmental restraint that is applied as a result of these circumstances is **not a reportable incident. Locking doors during this period is likely to escalate fear and anger and QAI is concerned that this will likely create a cycle of layering more restrictive practices upon a person already traumatised by their circumstances.**

QAI recommends that the same safeguards to avoiding the use of physical restraint is applied to environmental restraints, and that if such measures are used that they should be reported in the same manner. The section of this fact sheet titled “Implementing a



new regulated restrictive practice to support an NDIS participant” is critically disturbing as a passive approach to approving the use of restrictive practices once a behaviour support plan is in place. The NDIS Quality and Safeguards Commission suggests that such important plans may be ‘done over the phone’, which ignores the rights and voice of the person and or their family or other supporters who may object to the use of restrictive practices.

2. Of further serious alarm is the messaging from the Commission that merely admonishes the use of any restrictive practices not in accord with a behaviour support plan as a reportable incident and unauthorised. **There is no clear message about any penalties or consequences.**
3. Coupled with this, the fact sheet warns that ‘Using restrictive practices as a ‘precaution’ COULD be a regulated restrictive practice’. If this is done out of ‘concern for the health of a NDIS participant’, QAI alleges that this is NOT a regulated restrictive practice if it is NOT in accord with either the Commonwealth Chief Medical Officer or as part of the behaviour support plan and therefore unlawful. This seems to introduce a new Authority for approving restrictive practices, where to date, the state authorities make those decisions. It also enables carte blanche approval for the broad use of restrictive practices where there may be a confirmed case of COVID19 regardless of who the infected person might be, and this might be applied to all residents. QAI is concerned that in the instance of a support worker becoming infected, all or any residents may suffer the restrictive consequences. It is deeply inappropriate for service providers to arbitrarily lock down residents and restrict their rights beyond what is applicable to any other citizen. Unless the resident/s in question has tested positive and is required to self-isolate, this constitutes cruel, inhuman and degrading treatment.
4. The fact sheet notes several times that it is not a regulated restrictive practice if there is a self-isolation order or any directive to a community because of COVID19. QAI is very concerned that there is an implicit encouragement from the Commission to isolate vulnerable people with disability. This is reflected in the next wording in the fact sheet and assumptions that service providers make decisions about individuals lives than people with disability having control and choices in their lives and that service providers work with them in collaboration. “If your decision causes an NDIS participant to have more restricted access to the community than they would normally have, within the current limits on public gatherings, then it may be an environmental restraint or seclusion.” While QAI understands the implicit warning the Commission issues in this statement, apparent power imbalances still exist that government, the Commission itself and providers do not acknowledge or address when the language used in such communications indicates the unconscious and conscious bias about whose life is affected and by whose decisions.

QAI holds significant concerns that this tacit authorisation of unlawful behaviour explains, in part, the reason why so few people progress complaints to the NDIS Quality and Safeguards Commission. The Quality and Safeguards Commission requires names to investigate complaints into these kinds of treatment, but most people are frightened of the ramifications if they do complain, so do not. The NDIS Quality and Safeguards



Commission states that:

The NDIS Commission understands that anonymity is an important element of privacy and some members of the public may wish to be anonymous when interacting with the NDIS Commission. The NDIS Commission also understands some members of the public may wish to use a pseudonym. Generally, members of the public will have the right to remain anonymous or adopt a pseudonym when dealing with the NDIS Commission.

However, it is our experience that for investigations to be actioned, a person's name and the service provider is required. This can place vulnerable people at risk of reprisals or risk of homelessness.

Recommendation:

QAI submits that the Quality and Safeguards Commission is not a safeguard, but a reactive regulatory measure. QAI has advocated to the Commission for considerable time that it should instead take a proactive approach by closer scrutiny on the array of functions that service providers register to perform, and ensuring that none should have functions that are clearly conflicts of interest. Examples of this are that no provider of personal support should also provide the accommodation, nor should the provider of support act as supports coordinator or plan manager.

QAI also submits that the Commission has not actively pursued the vast number of complaints that it receives to the point of prosecution. The fact that the Commission only now seeks to establish an independent review into the circumstances of the death of Anne-Marie Smith is testament to its ineffective performance.¹

QAI has also advocated vigorously for the Commission to have the function of collecting data and reporting from states regarding the type, frequency and number of uses of Restrictive Practices. It is extremely vital that there be tight monitoring of all use of cruel inhuman and degrading treatment – both legally sanctioned and unauthorised and unlawful.

Based upon the figures of reportable incidents released today, QAI holds significant concerns about the number of reported instances of abuse, neglect and other significant incidents notwithstanding that the intention of establishing the NDIS was to level the power imbalance and return respect and control to people with disability. The reported figure of **73,846 “reportable incidents” over 18 months**² includes 1,827 cases of abuse, 1,062 cases of neglect, 1,532 cases of serious injury, 335 cases of sexual misconduct, 1,031 cases of unlawful physical contact, 238 cases of unlawful sexual contact and 66,999 cases

1

https://www.ndiscommission.gov.au/mediarelease/2096?fbclid=IwAR3umTUrq49o8G1D5vzMKryv-qY5TFx8zIZIs0YEj8NPodBo_0-EY_AOpo.

² Reportable incidents under the NDIS - 1 July 2018 to 31 Dec 2019. Source: NDIS Quality and Safeguards Commission.



of unauthorised restrictive practices.³

Recommendation:

The NDIS Quality and Safeguards Commission is restructured to ensure safeguarding of people from cruel inhuman and degrading treatment so that it is an effective protective and preventative mechanism and not merely an expensive reactive complaints processor. The executive administration of this Commission should include people with disability and the relationship to advocates must change to one of collaboration and effective cooperation with expedient remedies.

Unintended Consequences and Hardships

The imposition of community restrictions was accompanied by silence from governments about the rights to essential supports and the welfare of people with disability. Without appropriate messaging about the right to, and importance of, supports and services, people with disability and their support services have experienced discrimination and vitriol in the community.

Some people have experienced increased incidents of aggressive behaviour from the public because of the perceived inability for some people to independently adhere to physical distancing requirements. This points to poor quality in supports or a lack thereof, as well as a lack of personal responsibility by community members to undertake their own detours.

There have been reports from some people with disability that their support staff have been interrogated while performing essential tasks such as grocery shopping on behalf of a client or traveling to and from client's homes.

People with disability have reported difficulty accessing essential services such as:

- personal support services, medical services, supports for grocery shopping and delivery services;
- essential disability supports, such as personal care, assistance with everyday tasks such as house cleaning, transport to appointments and getting out into the community for exercise.

The lack of public communication has also caused confusion for independent support staff, unsure if they would be fined for being out in the community or traveling to work.

People with disability reported being unable to find suitable staff to fill shifts, experienced shifts for core support being canceled last minute and having unknown staff turning up to fill shifts without any warning from the service provider. Because of this some people have just decided to stop all support until the restrictions are lifted.

³ <https://www.theguardian.com/australia-news/2020/may/27/ndis-providers-used-unauthorised-restraints-more-than-65000-times-watchdog-reports>



Dubious and Unethical Service Provider practices

QAI has received reports of service providers charging clients for day programs and activities they are no longer providing notwithstanding that, to our knowledge in some circumstances, no alternative program has been offered to clients. QAI acknowledges that in some instances some providers have been appropriately responsive and enabled some of their clients to engage in one-to-one supports instead of group day programs.

For example, one large service provider offered 1:1 support to the clients of their day service that they deemed likely to be eligible for 1:1 support under the NDIS. There is no clarity around how this decision is determined, and it is questionable that providers should in fact be making this judgment at all.

The people deemed eligible were offered 1:1 in-home support but no community access for shopping, or other activities. QAI is concerned that this increase of 1:1 support may rise at the expense of other participants/service clients who are missing out entirely.

It was reported to QAI that participants can cancel their services however there has been an implied threat that they may not retain a place in their former group activities once the service resumes as usual. Nevertheless, QAI expects that people will become accustomed to better more personalised 1:1 support and may not want to return to group activities particularly if they did not enjoy them. We are therefore concerned that in order to retain what should be their right to 'choice, control' and individualised support under a fair and equitable NDIS, people will be subjected to a prolonged battle and an increase in NDIS Plan reviews and subsequent AAT appeals.

One training and capacity building organisation offers video sessions for their clients however, this obviously is not appropriate for all participants, and so some will just miss out. This service is also conveying to people that if they cancel their service, they will have to reapply when normal services resume, and they may not get in.

Additionally, one supported accommodation provider has communicated that parents and family members are not allowed to visit their family member but that the family member can leave the accommodation to visit them. This clearly exposes the person with disability to potentially increased risk of contact to positive cases of COVID19, when the provider has both the best option and clear responsibility and duty of care to minimize risk in the group living arrangement. While QAI supports that individual people residing in group homes are at heightened vulnerability to the risk of infection, it is likely to be increased if they are supported by numerous and changing support staff or a range of contacts with family members who may be exposed to broader population mix due to work, school and or other connections.

Employment

QAI has many concerns and questions about 'sheltered workshops' (Australian Disability Enterprises, or ADEs) given their rather opaque nature about their activities:

1. Are they closed? If so, are people still being paid? If not, are people with disability being supported to work safely?



In an Open Letter to the National Cabinet (March 2020) over 70 organisations (including QAI) wrote *"It is our view that Australian Disability Enterprises (ADEs) – formerly known as 'sheltered workshops' - do not constitute an "essential service" and we urge the Australian Government to act swiftly to close all ADE's given the high risk they pose to people with disability at this time"*.

QAI has been unable to confirm the status of many sheltered workshops, but anecdotal evidence suggests they have continued to operate in circumstances in which social distancing protocols are not enforced. We are also concerned that there has been insufficient Personal Protective Equipment provided. Given the heightened health vulnerability of many people with disability, this is highly concerning.⁴

2. Are people with disability being provided with accurate and accessible information regarding the COVID19 supplement?

In this context, we are also concerned by reports that people with disability are being denied access to the COVID19 supplement. There is insufficient information available and accessible to confirm the information being provided to sheltered workshop employees with disability.

In an article by ABC journalist, Norman Hermant wrote "People with disability say COVID-19 is pushing up costs, but they can't get Coronavirus Supplement" (April 2020) <https://www.abc.net.au/news/2020-04-19/coronavirus-supplement-people-with-disability/12158526>:

Key points from this included:

- "Many Australian Disability Enterprises (ADEs) have continued to operate. There are about 600 ADEs across the country, sometimes known as sheltered workshops"
- "Senator Steele-John said the continued operation of ADEs was unsafe for employees. "They come together in group settings, often hundreds at a time, and undertake activities," he said. "And so in these group settings with older people, often people with intellectual cognitive disabilities, sometimes communication difficulties, it is incredibly difficult to enforce social distancing"
- One workshop reports that "Measures currently in place to ensure the health and wellbeing of our supported employees and staff include staggered start, finish and break times to ensure physical distancing can be maintained at all times."
- "Queensland's Endeavour Foundation temporarily shut down its ADEs on April 3. "We believe we can no longer guarantee the safety of supported employees during this pandemic situation," it said in a statement. One of the issues it

⁴ Norman Hermant, "People with disability say COVID-19 is pushing up costs, but they can't get Coronavirus Supplement" (April 2020) <https://www.abc.net.au/news/2020-04-19/coronavirus-supplement-people-with-disability/12158526>.



identified was the reliance of many of its employees on public transport. "Given many of our supported employees use public transport, their exposure to COVID-19 is also increased — which is another reason why we must make this difficult decision."

The narratives on the circumstances of employment and volunteering activities that people with disability engage reflect a lack of consistency and transparency about what financial or other assistance is available to them. Key information that is not readily available includes:

- Is the sheltered workshop assisting them to get financial assistance from Centrelink or linking them to open employment or some other service?
- If sheltered workshops are not closed down, what and how are people supported to remain safe (spatial distancing)?
- Has adequate personal protective equipment been supplied to people with disability and their support workers?

Stories reported in blogs and social media provide valuable insight. A pertinent and compelling personal account about the impact of COVID19 on the work and life of a woman with intellectual impairment is provided by Michael Frost.⁵ A recent article by Maggie Coggan provides a compelling argument for importance of advocacy in supporting people with disability to move into open employment.⁶

From the limited information available, QAI is concerned that many sheltered workshops have not closed their physical premises in response to COVID19 and it is unclear if they are providing the necessary supports to keep employees with disability safe.

QAI submits that while the employees are still being paid, and despite the Federal Court ruling against the Business Services Wage Assessment Tool, the rate of payment remains far below the minimum wage. It appears there is little to no support from their employers, as disability advocates are still the major force pushing for change. There is opportunity create major transformation to employment for people with disability by deconstructing the model of sheltered workshops. Employees with disability in these workplaces can be readied for open employment once COVID19 restrictions are lifted. Sheltered workshops can be utilised instead as transitional support arrangements and phased out. People with disability who want to continue in their activities and are unable to find employment should be supported in day services or other more appropriate and valid activities of their choosing under the NDIS.

⁵ Michael Frost, *Coronavirus is freaking my intellectually disabled sister out* (March 2020) <https://thebrag.com/coronavirus-is-freaking-my-intellectually-disabled-sister-out/>

⁶ Maggie Coggan, *'We need to see action': Disability advocates present plan to end barriers to work* (February 2020) <https://probonoaustralia.com.au/news/2020/02/we-need-to-see-action-disability-advocates-present-plan-to-end-barriers-to-work/>



Education – Remote Schooling

Changes to how education is delivered has also had a significant impact on children with disabilities, their parents, and parents or carers with disability.

Schools across Queensland had been closed to all but children of essential workers and vulnerable students since the end of March. Queensland schools had been working towards developing a new program that can be delivered online to students at home using technology to access lessons and communicate with teachers. This mode of teaching and learning assumes that all students have access to suitable technology and internet including assistive technology.

QAI is concerned that the rate at which these changes occurred without due consideration to the individual learning and communication needs of children with disability. We acknowledge that this unique circumstance has caused rapid and considerable stress to schools, teachers and the system in attempting to deliver education for all. However, classroom teachers should have knowledge of each of their students and be supported to deliver adequate modifications. Teacher aides are important to this function and it is reasonable to expect that their continued support be applied (at the direction of the classroom/subject teacher) to this end.

Many of the mainstream learning platforms utilised by state schools are not accessible for some people with disability. For example, several schools use the seesaw platform or google classroom. This platform is not adequately accessible to people who use screen readers. A fully online method of teaching also does not allow for the needs of students who require more one-on-one support to achieve tasks such as students who have multiple disabilities for example deaf blindness.

It has been reported to us that even in very inclusive school settings, students with disability were overlooked and let down with on-line and remote learning with few having any adapted work available to them.

Other concerns

There has been an increase in access to telehealth for General Practitioner consultations and allied health services such as occupational speech, psychology and physiotherapy. However, for many people and many services, face-to-face appointments are the only appropriate way to engage with their therapists and counselors and therefore, many people with disability are not able to access their services. Psychology and counseling are a vital support for some people with disability who may already find it difficult to manage daily living or to leave their home.

However, there must be careful consideration to how these new changes are implemented. For example, in some cases, before a patient can physically attend the GP clinic for a consultation, there must first be a Coronavirus test conducted at an approved testing facility. We have been made aware that not all testing facilities are accessible for all people with disability. Some clinics require that the patient inform the clinic once they arrived, but in some situations there is no phone number to make that contact. The testing process



requires that the patient enters or leaves through a separate entrance that is not always accessible to all people. Without ensuring that all testing facilities and processes are accessible to all, people with disability and health care workers at testing clinics are put at unnecessary risk. Further, getting to a testing facility is almost impossible unless the patient can drive or have someone to drive them. There is a need for closer attention to ensure that people without access to a car or who cannot attend a testing facility can still be tested safely and in a timely manner .

New social distancing rules have created increased challenges for people with disability. Rules such as restrictions on the number of visitors to the home, and only being able to leave home for essential things like groceries or for exercise are understandable and necessary but not always practical for people with disability who may require two support people to get out into the community. This has resulted in many people's community access being ceased during this time and the nature of some people's disability means that they aren't able to understand why this is. This causes confusion and distress for some people and may result in increased anxieties and/or fear, with resulting difficulties for people with disability and their families who have reduced levels of support from service providers and informal supports during this time.

Changes to public transport have negatively impacted on some people's ability to get out and access essential services. A reduction in bus services and changes to boarding such as only using the back door in order to adhere to social distancing rules are impractical for people who use mobility aides or dog guides and need access to the accessible front doors of the bus. Messages have been sent out advising people who require use of the front doors to let the bus companies know but this is not a practical solution for many people who already have difficulty accessing busses.

The new social distancing rules have also affected attitudes towards people with disability who are out and about in the general community. We have received personal accounts from people with disability that members of the public are less likely to offer assistance when asked, or that if they encounter a person with disability in trouble, COVID19 and social distancing restrictions are being used as a justifiable excuse for this behavior. A reluctance to provide any sort of physical assistance has also been experienced by some people when accessing essential services such as a medical specialist, when seeking assistance in a grocery store, when catching public transport, and when using taxi and uber service. People are also sharing stories of being verbally abused by members of the public for not adhering to physical distancing restrictions. Others have reported theft from their trolleys while shopping, people cutting in front of them in a queue and of being physically touched without their consent when they have been assisted.

The federal government's decision not to extend the \$550 Coronavirus supplement to those receiving disability support pension or carer payments is discriminatory and adds an additional unnecessary burden on already vulnerable people. By failing to extend the payment to people receiving these payments, the government is sending a clear message that people with disability and their families/carers are not a valued part of society and that the contribution they make is not important enough to support them appropriately through this crisis. The increased cost of living as a result of this pandemic affects people with



disability and their families as much if not more than the rest of the community, particularly as service providers add surcharges for non-contact supports or other additional COVID19 related excuses.

Conclusion

In conclusion, more consideration needs to be given to the impact of any further restrictions on people with disability, as well as to the impact of the staged restrictions currently in place.

People with disability should be enabled and included in decision making about issues affecting their lives and would feel far less confused about restrictions if concerns were addressed in government announcements in the same way other groups are acknowledged.

When deciding on the best way of returning to a free and equal society, people with disability who have lost or had services reduced may need increased support and services to enable them to return to the same or better quality of life, and reduced marginalisation prior to COVID19.

QAI recommends that Australia follow the initiative shown in New Zealand and establish an independent monitoring system that is comprised of a majority of people with disability, supported by the Australian Human Rights Commission and the Ombudsman, with jurisdictional arms. For example, in Queensland, the Queensland Human Rights Commission, the Queensland Ombudsman and representatives of people with disability have a significant role to play in providing external oversight and monitoring to prevent human rights violations, both during the pandemic and beyond.⁷

⁷ <https://www.hrc.co.nz/news/independent-oversight-ensure-rights-disabled-people-are-upheld-during-covid-19-pandemic/>

