



First Peoples
Disability Network
Australia

27 February 2024

Australian Government
Department of Social Services

FPDN Submission: Disability Employment Services (DES) Reforms Consultations

The First Peoples Disability Network (FPDN) welcomes the opportunity to make a submission to the Department of Social Services on the DES Reforms regarding recent findings and recommendations relating to disability employment.

This submission is structured so that responses to this consultation is found on the initial pages, and further information about FPDN, First Nations people with disability, the policy context and data gaps can be found in [Appendix A](#).

About FPDN

The First Peoples Disability Network (FPDN) is the national peak organisation of and for Australia's First Peoples with disability, their families and communities. We actively engage with communities around Australia and represent Aboriginal and Torres Strait Islander people with disability in Australia and internationally. Our goal is to influence public policy within a human rights framework established by the United Nations Convention on the Rights of Persons with Disability and the United Nations Declaration on the Rights of Indigenous Peoples. Consistent with our principle of community control, our organisation is governed by First Peoples with lived experience of disability.

FPDN is a Disability Representative Organisation, the Aboriginal community-controlled disability peak, and member of the Coalition of Peaks, a partner to all Australian governments through the National Agreement on Closing the Gap (the National Agreement). FPDN lead the development of the Closing the Gap (CtG) Disability Sector Strengthening Plan and is actively involved in the CtG Housing Sector Strengthening agenda, the CtG Justice Policy Partnership and the CtG Early Childhood and Development Policy Partnership. FPDN is also a key Commonwealth partner dedicated to progressing implementation of *Australia's Disability Strategy 2021-2031*.

Human Rights

Unemployment rates for First Nations people are higher than non-Indigenous people across all age groups.¹ And 38% of First Nations people report having a disability.² Additionally, the unemployment rate for people with disability sits at 10.5% compared to the unemployment rate of 4.6% for people without disability.³ The intersection of First Nations people with disability gives an indication of potential challenges and barriers that this cohort face. There needs to be a greater focus on recognising the strengths and inherent challenges of the disability community and those impacted by intersectionality – that is, the overlap of factors that contribute to disadvantage. In particular, First Nations people with disability are vulnerable to ongoing marginalisation, discrimination and disadvantage if their needs are not recognised and accommodated for within places of employment.

The United Nations Disability Inclusion Strategy⁴ Indicator 13 states that policies and strategies around employment need to include provisions to recruit, retain and promote

¹ ABS, 'Census of Population and Housing: Characteristics of Aboriginal and Torres Strait Islander Australians,' 2016. <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/census-population-and-housing-characteristics-aboriginal-and-torres-strait-islander-australians/latest-release> accessed 10 March 2023.

² Australian Bureau of Statistics, 'National Aboriginal and Torres Strait Islander Health Survey,' 2019 <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/national-aboriginal-and-torres-strait-islander-health-survey/latest-release> accessed 10 March 2023.

³ Australian Government, Department of Social Services, '[Disability Employment Landscape Research Report](#),' 2021, accessed 26 February 2024.

⁴ United Nations, '[Disability Inclusion Strategy](#),' accessed 11 January 2024.

employees with disability. Likewise, Australia's Disability Strategy 2021-2031⁵ recognises that employment and financial security are key to improving outcomes for people with disability. This includes having sufficient income to meet needs, which for people with disability, can include additional medical and support costs. Other human rights frameworks to be included in DES Reforms include the Convention on the Rights of Persons with Disabilities (CRPD) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

In the next section, the recommendations from the Disability Royal Commission, NDIS Review, and the Housing Select Committee are addressed to show how they can be implemented within DES reforms. The recommendation numbers are listed with additional notes from FPDN perspective.

Royal Commission into Violence, Abuse, Neglect and Exploitation⁶

FPDN was closely involved in the Disability Royal Commission (DRC) through consultations with community and through public submissions. FPDN is strongly supportive of active response to the findings of the DRC through application and implementation through current and emerging reforms. Below we have highlighted the key recommendations that we are supportive of and that we believe should be applied to the DES reforms. Where this support is qualified by the need for additional action or only representative of part of the recommendation, we have provided commentary for your consideration:

- Recommendation 5.4
 - FPDN Comment: Make sure to include the National Agreement on Closing the Gap in all policies, strategies and plans.
- Recommendation 7.16
 - inclusive design principles.
 - co-designed by people with disability who are paid as members of the design team (incl. First Nations people with disability).

⁵ Australian Government, Department of Social Services, '[Disability Strategy](#),' accessed 23 February 2024.

⁶ Parliament of Australia, '[Final Report](#),' accessed 23 February 2024.



- remove the minimum work capacity of 8 hours per week so that all people with disability can access employment.
- Recommendation 7.17
 - Develop and implement training programs for DES staff in disability awareness, human rights, cultural competency, and customised employment.
- Recommendation 7.18 and 7.19
 - Establish specific employment targets within the public service and government.
- Recommendation 7.24:
 - Convene a Disability Employment Rights Council to improve outcomes for people with disability in employment.
 - FPDN Comment: The Disability Employment Rights Council needs to be co-led by people with disability and representative of First Nations people with disability.
- Recommendation 7.28:
 - Ensure that people accessing the Disability Support Pension are not unfairly disadvantaged when earning wages.
- Recommendation 7.29:
 - First employment choice should be open employment.
- Recommendation 7.30
 - Phase out Australian Disability Enterprises that pay unfair wages to employees.
- Recommendation 7.31
 - FPDN Comment: Whilst the recommendation is that employees with disability are paid at least half the minimum wage, it is strongly urged that all workers receive at least minimum wage. This is in line with the United Nations Sustainable Development Goal 1,⁷ which is to eradicate poverty. This also aligns with Recommendation 10.9 which strives to ensure that workers receive equal remuneration for their work.

⁷ United Nations, '[The 17 Goals](#),' accessed 23 February 2024.

- Recommendation 7.32
 - End segregated employment. All workplaces should be inclusive and accessible.

Independent Review into the National Disability Insurance Scheme⁸

FPDN is strongly supportive of active response to the findings and recommendations of the NDIS Review. FPDN played a key role as the peak representative organisation in ensuring that many of the Review's findings were culturally informed and inclusive of First Nations people with disability. Below we have highlighted the key recommendations we are supportive of and believe should be applied to the DES reforms. Where this support is qualified by the need for additional action or only representative of part of the recommendation, we have provided commentary for your consideration:

- Recommendation 1.7
 - NDIA and DSS should improve links between the NDIS, DES and other employment related initiatives.
 - FPDN Comment: First Nations people should be specifically addressed within this space due to the intersectional disadvantage shown earlier about lower employment rates and higher rates of disability.
- Recommendation 2.10
 - Improve the quality of the disability ecosystem for First Nations people with disability.
 - FPDN Comment: This is especially important as intergenerational trauma, mistrust of authority figures and linguistic diversity can create barriers to First Nations people with disability accessing supports around employment.
- Recommendation 6.2
 - Increase and retain First Nations Auslan interpreters in the workplace.
- Recommendation 7.5
 - Careers guidance and transition support services

⁸ Commonwealth of Australia, '[NDIS Review: Working together to deliver the NDIS. Independent review into the National Disability Insurance Scheme](#),' 2023, accessed 23 February 2024.

- FPDN Comment: these should include input from and for First Nations students.
- Recommendation 7.6
 - Improve the access to mental health services for people with psychosocial disability. Ensure that the mental health systems and NDIS are working together for the betterment of this cohort.
- Recommendation 9.11
 - All Australian governments to agree and publish a targeted action plan for housing under Australia's Disability Strategy.
 - FPDN Comment: for without accessible, safe, and secure housing, employment is difficult to obtain and maintain.
- Recommendation 10.24
 - The NDIS Quality and Safeguards Commission should form a partnership with First Nations leaders from the disability and employment services sectors to address behaviour support shortages in regional and remote areas.
- Recommendation 14.1
 - The NDIA and First Nations organisations and communities should have community-led alternative arrangements, especially within remote communities, that meet the needs of the individuals in these communities.
- Recommendation 15.1
 - Attract and retain a culturally-informed, disability aware workforce.
- Recommendation 18.1
 - Reduce and eliminate the use of restrictive practices.
- Recommendation 20.4
 - Government and First Nations organisations and communities work together to embed a First Nations Disability Forum so that the needs of First Nations people with disability are met in the employment space.
 - FPDN Comment: First Nations people with disability and FPDN as their peak representative organisation should have their own table, as well as a seat at every other one (to ensure cultural safety and inclusion throughout mainstream initiatives).



House Select Committee on Workforce Australia Employment Services⁹

The recommendations within the House Select Committee report need to have a greater focus on people with disability due to the high rate of unemployment that this cohort experience. This includes ensuring co-design by people with disability and First Nations people so that strategies and policies are fit for purpose and culturally safe. FPDN highlights the following key recommendations from House Select Committee on Workforce Australia Employment Services that we would expect to see reflected in the DES Reforms:

- Recommendation 2, 4.151:
 - The Australian Government to work with key stakeholders – including First Nations organisations – to develop a refreshed vision of the Commonwealth Employment Services System so that all Australians can enjoy decent and secure employment regardless of age, race, gender, language or geographical location.
- Recommendation 6, 4.180:
 - Governments to work together to develop and implement strategies to provide long-term unemployed people with job opportunities.
 - FPDN Comment: This needs to be done in conjunction with First Nations organisations and communities.
- Recommendation 9, 5.194:
 - Embed pre-employment and vocational supports within mental health, homelessness and family violence services.
- Recommendation 16, 6.89:
 - Co-design a new approach to ongoing capability development of frontline staff in the employment services system.
 - FPDN Comment: This needs to include training in cultural safety.
- Recommendation 22, 7.118:
 - Establish an Employment Services Quality Commission as an independent regulator for the sector.

⁹ Parliament of Australia, '[Select Committee on Workforce Australia Employment Services](#)', 2023, accessed 26 February 2024.

- FPDN Comment: The Commission needs to include First Nations people and people with disability within the structure of the commission.
- Recommendation 31, 9.122:
 - Simplify the process for jobseekers who are transient, and/or move between remote and non-remote locations.
- Recommendation 33, 9.134:
 - Create better pathways for long-term employed people with disability to access the Disability Support Pension.
- Recommendation 36, 10.100:
 - Provide online information and reporting tools in languages that meet the needs of jobseekers.
 - Test the digital tools with the target audience. This includes First Nations people and people with disability. Additionally, these digital tools should be co-designed by First Nations people and people with disability from the beginning.
- Recommendation 68, 15.129:
 - Prioritise the recommissioning of First Nations specialist services with priority given to commissioning Aboriginal Community Controlled Organisations.

National Agreement on Closing the Gap: Application of the Priority Reforms

We would like to reaffirm our support for recommendations that end segregation, facilitate inclusion, and provide cultural safety, noting that all reforms should be undertaken through the lens of all four Priority Reforms outlined under the National Agreement on Closing the Gap.

Conclusion

In addition to the above highlighted recommendations, FPDN proposes the following to ensure that the DES Reforms are fit-for-purpose, accessible and safe for First Nations people with disability:



1. Work with FPDN to embed their newly developed Culture Model of Inclusion Framework.
2. Require all parties under the National Agreement on Closing the Gap and Australia's Disability Strategy to report on actions that contribute to employment of First Nations people with disability in their annual reports and implementation plans.
3. Development of First Nations disability employment targets, supported by proportional fundings/ investment in culturally safe mainstream services, and dedicated First Nations initiatives.

We would like to thank the Department of Social Services for the opportunity to make this submission. FPDN welcomes further discussion on any inclusions in this submission, if needed.

Contact:

Tahlia-Rose Vanissum

National Policy and Systemic Advocacy Manager

First Peoples Disability Network

policy@fpdn.org.au

About FPDN

FPDN is the community-controlled disability peak and a member of the Coalition of Peaks, a partner to all Australian governments to the Closing the Gap National Agreement. We are also the First Nations Disability Representative Organisation actively representing the voices of First Nations peoples within Australia's Disability Strategy governance structures. For millennia, First Nations peoples, communities, and cultures have practiced models of inclusion. However, despite this, since colonisation, First Peoples with disability and their families have been and continue to be amongst the most seriously disadvantaged and disempowered members of the Australian community. FPDN gives voice to their aspirations, needs and concerns and shares their narratives of lived experience. Our purpose is to promote recognition, respect, protection, and fulfilment of human rights, secure social justice, and empower First Peoples with disability to participate in Australian society on an equal basis with others. To do this, we proactively engage with communities around the country, influence public policy and advocate for the interests of First Peoples with disability in Australia and internationally.

Our extensive national work includes community engagement, capacity building and rights education; systemic advocacy, policy, research, evaluation and data; the development and delivery of evidence-informed training and resources with community for community and to a range of sectors including the Community Controlled sector and mainstream disability sector, Commonwealth and state/territory government policy and service delivery agencies and departments. FPDN also has an international presence and networks, including with the United Nations, and provides consultancy and support to international regions.

We follow the human rights framework established by the United Nations Convention on the Rights of Persons with Disabilities (CRPD), to which Australia is a signatory, and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

We are also guided by both the social and cultural models of disability. The social model views ‘disability’ to be the result of barriers to equal participation in the social and physical environment. These barriers can and must be dismantled. However, FPDN recognises the critical need to move beyond a social model to ensure the cultural determinants of what keeps First Nations people with disability strong is centred when working with and in designing policies and programs to improve outcomes for First Nations people. We call this a cultural model of inclusion.

A cultural model of inclusion recognises the diversity of cultures, languages, knowledge systems and beliefs of First Nations people and the importance of valuing and enabling participation in society in ways that are meaningful to First Peoples.¹⁰ A First Nations cultural model of inclusion includes the human rights framework and the social model of disability to ensure that enablers, approaches, services and supports are culturally safe and inclusive, and disability rights informed. It is the only disability model that seeks to improve the human condition through focussing on what keeps people strong, as distinct to merely negating the adverse impact of difference.

Our community has to operate in multiple worlds – First Nations, disability, and mainstream society. The disability sector reflects this and is a complex and interconnected web of approaches to enable First Nations people with disabilities to realise their rights to participate in all aspects of their life, including safe, affordable, accessible and inclusive housing. These enablers, approaches, services and supports need to exist across the entire life-course, including the Aboriginal and Torres Strait Islander Community Controlled Sector and mainstream disability sector, as well as mainstream organisations and services.

The policy context

FPDN recognises the unique opportunity both Closing the Gap and Australia’s Disability Strategy to ensure the legislation, policies, programs and service delivery are accessible, inclusive and equitable for First Nations people with disability.

¹⁰ S Avery, ‘[Culture is Inclusion](#),’ 2018, First Peoples Disability Network.

FPDN discussion points and recommendations are in line with the Closing the Gap National Agreement Priority Reforms and the Disability Sector Strengthening Plan and its Guiding Principles. The Priority Reforms focus on changing the way governments work with Aboriginal and Torres Strait Islander peoples and the Disability Sector Strengthening Plan outlines high-level priorities and actions at a national level to strengthen and build a Community Controlled Disability Sector. The Commonwealth government, all State and Territory Governments and the Local Government Authority are signatories and partners to the National Agreement and also the Disability Sector Strengthening Plan. The Priority Reforms are:

1. Formal partnerships and shared decision-making
2. Building the community-controlled sector
3. Transforming government organisations
4. Shared access to data and information at a regional level

Applying the Closing the Gap approach to disability as a cross-cutting outcome through the Priority Reforms offer structure to government to ensure First Nations peoples with disability have:

- A greater say in how policies and programs are designed and delivered;
- Have access to community-controlled services and sectors that delivers culturally safe, accessible and inclusive, and disability right informed services;
- Have access to mainstream organisations and services, such as NDIS services, hospitals, schools and government agencies, that are culturally safe, accessible and inclusive, and disability right informed;
- And have access to, and the capability to use, locally-relevant, First Nations disability informed, data and information.

First Nations people with disability

For millennia, First Nations peoples, communities, and cultures have practiced models of inclusion. This embracing of diversity and inclusion “is derived from a belief system and worldview of humanity in which biological, physical and intellectual differences are accepted

as part of the fabric of society.”¹¹ Drawing on nation-wide available data, First Nations people with disability are included in their own communities across social, cultural and community events on average more than other Australians with disability.

However, despite this strength, since colonisation First Nations people with disability experience significant levels of inequality across all other life areas compared to other Australians, including in areas of health, education and social inequality.¹² Whilst population prevalence data is limited, First Nations people are twice as likely to experience disability than the rest of the Australian population.¹³ Using the statistical definitions of ‘severe and profound disability’ in the Australian Bureau of Statistics (ABS) datasets, including the *ABS Survey of Disability, Ageing and Carers (SDAC), 2018*,¹⁴ it is estimated that over 60,000 Aboriginal and Torres Strait Islander people live with severe or profound disability in Australia today.¹⁵

First Nations people with disability experience many intersectional forms of discrimination, including discrimination based on age, gender, sexuality and geographic location. These intersecting forms of discrimination are institutionalised and embedded in how policies and programs have been designed, including the NDIS.

Consistent with the social and cultural models of disability within which FPDN works, we recognise that Aboriginal and Torres Strait Islander people are disproportionately affected by poor outcomes. This impact is widespread and has social, emotional, physical, economic and cultural impacts.

Disability Sector Strengthening Guiding Principles

The Disability SSP included Guiding Principles to reflect the unique experiences of First Nations people with disability and their specific social and cultural rights and needs. These

¹¹ S Avery, ‘[Culture is Inclusion](#),’ 2018, First Peoples Disability Network.

¹² S Avery, ‘[Culture is Inclusion](#),’ 2018, First Peoples Disability Network: Australian Bureau of Statistics (ABS) (2016) *National Aboriginal and Torres Strait Islander Social Survey*, (NATSISS) 2014-15 (Release 4714.0).

¹³ Australian Bureau of Statistics (ABS) (2016) *National Aboriginal and Torres Strait Islander Social Survey*, (NATSISS) 2014-15 (Release 4714.0).

¹⁴ ABS, ‘[Disability, Ageing and Carers, Australia: Summary of Findings](#),’ 2018, accessed 29 August 2023.

¹⁵ S Avery, ‘[Culture is Inclusion](#),’ 2018, First Peoples Disability Network.

principles were developed in line with both the Closing the Gap Agreement and Australia's Disability Strategy and were endorsed by all levels of government. The Guiding Principles set a minimum standard for all existing and future work with First Nations Peoples with disability and further developing jurisdiction led sector strengthening actions in Implementation Plans. They also align with both the Australia's Disability Strategy Guiding Principles and CtG.

The Disability Sector Strengthening Plan Guiding Principles⁷ focus on the following:

- Human rights
- Self-determination
- Cultural integrity
- Cultural safety
- Partnership
- Place based
- Innovation
- Empowerment
- Equity
- Sustainability
- Knowledge
- Nationally consistent approach.

Australia's Disability Strategy

Australia's Disability Strategy (2021-2030) (ADS) is Australia's national disability policy framework and plays a role in protecting, promoting and realising the human rights of people with disability, in line with Australia's commitments under the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD). All levels of government developed and committed to the Strategy, which sets out priorities and plans for governments to work with the community, businesses, and peoples with disability to deliver the needed changes identified by the sector. The Strategy recognises the importance of

making sure actions taken to deliver on its policy priorities are implemented with an intersectional and diversity lens.

First Nations Disability Data Gap

As noted in the Disability Sector Strengthening Plan, First Nations people with disability sit on the periphery of both national disability policies, frameworks, data infrastructure or research agendas. In effect, this means data about and evidence by First Nations people with disability are often not captured in its own right. This has key implications for how data and evidence is captured in relation to First Nations people with disability and their unique experiences of interaction with the service systems and all other aspects of life, including what living well looks like for a First Nation person with disability. Existing data and research is often limited in scope, and often does not provide sufficient focus to all experiences of disability in regional, remote or urban contexts. FPDN is in the process of developing a broad First Nations disability data strategy, however, there is a need for dedicated First Nations Disability data project with specific intersectional data on autism.

When the ADS and CTG are used in conjunction, effective outcomes are more likely to occur across the four Priority Reform areas of formal partnerships and shared decision making, building the community-controlled sector, transforming government organisations, and shared access to data and information. Without an awareness of how CTG and ADS work together, responsibility is not likely to be claimed by any portfolio.

Human Rights and the Disability Sector Strengthening Plan

Other documents to integrate include the Disability Sector Strengthening Plan (DSSP), the Convention on the Rights of Persons with Disability, and the United Nations Declaration on the Rights of Indigenous Persons.

The Disability Sector Strengthening Plan Guiding Principles¹⁶ focus on the following:

- Human rights
- Self-determination

¹⁶ Closing the Gap, '[Disability Sector Strengthening Plan](#),' accessed 5 October 2023.



- Cultural integrity
- Cultural safety
- Partnership
- Place based
- Innovation
- Empowerment
- Equity
- Sustainability
- Knowledge
- Nationally consistent approach.

The Convention on the Rights of Persons with Disabilities aligns with CTG through its general principles which focus on respect, non-discrimination, participation and inclusion, equality, and accessibility.¹⁷ These align with Priority Reforms 1 through 3.

United Nations Declarations on the Rights of Indigenous Peoples¹⁸ centre around equality, freedom from discrimination, recognition of historic injustices, respect for Indigenous knowledge, cultures and practices, and acknowledging the right for Indigenous people to retain shared responsibility for sharing knowledge and exercising self-determination. These declarations align with each of the four CTG priority reforms.

It must be noted that each of these Strategies and Declarations have been signed and ratified by government at all levels. All CTG priority reforms and targets are visible but not often met. The CTG Agreement has been operating for three years with ample time to implement priority reforms. There needs to be a greater commitment from all levels of government to meet timelines in an efficient and timely manner.

¹⁷ United Nations, 'Convention on the Rights of Persons with Disabilities,' accessed 5 October 2023.

¹⁸ United Nations, 'United Nations Declaration on the Rights of Indigenous Peoples,' 2007, accessed 5 October 2023.