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**Vision Australia Submission: New South Wales Government Response to the Final Report of the Disability Royal Commission**

Submission to: Department of Communities and Justice: NSW Disability Royal Commission Response Team

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Date: 24 January 2024

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Introduction

Vision Australia welcomes the opportunity to provide a submission to the Department of Communities and Justice for the purpose of informing the NSW Government response to the final report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (**the DRC**). It is disappointing, however, that such a short time frame has been afforded to individuals and organisations to make a submission to this consultation in relation to what is a lengthy report with potentially significant ramifications. In the circumstances, we are providing only a short response focusing on the matters which are likely to provide the most meaningful impact for the blind and low vision community.

Recommendations

Vision Australia considers that, of the recommendations directed to State and Territory governments, the following are the most important for people who are blind or have low vision:

1. Providing equal access to mainstream education and enrolment (*DRC Recommendation 7.1*)
2. Improving policies and procedures on the provision of reasonable adjustments to students with disability (*DRC Recommendation 7.3*)
3. Improving student and parental communication and relationships (*DRC Recommendation 7.6*)
4. Establishing inclusive education units (*DRC Recommendation 7.7*)
5. Improving workforce capabilities, expertise and development within the education sector, including the setting of employment targets for people with disability in government schools and the general increase of disability employment (*DRC Recommendation 7.8*)
6. Improving complaint management procedures in the education sector (*DRC Recommendation 7.10*)
7. Establishing stronger oversight and enforcement of school duties (*DRC Recommendation 7.11*)
8. Adopting the requirement that all information and communication technology purchases comply with the current Australian information and communication technology accessibility standard (AS EN 301 549: 2020 – Accessibility for ICT products and services) (**the ICT Standard**) (*DRC Recommendation 7.23*).
9. Adopting specific and disaggregated targets for disability employment in the public sector (*DRC Recommendation 7.18*) and adopting specific and disaggregated targets for new public service hires in agencies and departments (*DRC Recommendation 7.19*).
10. Recognising the right for people with disability to have access to key information services on an equal basis with others (*DRC Recommendation 6.1*).

Further information regarding these items is set out below.

Education

Vision Australia welcomes the recommendations of the DRC regarding education, but we also recognise that to achieve inclusive education for students with disability, there needs to be fundamental change to attitudes and awareness at all levels. As the DRC noted in Volume 7 of its Final Report:

*“There is no single way to change attitudes towards people with disability and address ableism in school. In the analysis and recommendations that follow, we recognise that negative attitudes are a root cause of systemic exclusion of people with disability. We know that changing attitudes is a complex and multifaceted endeavour. Changing attitudes to promote inclusive education requires concerted effort from all sectors of society, including governments, schools, teachers and parents.”*

For Australians who are blind or have low vision, quality and inclusive education is vital to enabling later participation in the civil, political, economic, social, and cultural spheres of society on the same basis as other members of the community. This encompasses all levels of education.

There is a particularly strong link between a quality education and the subsequent gaining of meaningful employment. Research conducted by Vision Australia in 2018 in collaboration with the CNIB Foundation (Canada) showed that only 24 percent of Australian adults who are blind or have low vision were in fulltime employment. It is therefore of paramount importance that blind and low vision students receive an equitable education so that they may continue on to further study and be in the best position to gain employment and independence.

In 2020, Vision Australia conducted a survey of parents and students to form the basis of a submission to the review of the Disability Standards for Education (**the Standards**) (**the Vision Australia survey**). The responses to the Vision Australia survey highlighted the continuing issues for students who are blind or have low vision in the education sector. Common themes that emerged included:

1. Lack of knowledge and general awareness of the Standards or considering them to be unclear.
2. Lack of frequency and consistency in the supports provided to students to enable participation in education on the same basis as their peers.
3. Apprehension about making complaints.

We will address these matters further in our comments below on specific recommendations.

Equal Access to Education and Enrolment (DRC Recommendation 7.1)

Vision Australia is aware of various clients who have experienced ‘gatekeeping’ practices by education providers when enrolling at schools and early childhood centres. We know that some schools and centres simply refuse to enrol children who are blind or have low vision, citing lack of capacity to provide adequate resources, infrastructure and supports. Currently, it can be difficult for parents to determine their rights in such situations, and where they can access assistance. We therefore strongly support the recommendation of the DRC that State and Territory educational authorities disseminate clear, accessible and transparent material for students with disability and their families on their rights, the obligations of schools relating to applications to attend a local school, and review processes. This requirement should also be extended to encompass early childhood centres. The material should be distributed via various channels to ensure that parents can be fully informed, and at the least, should be provided by schools and centres to parents of all prospective students with disability.

We also support the establishment of an independent review process to enable a parent of a child with disability to challenge an enrolment refusal. We believe that a dedicated and independent pathway for parents in relation to enrolment issues would not only assist parents in challenging unfair refusals but would act as a deterrent to education providers in refusing enrolment for reasons that are not justifiable. If such a mechanism is to be effective though, it must be accessible, time efficient, and not place an inequitable burden on parents. It must also be informed by people with disability who have the knowledge and lived experience to provide proper insight to the process.

Reasonable Adjustments (DRC Recommendation 7.3)

In our experience, there is very little consistency in the educational supports and services being received by students who are blind or have low vision. There is a significant variance between schools and between educators. Unacceptably, for many children who are blind or have low vision, support and assistance depends on where they live, what school they attend, and the teacher allocated to their class. The lack of awareness and training for principals, teachers and staff in their obligations to students under the Disability Discrimination Act 1992 (**the DDA**) and the Standards is a fundamental barrier to change in this area.

Adjustments which benefit students who are blind or have low vision include, but are not limited to:

1. Provision of materials in their preferred format.
2. Adjustments to the built environment, such as contrast lines, window blinds and tactile indicators.
3. Access to assistive and adaptive technologies.
4. Braille instruction.
5. Specialist visiting teachers with experience in teaching the skills and concepts that form part of the Expanded Core Curriculum.

The Vision Australia survey highlighted considerable deficiencies in the provision of adjustments in the school environment. Of the respondents to the Vision Australia survey:

1. Only 50 percent said that their school or their child’s school was providing learning material in their preferred format all of the time.
2. 37 percent of parents said that their child’s school was only partially making adjustments to the built environment, while 16 percent said that their school had made no adjustments to the built environment.
3. 35 percent of parents reported that their child had not been provided with the technology or other equipment needed for them to properly participate in education.
4. 27 percent of parents reported that their child’s school had not provided their child with the opportunity to learn braille.
5. 48 percent said that time spent with specialist staff was not sufficient to achieve learning goals, and 59 percent said that there was no consistency or frequency of provision of specialist staff assistance.

There was also a common theme amongst respondents of having to continually advocate to ensure the provision of supports and adjustments sufficient to enable meaningful participation in education. In particular, there was reference to the lack of a proactive approach on behalf of educational providers.

Issues relevant to educational adjustments are not unique to students who are blind or have low vision. In Volume 7 of its Final Report, the DRC noted:

“*Evidence at Public hearing 7 addressed decision-making processes in New South Wales and Queensland on the provision of adjustments for students with disability. The Commissioners made a general finding that ‘ultimately, the provision of reasonable adjustments is largely left to the judgment and discretion of educators, with little departmental oversight.’*

*…*

*Following Public hearing 7, Counsel Assisting submitted that, in the absence of training, decision makers are unlikely to fully appreciate their legal obligations when considering whether to provide adjustments to a student with disability.*

*We accept the submissions of Counsel Assisting. Our findings accord with those of past reports and inquiries that highlighted that the concepts of reasonable adjustments and unjustifiable hardship are not well understood.*

*…*

*Mr Potter appeared on behalf of the State of New South Wales at Public hearing 7. He stated that his expectation was that ‘professional people in schools would clearly understand what was required to be in place to support students with disabilities’. He also expected that school personnel would take advice from experts, both within and outside the New South Wales Department of Education, when making decisions about students with a disability. However, he said it was ultimately a decision for the principal to identify appropriate adjustments for the student. Mr Potter accepted that identifying a reasonable adjustment was a matter that involves considerable discretion. This could lead to very different experiences for students at different schools.*

*New South Wales agreed that, in principle, better direction and guidance should be given to educators about the requirements under the DDA and the Education Standards. Since July 2020, the New South Wales department requires school leaders, including principals, to complete training in the DDA and the Education Standards every three years. The New South Wales Department of Education website now provides additional resources that outline the legal obligations of educators in New South Wales and the training available to support their skills and capabilities in this area.”*

We welcome the steps taken by the New South Wales government since appearing at public hearing 7 of the DRC. We submit though that the fuller recommendations of the DRC in relation to reasonable adjustments would result in added improvements in this area and should be adopted by all State and Territory governments. These recommendations go further in the guidance that would be available to the staff of educational providers regarding the requirements of the DDA, the Standards and the various processes that exist under those enactments. The proper implementation of these recommendations would be a good first step in addressing the inconsistencies that exist for students in receiving educational adjustments.

## Student and Parental Relationships and Communication (DRC Recommendation 7.6)

Vision Australia is a strong proponent of schools acknowledging the parent and student voice in all matters pertaining to the education of a child with disability. We also submit that a process for better collaboration between disability service providers and educational providers should be implemented to ensure that students with disability are achieving their potential in the education system. It is only with genuine consultation and communication, and by partnering with parents and other external stakeholders, that educational providers can ensure that students with disability reach their educational goals. In our experience, too often strategies that could assist a student with disability are not put into practice because the knowledge and expertise that sits with external stakeholders is not sought or considered by educational providers. It is for this reason that we support the recommendation for school principals to implement policies, procedures and practices which enable students with disability and their parents to take part in the school community and decisions that affect a student’s educational experience.

We also submit that there needs to be careful consideration given to the interface between supports provided to students with disability as part of the education system, and NDIS supports. It is in the best interests of students for the interaction of these supports to be harmonised. Whilst we appreciate the distinction between the supports from a funding perspective, they both aim to improve overall outcomes for a student and should not be treated as being isolated from one another. It would be beneficial for students and their parents for there to be established processes for coordination between the providers of educational supports and providers of NDIS supports.

To be an effective contributor to educational decisions it is also vital that students with disability and their parents are fully aware of their rights, and of the obligations of education providers. The Standards are arguably unworkable if there is not a broad awareness of them amongst students, parents and educators. For students and parents, certainty around expectations and supports is paramount for them to be able to reasonably participate in decisions which impact educational outcomes. The Vision Australia survey revealed that 60 percent of respondents were aware of the Standards, but of those, only 28 percent were aware of them prior to school enrolment. That still leaves a significant proportion of respondents with no awareness of the Standards at all. There is accordingly a definitive need for educational authorities to provide clear and accessible information to students and their families on their rights and school obligations, together with expectations around decision-making. We support the adoption of the DRC recommendations in this regard.

## Inclusive education units and workforce capability (DRC Recommendations 7.7 and 7.8)

Vision Australia supports the establishment of inclusive education units in all State and Territory education systems as central repositories for resources and expertise on inclusive education. It would be our strong suggestion that these units are properly equipped to provide support on the full spectrum of disabilities with which students may present and employ persons with the knowledge and lived experience to give this support.

Vision Australia also supports the recommendations of the DRC to improve workforce capability, expertise and development on disability inclusion. It is vital for educators to be armed with the requisite knowledge needed to support children with disability in the education sector. In addition, we would urge the development of on-demand training programmes with respect to lower incidence disability types such as blindness and low vision.

Moreover, it is of the utmost importance that education providers ensure that specialist visiting teachers are engaged for all students who are blind or have low vision, and that these teachers are engaged on a basis which will meet the needs of the students they support. Visiting teachers are necessary for teaching the concepts, skills and knowledge which a student who is blind or has low vision is unlikely to acquire in the same manner as their sighted peers. These include braille literacy, adaptive technology training, orientation and mobility, compensatory skills training, independent living skills, social skills and career counselling. Given the specialised nature of these areas, specialist visiting teachers are in the best position to assist students who are blind or low vision in this respect.

## Complaint management procedures and oversight and enforcement of school duties (DRC Recommendations 7.10 and 7.11)

We are aware from clients of Vision Australia that they are often deterred from making complaints about educational providers due to the associated negative connotations, and the potential for discrimination or victimisation from the education provider if they go through a complaints process. Of the respondents to the Vision Australia survey, almost 70 percent said that they had wanted to lodge a complaint about something that had taken place within an educational setting but had not proceeded with it. Further, for parents who had made a complaint to an educational provider, the process and outcomes were far from ideal, particularly in relation to the time taken to achieve a resolution, if a resolution was achieved at all.

Complaints made under the DDA are also time-consuming, and the positive obligations placed on complainants are often not compatible with the other pressures that may be being faced by the family unit. In addition, students and their families may not have the resources needed to progress a complaint beyond conciliation to the Federal Court of Australia if a resolution is not reached.

All of this undoubtedly contributes to a lack of adherence by educational providers to the DDA and the Standards.

To counter some of these issues, we urge the NSW Government along with other State and Territory governments to adopt the recommendation of the DRC to create or expand complaint management offices within educational authorities which are at arm’s length from schools, particularly for the purpose of addressing complaints about students with disability. We also support the concept of embedding complaint handling duties and measures in registration requirements for schools as a means of enforcing compliance with those duties.

In a similar vein, we support the recommendation of the DRC to enforce inclusive education practices by schools through the expansion of school registration requirements. In our experience, purely complaint-drive processes do not achieve the best outcomes in the protection of disability rights. It is necessary to balance this with positive obligations for bodies and organisations as a way to encourage changed behaviours and address areas of systemic discrimination.

Accessible Procurement (DRC Recommendation 7.23)

Vision Australia strongly supports government procurement policies that mandate the purchase of accessible ICT products in line with the ICT Standard. Vision Australia is one of various organisations that has been advocating for the introduction of a mandatory accessible ICT procurement regime across all Australian governments for several years.

Finding and maintaining employment is the most significant challenge for people who are blind or have low vision. There are many barriers to employment for the blind and low vision community, but a key barrier is the inaccessibility of mainstream ICT products and services. Unless ICT products are designed to be accessible from the outset, it can be virtually impossible to make changes at a later stage for accessibility purposes. Australia has adopted the ICT Standard which establishes minimum requirements to ensure that websites, software and digital devices are accessible, and provides a framework for the development and procurement of a wide range of accessible ICT products. The way the ICT Standard is applied, however, is inconsistent, and in many cases compliance is voluntary. Therefore, whilst the ICT Standard has the potential to remove accessibility barriers for the employment of people who are blind or have low vision, its effectiveness is dependent on it being universally and consistently applied at all levels of public procurement. Doing this will provide a significant opportunity to improve the employment landscape for people who are blind or have low vision, as well as others in the disability sector more generally.

Employment Targets (DRC Recommendations 7.19 and 7.8)

As noted above, finding and maintaining employment is the most significant challenge for people who are blind or have low vision. Governments must provide leadership in the employment of people with a disability, including people who are blind or have low vision, if employment outcomes for these cohorts are to be improved. Establishing specific and disaggregated targets for disability employment in the public sector, together with specific and disaggregated targets for new public service hires, is one measure that would be impactful in this regard. Vision Australia strongly supports governments at all levels implementing disaggregated targets in the employment of people with disabilities, and also being accountable for meeting such targets. The targets must be disaggregated to ensure that different disability categories are represented, including blindness and low vision.

Vision Australia extends this support to the setting of targets for people with disability in government schools as well as working with all school sectors to increase disability employment (DRC Recommendation 7.8). Vision Australia is aware of numerous instances within the education sector where schools have not supported people with low vision to maintain employment. In our experience, the education sector has been particularly problematic for people who are blind or have low vision to obtain or maintain employment, both in terms of general practices and from an attitudinal perspective. We submit that a very proactive approach is necessary if there is to be an increase in disability employment in this sector.

# Accessible Information and Communications (*DRC Recommendation 6.1*)

In Volume 6 of its Final Report, the DRC stated:

*“People with disability have a right to access information and communications on an equal basis with others. Information and communications are accessible if people with disability can use and understand them in a way that suits their needs.”*

We submit that it is a key responsibility of State governments not only to ensure that government information is accessible, but that key services funded by State governments are also accessible. This includes libraries.

Vision Australia operates a specialist library for people who are blind or have low vision or have a print disability such as dyslexia. The library offers different formats of choice, including large print, braille, audio and other accessible options. It allows this cohort access to an inclusive library experience in a similar way that a sighted person can access support and information through a mainstream public library.

The NSW Government has previously funded the Vision Australia library as an inclusive library from the same funding sources available to mainstream community libraries in NSW. It is of significant concern that the NSW Government is not currently funding this service, which is funded by its counterparts in Queensland and Victoria. We submit that in failing to fund a library service which is inclusive of people who are blind or have low vision, the NSW Government is not fulfilling its obligation to provide accessible information in the manner recommended by the DRC.

About Vision Australia

Vision Australia is the largest national provider of services to people who are blind, deafblind, or have low vision in Australia. We are formed through the merger of several of Australia’s most respected and experienced blindness and low vision agencies, celebrating our 150th year of operation in 2017.

Our vision is that people who are blind, deafblind, or have low vision will increasingly be able to choose to participate fully in every facet of community life. To help realise this goal, we provide high-quality services to the community of people who are blind, have low vision, are deafblind or have a print disability, and their families.

Vision Australia service delivery areas include: registered provider of specialist supports for the NDIS and My Aged Care Aids and Equipment, Assistive/Adaptive Technology training and support, Seeing Eye Dogs, National Library Services, Early childhood and education services, and Feelix Library for 0-7 year olds, employment services, production of alternate formats, Vision Australia Radio network, and national partnership with Radio for the Print Handicapped, Spectacles Program for the NSW Government, Advocacy and Engagement. We also work collaboratively with Government, businesses and the community to eliminate the barriers our clients face in making life choices and fully exercising rights as Australian citizens.

Vision Australia has unrivalled knowledge and experience through constant interaction with clients and their families, of whom we provide services to more than 30,000 people each year, and also through the direct involvement of people who are blind or have low vision at all levels of our organisation. Vision Australia is well placed to advise governments, business and the community on challenges faced by people who are blind or have low vision fully participating in community life.

We have a vibrant Client Reference Group, with people who are blind or have low vision representing the voice and needs of clients of our organisation to the board and management.

Vision Australia is also a significant employer of people who are blind or have low vision, with 15% of total staff having vision impairment.