

The Disability Council of NSW, its work and operation

a paper by Mark Robinson SC for the Centre for Disability Research and Policy at the University of Sydney 19 January 2023

The Role of the Disability Council

The Disability Council NSW (the ‘Council’) is a statutory body that provides the Minister for Families and Communities, and Disability Services with advice on matters that affect people with disability in NSW, as well as their families and carers.

The Council was initially established under the *Community Welfare Act 1987* (NSW). Subsequently, the Council was re-established under the *Disability Inclusion Act 2014* (NSW) with very little change to its functions. There were some substantial amendments to that Act made in 2022 by the *Disability Inclusion Amendment Act 2022* (NSW). The Council consists of a diverse group of up to 12 people with lived experience of disability and/or expertise in disability issues.

Council’s responsibilities

The Council's main responsibilities under the [Disability Inclusion Act 2014 \(NSW\)](#) are to:

- **Monitor** the implementation of government policy;
- **Advise** the Minister on emerging issues relating to people with disability, and about the content and implementation of the State Disability Inclusion Plan and Disability Inclusion Action Plans
- **Advise** public authorities about the content and implementation of Disability Inclusion Action Plans (public authorities include government departments and local councils and some other bodies listed in reg. 5 [Disability Inclusion Regulation 2014](#) such as the State Library)
- **Promote** the inclusion of people with disability in the community and promote community awareness of matters concerning the interests of people with disability and their families
- **Consult** with similar councils and bodies, and people with disability
- **Conduct** research about matters relating to people with disability.

Council members

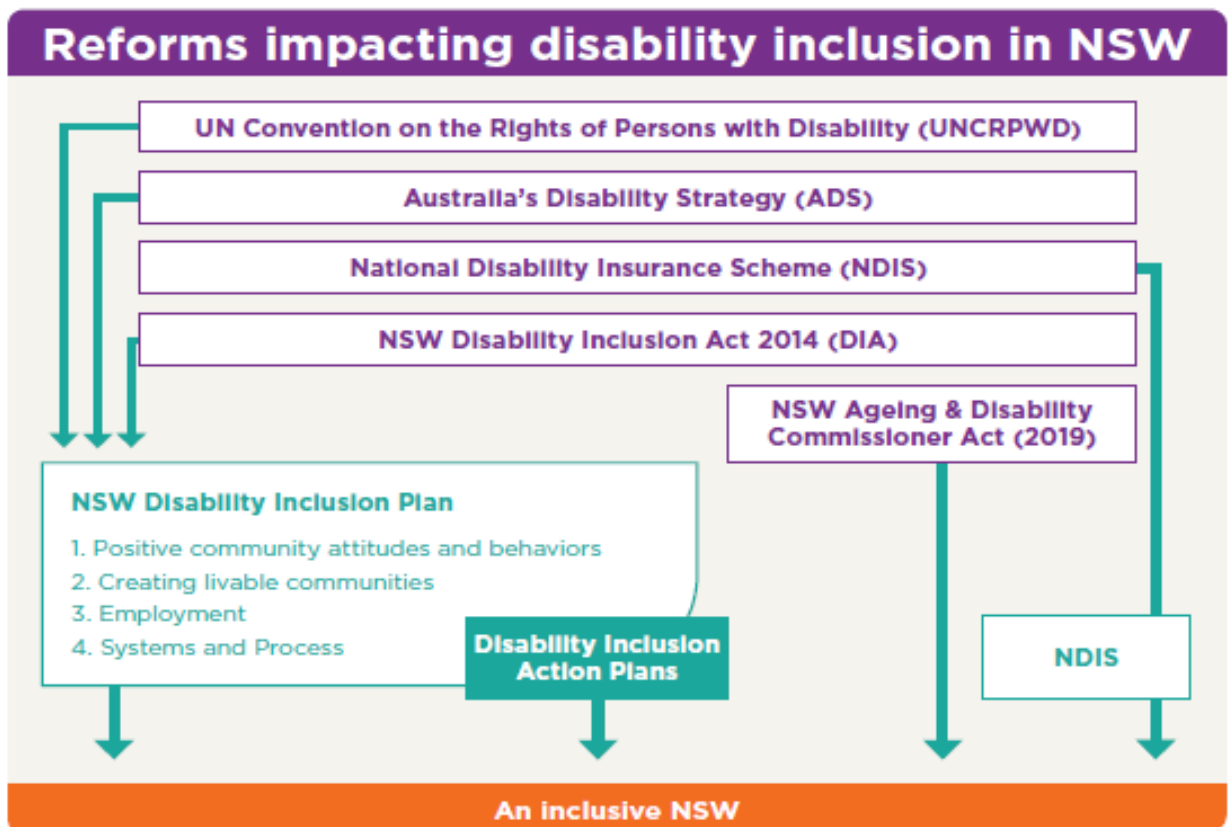
Council comprises at least eight and no more than 12 persons as prescribed under section 16 of the Act. Members are appointed by the NSW Governor as individuals

for up to four years and are eligible for re-appointment. The Act requires that the majority of the members must be people with disability (section 16(3)).

- Jane Spring (Chair)
- Associate Professor Jill Duncan (Deputy Chair)
- Julie Charlton
- Caroline Cuddihy
- Gail LeBransky PSM
- Emily I’Oons
- David Raphael
- Mark Robinson SC
- Paul Zeller.

Member profiles are available [online](https://www.dcj.nsw.gov.au/community-inclusion/advisory-councils/disability-council-nsw/about-the-disability-council/council-member-profiles.html) (https://www.dcj.nsw.gov.au/community-inclusion/advisory-councils/disability-council-nsw/about-the-disability-council/council-member-profiles.html).

Background



United Nations Convention of the Rights of Persons with Disabilities (UNCRPD)

The [UNCRPD](#), was ratified by Australia in 2008. It acknowledges that people with disability have the same human rights as those without disability. The social model of disability outlined in the UNCRPD, provides that people with disability are not disabled by their impairment but by the barriers in the community that prevent them gaining equal access to information, services, transport, housing, education, training, employment, and social opportunities.

Australia's Disability Strategy 2021-2031

[Australia's Disability Strategy](#) is a ten year plan that calls on all Australians to ensure people with disability can participate as equal members of society.

The Strategy's vision is for an inclusive Australian society that ensures people with disability can fulfil their potential, as equal members of the community.

The purpose of the Strategy is to:

- provide national leadership towards greater inclusion of people with disability
- guide activity across all areas of public policy to be inclusive and responsive to people with disability
- drive mainstream services and systems so as to improve outcomes for people with disability
- engage, inform and involve the whole community in achieving a more inclusive society.

The Strategy has seven outcome areas:

- **Employment and Financial Security** - Outcome: People with disability have economic security, enabling them to plan for the future and exercise choice and control over their lives
- **Inclusive Homes and Communities** - Outcome: People with disability live in inclusive, accessible and well-designed homes and communities
- **Safety, Rights and Justice** - Outcome: The rights of people with disability are promoted, upheld and protected, and people with disability feel safe and enjoy equality before the law
- **Personal and Community Support** - Outcome: People with disability have access to a range of supports to assist them to live independently and engage in their communities
- **Education and Learning** - Outcome: People with disability achieve their full potential through education and learning
- **Health and Wellbeing** - Outcome: People with disability attain the highest possible health and wellbeing outcomes throughout their lives
- **Community Attitudes** - Outcome: Community attitudes support equality, inclusion and participation in society for people with disability

There are a number of accompanying documents to this strategy that are available including a [Roadmap](#), [Outcomes Framework](#), [Engagement Plan](#) and [Evaluation Good Practice Guide Checklist](#).

Targeted action plans

There are presently five, one to three year, targeted action plans in the Australia's Disability Strategy to improve outcomes:

- Targeted Action Plan: [Employment](#)
- Targeted Action Plan: [Community attitudes](#)
- Targeted Action Plan: [Early childhood](#)
- Targeted Action Plan: [Safety](#)
- Targeted Action Plan: [Emergency management](#)

National Disability Insurance Scheme

The National Disability Insurance Agency (NDIA) is an independent statutory agency responsible for implementing the National Disability Insurance Scheme (NDIS).

The National Disability Insurance Scheme was established under the [National Disability Insurance Scheme Act 2013 \(Cth\) \(NDIS Act\)](#).

The NDIS moves away from the previous system of providing block funding to various agencies and community organisations, and gives funding directly to persons with disability. It provides reasonable and necessary funding to people with a permanent and significant disability (intellectual, physical, sensory, cognitive and psychosocial disability) under the age of 65 to access the supports and services they need to live and enjoy their life.

The NDIS funds a range of supports and services, which may include education, employment, social participation, independence, living arrangements, and health and wellbeing.

Disability Inclusion Act 2014 (NSW)

The [Disability Inclusion Act 2014](#) (NSW) enshrines inclusion as a right for all people with disability, especially in regard to their participation in social and economic life.

The Act promotes the inclusion and participation of people with disability in the community in a number of ways, including by requiring the development and making of a State Disability Plan, requiring State government bodies to prepare Disability Inclusion Action Plans, and providing for the Disability Council NSW to advise the Minister (and others) on matters affecting people with disability.

In 2021 the Act was reviewed, with input from the Disability Council, and the *Disability Inclusion Amendment Act 2022* (NSW) was made in 2022. The amending Act implemented recommendations made in the Report of the Statutory Review of the Act, which was tabled in Parliament on 20 November 2020. The amending Act required that the State Disability Inclusion Plan and Disability Inclusion Actions Plans are made available in one or more formats accessible to people with disability and that they are to be remade, rather than just reviewed, every four years.

NSW Disability Inclusion Plan and Action Plan

The Act mandates the development of a state-wide Disability Inclusion Plan.

The [NSW Disability Inclusion Plan 2021-2025](#) (DIP) was launched on 19 November 2021 by the State Government.

The four year plan built on the work the NSW Government has undertaken to create more accessible and inclusive communities and provides the blueprint for increasing the social and economic participation of people with disability across NSW. It aligns with the Australian National Disability Strategy and NSW's obligations under the UNCRPD.

The plan has four focus areas that set out how the NSW Government proposes to improve the lives of people with disability. The focus areas are:

1. Developing positive community attitudes and behaviours
2. Creating liveable communities
3. Supporting access to meaningful employment
4. Improving access to mainstream services through better systems and processes.

The [NSW Disability Inclusion Action Plan 2021 - 2025](#) supports the NSW Disability Inclusion Plan. It sets out actions under the four focus areas of the plan.

Focus Area One: Positive community attitudes and behaviours

Aim: To build community awareness of the rights and capabilities of people with disability, and to support the development of positive attitudes and behaviour towards people with disability.

Focus Area Two: Creating liveable communities

Aim: To increase participation of people with disability in all aspects of community life, through targeted approaches to address barriers in housing, learning, transport, health, social and cultural engagement and wellbeing.

Focus Area Three: Supporting access to meaningful employment

Aim: To increase the number of people with disability in meaningful employment, thereby enabling people with disability to plan for their future, and exercise choice and control, and increase their economic security.

Focus Area Four: Improving access to mainstream services through better systems

Aim: To ensure that people with disability can make informed choices about available services and to easily and efficiently access mainstream government services and other opportunities in the community.

The Disability Council has an expanded role under section 17 of the Act (as amended in 2022) to **advise** the Minister about the content and implementation of the State Disability Inclusion Plan and Disability Inclusion Action Plans.

Public Authorities' Disability Inclusion Action Plans

Under the [Disability Inclusion Act 2014 \(NSW\)](#), all NSW government departments, some other government agencies and all local councils are required to develop their own [Disability Inclusion Action Plan](#) (DIAP).

As with the NSW DIP and DIAP, the Council has a role in advising public authorities about the content and implementation of disability inclusion action plans. This includes supporting public authorities and other organisations to develop, govern, implement, monitor and evaluate their DIAPs (section 17(1)(c) of the Act).

The Disability Council:

- provides generic advice on disability inclusion planning;
- attends consultations on DIAPs where possible;
- provides links to information and resources that will assist public authorities to develop their DIAP;
- provides a [checklist](#) for public authorities to self-assess their DIAP for compatibility with the Disability Inclusion Act and best practice;
- receives DIAPs from all public authorities (as it is required to do under section 12 of the Disability Inclusion Act) and keep a register of all DIAPs on its website;
- provides a tool for feedback on each public authority's DIAP on the [Register of DIAPs page](#) of the Disability Council NSW website;
- advises the Minister about the content and implementation of DIAPs.

Additional information about the Council's role is available [here](https://www.dcj.nsw.gov.au/community-inclusion/advisory-councils/disability-council-nsw/about-the-disability-council.html) (<https://www.dcj.nsw.gov.au/community-inclusion/advisory-councils/disability-council-nsw/about-the-disability-council.html>).

NSW government structure

NSW Government departments, agencies and organisations are arranged into ten groups, called clusters.

- Premier and Cabinet
- Treasury
- Regional NSW
- Enterprise, Investment and Trade
- Health
- Education
- Transport
- Customer Service
- Planning and Environment
- **Stronger Communities**

In the Stronger Communities Cluster, there is:

- [Department of Communities and Justice](#)
 - Strategy, Policy and Commissioning division
 - Housing, Homelessness and Disability directorate
 - Disability Reform Group
 - Disability Inclusion

Minister: [The Hon. Natasha Maclaren-Jones MLC](#)
Minister for Families and Communities, and Disability Services

Obligations of the Council

As defined in the [Disability Inclusion Act 2014 \(NSW\)](#) the purpose of the Council is to provide the Minister for Families, Communities and Disability Services with independent advice on matters that affect people with disability in NSW, as well as their families and carers.

As provided for in the Act, the Council has the following functions (section 17):

- (a) to monitor the implementation of government policy in relation to people with disability and their families
- (b) to advise the Minister on emerging issues relating to people with disability
- (c) to advise public authorities about the content and implementation of disability inclusion action plans
- (d) to advise the Minister about the content and implementation of the State Disability Inclusion Plan and disability inclusion action plans

- (e) to promote the inclusion of people with disability in the community
- (f) to promote community awareness of matters concerning the interests of people with disability and their families
- (g) to consult with the National People with Disabilities and Carer Council and other similar bodies
- (h) to consult with people with disability and undertake research about matters relating to people with disability
- (i) any other functions prescribed by the regulations.

Role of the secretariat

The Council is funded and resourced by the NSW Government through the Department of Communities and Justice (DCJ) and is supported by a secretariat team within DCJ.

Key stakeholders

The Council regularly engages with (in meetings, conferences and in correspondence) disability peaks, service providers and advocacy groups on joint advocacy, submissions to government inquiries and collaborative initiatives. These organisations include, but are not limited to:

National

- National Disability Services
- Australian Network on Disability
- Disabled People's Organisation Australia
- National Ethnic Disability Alliance
- Vision Australia
- Blind Citizens Australia
- Deafblind Australia
- Spinal Cord Injuries Australia
- Deaf Australia
- Council for Intellectual Disability
- First Peoples Disability Network
- IDEAS
- Autism Spectrum Australia
- Summer Foundation

NSW

- Physical Disability Council of NSW
- People with Disability Australia (NSW)
- Muscular Dystrophy NSW
- Guillian Barre Syndrome Association of NSW Inc.
- Amputees NSW
- Multicultural Disability Advocacy Association
- One Door Mental Health

- Autism Advisory and Support Service

External representation

In 2021, the Disability Council NSW was represented on the following external bodies:

- Transport for NSW Accessible Transport Advisory Committee (ATAC)
- Ministry of Health Disability and COVID-19 Community of Practice meetings
- Department of Communities and Justice NSW Disability Stakeholder Forum
- Department of Education Disability (Strategy) Reference Group
- NSW Education Standards Authority Disability Education Forum
- National Disability Insurance Agency Community Update
- Greater Sydney Commission Women’s Safety Charter
- Disability Employment Network Chairs Meeting
- Transport for NSW Taxi Transport Subsidy Scheme External Stakeholder Working Group
- Physical Disability Council NSW Interagency Policy Working Group

Council members may also attend ad hoc meetings and consultations on behalf of the Council.

Following attendance at an external meeting or event, Council members provides the Council with feedback, along with the minutes where available. These documents are shared to other Council members.

Mode of Council Operation

The Council members meet about six days per year. Individual members appear on committees and with other organisations all the time and report back to Council.

The Minister often appears at Council meetings to discuss policy developments or to hear from the Council members.

The Council has published its own Disability Council NSW Plan 2022 – 2024.

It is essentially a policy action plan.

Our “file pillars” of activity in that time are:

- Accessible communities
- Ensuring the voice of people with disability is heard
- Employment
- Justice and rights
- Housing.

I have responsibility for the Justice and Rights pillar (with one other member).

People with disability face multiple barriers in accessing justice, including courts and tribunals.

Some barriers are practical (such as physical barriers in old buildings; no hearing loops) while some relate to the quality of support provided to people with disability in the justice system.

This leads to people with disability, in particular people with intellectual disability, being over-represented in prisons.

This is in part a symptom of a broader failure to ensure the legal rights and human rights of all people, including people with disability. These barriers exist not just in accessing justice, but they travel along the justice pathway. People with disability in prisons, on remand and those subject to control or supervision orders have particular needs that are not always identified or properly accommodated.

The Council's work does not end. Its members are very busy.

New problems and issues and goals are always emerging.

If you have any questions that I cannot answer, please contact the Disability Council Secretariat on disabilitycouncil@facs.nsw.gov.au.

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