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### **National Disability Strategy 2010-2020—Building inclusive and accessible communities**

The Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing Australia's culturally and linguistically diverse (CALD) communities and their organisations. FECCA provides advocacy, develops policy and promotes issues on behalf of its constituency to Government and the broader community. FECCA supports multiculturalism, community harmony, social justice and the rejection of all forms of discrimination and racism so as to build a productive and culturally rich Australian society.

FECCA's policies are developed around the concepts of empowerment and inclusion and are formulated with the common good of all Australians in mind. FECCA continues to work with organisations that advocate for people with disabilities from CALD backgrounds, including the National Ethnic Disability Alliance (NEDA).

FECCA welcomes the opportunity provided by the Senate Community Affairs References Committee to provide input into the delivery of outcomes under the *National Disability Strategy 2010-2020 (NDS)*. We thank the NDS for conducting a thorough consultation process into the delivery outcomes of the strategy to build inclusive and accessible communities.

### **Background and key messages**

According to the Survey of Disability, Ageing and Carers, 4.3 million or over 18 per cent of Australians live with disability.<sup>1</sup> More than one million people with disability in Australia come

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<sup>1</sup> Australian Bureau of Statistics, 4430.0 - Disability, Ageing and Carers, Australia: Summary of Findings (2015) released 18 October 2016, accessible at <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/4430.0Main%20Features12015?opendocument&tabname=Summary&prodno=4430.0&issue=2015&num=&view>

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from a CALD background,<sup>2</sup> constituting close to one quarter of the total number of people with disabilities living in Australia. These individuals encounter compounded vulnerabilities based on their disability coupled with their CALD background, gender and socio-economic status. Considering the large proportion of people with disability from minority ethnic backgrounds, the different needs of these communities and the diversity among each cultural, religious and linguistic group, it is essential that the specific needs and issues of this cohort are given due consideration.

FECCA stresses the importance of translating and interpreting services to reflect the actual and current need in the community. With the push for increased digitisation of government services, the need for translation and interpreting services in all areas of government services must be addressed. Communication accessibility is particularly important in the context of the National Disability Insurance Scheme (NDIS).

FECCA urges the NDS to identify CALD people with a disability in their reporting on outcomes. Detailed data helps guide and improve services. Through collecting detailed data on CALD people with a disability, the implementation of strategies and distribution of resources can be improved. Further, data collection processes focus on a person's place of birth or language spoken at home to identify whether they come from a CALD background. This excludes ancestry of people and those who self-identify as coming from a CALD background. Thus, FECCA recommends adopting broader criteria which captures ancestry and self-identification in data collection processes.

FECCA urges the NDS to recognise and support advocacy bodies who work on behalf of CALD people with a disability. Increased and continuous funding for groups with detailed knowledge of the communities, issues and challenges is vital. Disability advocacy groups run for and with people with disability and are imperative in representing the interests of people with disabilities, in particular for CALD people with disability due to language issues and fewer networks, which results in barriers to access and service provision.

Low engagement and uptake of services by people from non-English speaking backgrounds can also be addressed by working collaboratively across all sectors, and in particular the organisations representing CALD Australians.

### **Key recommendations**

FECCA's main role is to ensure people from CALD backgrounds with disability are represented and that their needs are met in the strategy. FECCA urges the NDS to include a specific category in their reporting mechanisms addressing the needs and people from CALD backgrounds with a disability in the reporting on outcomes and in the development of **inclusive and accessible communities** and recommends the following:

- The planning, design, management, and regulation of the built and natural environment, including commercial premises, housing, public spaces and amenities as well as transport services and infrastructure must take into consideration language issues in relation to information of services available. Further research, especially related to issues faced by people from CALD backgrounds with disability and housing is needed. Increased and continuous funding to advocacy bodies working with and for people from CALD communities with disability is necessary to ensure development is responsive to actual needs.
- The planning, design, management, and regulation of communication and information

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<sup>2</sup> National Ethnic Disability Alliance, *Disability Employment Services (DES) Consumer Engagement Project* (June 2014), 4, accessible at:

[http://www.neda.org.au/images/reports/NEDA\\_DES\\_PROJECT\\_2014.pdf](http://www.neda.org.au/images/reports/NEDA_DES_PROJECT_2014.pdf)

systems, including Australian electronic media and the emerging Internet of Things must consider barriers among CALD people with disability such as lack of English skills, lack of computer skills, and limited access to internet and computers. Alternative means of information and knowledge must be considered, and tools to help with access such as interpreting and translating services as well as access to information via face-to-face consultations must be available.

- Potential barriers to progress or innovation must be addressed through increased funding for translated information services and through diverse modes and mediums (subtitles, in language videos etc.) to ensure access and information services reach out to all migrants, including CALD people with disability.
- The impact of multiple vulnerabilities for CALD people with disability on inclusion and participation in economic, cultural, social, civil and political life must be considered. For CALD Australians living with a disability attention must be paid to language services, cultural needs and experiences of racism. Advocacy bodies working on the ground with people from CALD background with disability are an essential element of ensuring CALD Australians living with a disability are supported and represented in Australia's economic, cultural, social, civil and political life.
- FECCA urges the NDS to incorporate violence, abuse and neglect of people with disability as a priority area within strategy with reference to, and recognition of the additional vulnerabilities of CALD Australians living with a disability.
- FECCA urges NDS to consider increased funding for advocacy groups working with increasing access to information in relation to complaints mechanisms as well as to groups who can assist CALD people with disability in navigating employment, housing, and other services.

FECCA's focus is to strengthen the capacity of CALD communities to enjoy the rights and opportunities provided through NDS with a focus on empowerment of people with disability, their family members and carers. The needs of CALD people with a disability must be met in a culturally sensitive and appropriate way. To do so, data collection must be thorough and detailed.

Below is an elaboration of the key recommendations from FECCA with a focus on the Terms of References (ToR). FECCA takes note of the intersectional aspect of all the issues covered under the ToRs as well as in the outcomes and suggests that the below sections are not read in isolation of each other but as interconnected.

### **Housing, public spaces, transport and infrastructure**

Article 19 of the Convention on the Rights of Persons with Disabilities (CRPD) asserts that all State Parties to the Convention must 'recognise the equal right of all persons with disability to live in the community, with choices equal to others'.<sup>3</sup> FECCA urges the NDS to consider the rights and equal choice for CALD people with a disability. A choice of where to live is particularly important for CALD people who may depend on their community for support. People with disability from CALD backgrounds often rely heavily on their carers, family members, community and religious leaders in decision making processes. The role and the impact of the aforementioned support networks in the lives of people with disability from CALD backgrounds must be acknowledged and accommodated in the policy making process.

Language barriers, lack of systems knowledge, lack of cultural competency in the service sector, housing shortages, discrimination, unemployment, and prior social exclusion can all contribute to creating or perpetuating housing related issues or homelessness among CALD community members. FECCA is concerned about discussions around reducing the funding

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<sup>3</sup> See <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#19>

arrangements to National Affordable Housing Agreement (NAHA).<sup>4</sup> We encourage the NDS to engage with civil society and government stakeholders to ensure people with disability have access to public housing to meet their specific needs.

There is limited information and data in relation to housing issues for people with disability from CALD backgrounds. Therefore, it is imperative that the data collection processes capture data on accessibility, needs, age groups as well as cultural, linguistic and religious diversity of Australia's population. This will enable provision of targeted support and efficient allocation of resources.

CALD people with disability often experience added barriers in their access to transport services and infrastructure. Further, refugees are more often dependant on public transport and meet added barriers in accessing transport while needing to attend numerous meetings and appointments creating significant factors affecting people's ability to engage with services and their communities.<sup>5</sup> Many people with disability are excluded from the labour force solely because public transport is inaccessible, particularly for people who live in regional, rural or remote settings. Taxis are costly, and there is an undersupply of wheelchair accessible taxis (WAT's); people with disability are either unable to afford to pay for transport, or unable to travel in peak WATs times (e.g. during school transport hours).<sup>6</sup>

Through community consultations and engagement, FECCA has learnt that cost of transport can be prohibitive for people with disabilities to obtain employment or travel to obtain educational qualifications. These barriers are compounded for people with disabilities who may not have the requisite language skills, familiarity with Australian transport systems and transport accessibility requirements. These issues must be addressed as part of the employment or education strategies to assist people with disability to lead meaningful lives.

FECCA wishes to state its expertise is not in the field of housing, transport and infrastructure for people with a disability, FECCA endorses and urges the committee to refer to the submission from the Disabled People's Organisations (DPO) and the contribution from National Ethnic Disability Agency (NEDA) for further information on the issue of housing, public spaces, transport and infrastructure.

### **Communication and information systems**

The lack of English language skills amongst CALD people is a major barrier to accessing information, and to understanding systems and processes. Providing clearly identified information, online or in print, in community languages can be one way of making information available to people who are not literate in English, however agencies must take into account those many individuals who are not literate in their own language.

There are systemic barriers to accessing and utilising professional interpreters for CALD people with disability. Government and non-government organisational staff are often unaware of their responsibilities to provide interpreters, and CALD people with disability often do not possess the information, or possibly the self-advocacy skills required to secure access to an appropriate interpreter. Additionally, the costs of interpreting services may be prohibitive

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<sup>4</sup> Shelter NSW, Threat to cut funding for the National Affordable Housing Agreement, Accessible at: <https://sheltersnsw.org.au/news/threat-cut-funding-national-affordable-housing-agreement>

<sup>5</sup> See <http://www.myan.org.au/file/file/useful%20resources/refugee-status-report.pdf> for more on refugees and transport issues.

<sup>6</sup> Australian Human Rights Commission, 'Wheelchair Accessible Taxi Inquiry Report', 2005, Available at: <https://www.humanrights.gov.au/our-work/disability-rights/inquiries/wheelchair-accessible-taxi-inquiry-report>

to agencies or service providers,<sup>7</sup> resulting in CALD people with disability being excluded from conversations and not being provided the opportunity to be heard. Feedback received from FECCA's consultations also emphasised the importance of having alternative means of accessing information. Face-to-face interaction, with a trusted person, or by using an on-site or phone interpreter is the preferred and most effective form of communication.

Communications accessibility is particularly important in the context of the National Disability Insurance Scheme (NDIS). Low engagement and uptake of services by people from non-English speaking backgrounds can be addressed by working collaboratively across sectors. It is noted that the NDIA has acknowledged that all NDIS participant sites have a lower than expected CALD participant rate, only 4 per cent of approved plans, as of 30 June, 2016.<sup>8</sup> People from CALD backgrounds tend to underreport their conditions or disabilities due to a multitude of reasons including shame and stigma in relation to disability, limited language skills, and the lack of awareness about disabilities or the services available in Australia. These cultural and linguistic factors should be considered when administering assessments to screen people to ascertain their eligibility for the NDIS.

The NDIS can provide the necessary supports for an individual to have the opportunity to engage with the community, be independent and reach their potential through an individually tailored and self-directed funding program. Hearing impaired people from CALD backgrounds should have the choice to receive supports from professionals who understand the community languages and the cultures.

FECCA has continuously highlighted the need for consistency in provision of interpreting and translation services under the NDIS. Currently, interpreter and translation services for the NDIS participants are provided under 'consumables'. However, there is little clarity as to whether these funded services provided via Translating and Interpreting services (TIS National) will continue after the initial planning and support coordination. This is especially disadvantageous to those who need dual interpreters (spoken and sign language).

As the NDIS is a new way of service provision, most of the participants and their family members are not aware of the supports that they can obtain under a package. However, what is to be considered is that many countries, such schemes as the NDIS do not exist. There is also an overwhelming lack of understanding of the term 'disability'. Access to culturally appropriate advocacy services will ensure that individuals receive a range of supports that meet their needs, which importantly, will assist to increase the awareness of disability in general in CALD communities.

With regards to the emerging Internet of Things, FECCA acknowledges the positive impact this can have on the lives of people with disability. While increased control over one's life using improved technology and a network of 'connected devices' can empower people with disability, FECCA urges the NDS and Government services to be aware of limitations among CALD people with disability. Lack of English knowledge, computer skills as well as limited access to internet and computers together with sensitivity and privacy issues, can significantly reduce access to the Internet of Things for CALD people with disability.

FECCA continues to emphasise that data collection processes must be equipped to capture data on cultural, linguistic and religious diversity of Australia's population. This will enable provision of targeted supports and efficient allocation of resources.

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<sup>7</sup> FECCA, *Use of Language Services in Rural and Regional Areas*, May 2014. Available at: <http://www.fecca.org.au/images/Documents/issues%20paper%20-%20use%20of%20language%20services%20in%20rural%20and%20regional%20areas.pdf>

<sup>8</sup> National Disability Insurance Agency (June 2016). Quarterly Report to COAG Disability Reform Council, 30 June, 2016.

## Potential barriers to progress and innovation and how these might be addressed

FECCA acknowledges that progress is being made with regards to new innovations and developments in the areas of housing and access to medical and health care (Elderly Parent Carer Innovation Trial in Queensland, the Supported Accommodation Innovation Fund, the NSW Agency for Clinical Innovation's Intellectual Disability Network)<sup>9</sup> but is concerned that language barriers and a lack of awareness about disability services will hinder CALD people with disability to be part of innovation and progress.

FECCA recognises the new developments such as the National Broadband Network (NBN) and the SMS emergency call services for people who are deaf or have a hearing or speech impairment. However, we strongly emphasise the need to address people from CALD backgrounds when looking at issues faced by vulnerable cohorts of the community and developments in technology. Limited English language proficiency, lack of or limited computer and internet literacy, preconceived ideas about online security and understanding and navigating the complex online services are some of the barriers faced by CALD people made even more challenging if they are also living with a disability.

Many migrants come from countries where the experience of government is not based on trust and thus many hold significant concerns about how their personal information is used and stored by the Australian Government. Due to the lack of easily understood, publicly available information about how an individual's personal data is handled, there is little understanding of this topic among migrant communities.

Privacy concerns with regards to accessing government services online have been raised particularly in the context of *myGov* where access to a number of services is available through one portal. Migrants and refugees may have lived in countries where government agencies are not trustworthy, and thus are wary of anything which puts all of their personal information in one place. Many are not aware of the security of online services.<sup>10</sup>

While data linkage is an important tool which can improve the effectiveness of public policy and service delivery, many migrants are fearful that it will be used to 'catch them out' and result in punitive measures. Careful consideration must be given to which datasets are linked, and what the rationale for doing so is. In summary, CALD communities are typically sensitive about the way their personal information is stored and utilised for a number of reasons. It is important to note that for sensitive information such as the Census data, the privacy framework ensures that it is kept separately to other data collected by government.

FECCA recommends implementing targeted communication strategies to reach ethnic communities to improve awareness of online services and reduce concerns about privacy and security, including easy-to-understand information in plain English and community languages to communicate messages about privacy and security of government digital service delivery to existing and prospective users.<sup>11</sup>

Increased and continuous funding should be provided for advocacy bodies who form a crucial element of the broader suite of consumer support. These supports are critically important for people from migrant and refugee backgrounds who may not have the necessary expertise or understanding to navigate disability care support services in a consumer centred and market driven service model. Advocacy bodies should be flexible enough to accommodate the demographic, cultural, religious and linguistic needs of different consumer groups.

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<sup>9</sup> Progress Report to the Council of Australian Governments, 2014, National Disability Strategy 2010-2020, [https://www.dss.gov.au/sites/default/files/documents/12\\_2015/nds\\_progress\\_report\\_2014.pdf](https://www.dss.gov.au/sites/default/files/documents/12_2015/nds_progress_report_2014.pdf)

<sup>10</sup> FECCA, *Digital Access and Equity for Multicultural Communities*, 2016

<sup>11</sup> *Ibid.*

## **The impact of restricted access for CALD people with disability and inclusion and participation in economic, cultural, social, civil and political life**

Australia is a signatory to the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on Rights of People with Disability (CRPD) and the International Covenant on Civil and Political Rights (ICCPR) and is therefore committed to secure the right of everyone to work, to gain a living through freely chosen employment in an open, inclusive and accessible labour market. Further, through these International Covenants, Australia is committed to secure free choice, access and inclusion in society for all, independent of background and disability.

The NDS is the framework and mechanism through which Australia delivers its commitments under the CRPD. The NDS is a whole of government strategy tasked to bring about change across all mainstream services, programs and community infrastructure to secure the human rights of people with disability.

The economic participation of people with disability cannot be realised without addressing other broader interconnected and interacting barriers to access and equity. The NDS needs to bring about real change and secure the rights of people with disability in other areas of their lives, such as in crime and safety, education, communications, housing, education, health and transport domains, to allow for the full economic participation of people with disability. Increased awareness and information through increased and continuous funding for advocacy bodies working with and on behalf of CALD people with a disability is imperative.

### Employment

For people with disability, employment is a normalising experience that promotes community participation and economic independence.<sup>12</sup> There is a lack of employment opportunities for people with disability in general, and this further diminishes employment prospects for people from CALD backgrounds who face discrimination based on their disability as well as their cultural, linguistic or religious background. Economic security is tightly connected to access to employment, and FECCA refers to data by the Australian Bureau of Statistics (ABS) 2003, 2009 and 2012 Survey of Disability Ageing and Carers (SDAC) clearly demonstrating that CALD Australians with disability are repeatedly underrepresented in labour force participation rates, and overrepresented in unemployment figures, when compared to other persons with disability and non-disabled persons.

The Disability Employment Framework is currently undergoing drastic changes. FECCA raised concerns in relation to the new employment framework in our submission to the *Disability Employment Services from 2018* consultation process,<sup>13</sup> including lack of choice and control over service provision for people with disability from CALD backgrounds, reliance on the assumption of 'informed and empowered consumers' who are capable of navigating the complex service structures, inadequate focus on particular barriers faced by people from CALD backgrounds and their family members.

FECCA is concerned about the Department's approach in identifying disability employment service providers. The service providers need to understand the impact of different types of disabilities can have on the ability to seek employment and be able to accommodate different needs of people with disability. At the same time, they must demonstrate their capacity to

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<sup>12</sup> K. Mueser, D Becker, W Torrey, et al, "Work and non-vocational domains of functioning in persons with severe mental illness: a longitudinal analysis, *Journal of Mental and Nervous Disease*, 1997, 185.

<sup>13</sup> See further: FECCA, *Disability Employment Services from 2018*, (December 2016) accessible at: <http://fecca.org.au/wp-content/uploads/2016/12/New-Disability-Employment-Services-from-2018.pdf> and National Disability Employment Framework, (July 2015) accessible at: <http://fecca.org.au/wp-content/uploads/2015/07/Submission-for-the-National-Disability-Employment-Framework1.pdf>

deliver services in a culturally appropriate manner to support Australians living with disability. It is imperative that the NDS work in collaboration with Department of Social Services, people with disability from all backgrounds, their family members and carers and civil society organisations to ensure that nationally consistent accreditation processes and standardisation measures are in place when funding disability employment service providers.

*JobAccess* is an Australian Government initiative to support employment of people with disability. It provides vital services to employers such as information and assistance with regards to workplace modifications or adjustments and ongoing support to job seekers to find and retain jobs. Additionally, Job Access plays a key role in delivering the Employment Assistance Fund (EAF). This fund provides financial assistance to employers for work related equipment, access related modifications and other adjustments to facilitate an employee with a disability.

Like many other online information portals, the *JobAccess* website does not provide a clear indication as to how language services can be accessed. Moreover, information provision about this initiative is mainly through online platforms which limits the access of CALD people with disabilities who are not computer literate or do not have access to a computer and/or internet.

Department of Social Services (DSS) Disability Employment Taskforce consultations highlighted the need for further promotion of *JobAccess*.<sup>14</sup> Underutilisation of these resources can be addressed through targeted education campaigns focusing on employers as well as job seekers. Further, increased and continuous funding for advocacy bodies working for and with CALD people with disability to increase awareness about Job Access among the communities as well as creating links between CALD people with disability and Government services must be encouraged.

Government agencies and Job Service Providers are urged to produce material in various formats and communicate through diverse modes and mediums, e.g. online; online in a variety of translated languages; online and accessible for screen reader users; in pictorial and plain English forms; via community radio; via television; via community newspapers; via apps and video; one-on-one in discussions with people with disability, their families and communities.

More generally, there is often an absence of lifts or accessible bathrooms in workplaces. Many employers are reluctant to hire people with disability due to ableist views, lack of disability confidence, and because of perceived costs associated with supporting people with disability in the workplace. Presently, government initiatives are available to pay for and subsidise reasonable accommodations, nonetheless further work needs to occur that address the structural and social barriers underpinning employers' reticence to employee people with disability. Support needs to be available to employers to assist them to 'build barrier-free recruitment practices and good practices in provision of reasonable adjustments'.<sup>15</sup> A flexible work environment where employees are supported to explore alternate and non-traditional work hours, to work from home and/or to job-share, would work to improve retention rates while also increasing the participation of people with disability in the workforce.

A NEDA research paper in 2014 identified a number of specific barriers to employment such as limited awareness about disability employment services; the difficulty faced by Government bodies in reaching out to people from CALD communities with a disability who do not access employment or disability advocacy services; and limited coordination settlement services

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<sup>14</sup> *National Disability Employment Framework – Consultation Report*, DSS, September 2015, p. 5.

<sup>15</sup> People with Disability Australia (PWDA), Submission on the National Disability Employment Framework, July 2015, p.10, Available at <http://pwd.org.au/>



(outside of the disability sector) and DES service providers.<sup>16</sup> However, the report concluded that “people with disability from CALD communities generally had better outcomes and reached their milestones at a great rate than that of Anglo-participants engaged in DES services”.<sup>17</sup> This highlights the value of programs such as *Job Access* in assisting people from CALD backgrounds in gaining employment. It also highlights the importance of addressing the barriers: for example, through the use of targeted communications mechanisms such as ethnic media, community education and awareness programmes; and assisting and resourcing the settlement sector to better support newly-arrived migrants with disability.

### Education

The right to education for people with disabilities is guaranteed under Article 24 of the *Convention on the Rights of Persons with Disabilities* (CRPD). The CRPD General Comment 4 on *Right to Inclusive Education* clearly identifies the need for respect and value of diversity including disability, race, colour, sex, language, linguistic culture, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status.<sup>18</sup> Measures must be adopted to increase accessibility of education institutions and provide more flexibility for students who require additional supports such as language services and access to culturally and religiously appropriate support workers within educational institutions.

People from migrant backgrounds, especially those who have young children with disability may not be familiar with Australian legal and support systems. In some States and Territories, children of temporary migrants are not eligible to attend public schools<sup>19</sup> and the cost of private schools that provide specialised supports for children with disability can be prohibitive for temporary visa holders including international students. The CRPD applies to ‘all persons with disability’ irrespective of their citizenship or residency status. Thus, Australia is under an obligation to provide the same level supports for temporary residents with disability living in Australia.

Special attention should be given to children who may have suffered trauma and torture before or on their journey to Australia.

### Criminal justice system, rights protection and legislation

Article 12 of the United Nations Convention on the Rights of People with Disabilities (CRPD) reiterates the stance of international law, that there must be effective safeguards to protect people with disabilities from any form of abuse. Moreover, Article 19 stipulates that all people with disability have a right to live independently and be included in the community and that the services are responsive to the needs of people with disability.

Under the United Nations *Convention against Torture and Cruel or Inhuman and Degrading Treatment and Punishment* (CAT) Australia has a non-derogable obligation to ensure that people are not subject to torture and other cruel, inhuman or degrading treatment or punishment. There is increasing international recognition among health and human rights organisations that torture and other cruel, inhuman or degrading treatment or punishment in care and support contexts is widespread, especially for marginalised groups, such as older

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<sup>16</sup> National Ethnic Disability Alliance (NEDA), Disability Employment Services (DES) Consumer Engagement Project Report, 2014, see [http://www.neda.org.au/images/reports/NEDA\\_DES\\_PROJECT\\_2014.pdf](http://www.neda.org.au/images/reports/NEDA_DES_PROJECT_2014.pdf)

<sup>17</sup> Ibid.

<sup>18</sup> UN Committee on the Rights of Persons with Disabilities, General Comment 4 Article 24: Right to inclusive education (2016), accessible at: [http://www.right-to-education.org/sites/right-to-education.org/files/resourceattachments/CRPD\\_General\\_Comment\\_4\\_Inclusive\\_Education\\_2016\\_En.pdf](http://www.right-to-education.org/sites/right-to-education.org/files/resourceattachments/CRPD_General_Comment_4_Inclusive_Education_2016_En.pdf)

<sup>19</sup> See further: Australian Education: Bringing your children, accessible at: <http://www.studyinaustralia.gov.au/global/australian-education/bringing-your-children>

people in supported care.<sup>20</sup> This potentially encompasses practices of treatment and support such as the use of restrictive practices and forced medical treatment, including in aged care settings.<sup>21</sup> In 2013 Special Rapporteur on Torture produced a comprehensive overview of the obligations of States Parties with respect to prevent torture and other cruel, inhuman or degrading treatment or punishment within the context of health and social care institutions.<sup>22</sup>

*It is essential that an absolute ban on all coercive and non-consensual measures, including restraint and solitary confinement of people with psychological or intellectual disabilities, should apply in all places of deprivation of liberty, including in psychiatric and social care institutions.*<sup>23</sup>

FECCA does not support use of restrictive practices and encourages the adoption of non-invasive methods that uphold basic human rights and dignity. We believe that these measures will further marginalise and have severe implications on people from CALD backgrounds as they are often unaware of their rights, have difficulty communicating with authoritative bodies, care providers and may even assume that use of restrictive practices as an accepted norm. FECCA's attempts to identify a reasonable and appropriate model of restrictive practices would provide legitimacy to the employment of these measures; therefore, the discussion should focus on developing a framework that prevents the use of restrictive practices.

It has been brought to the notice of authorities by various organisations at different forums and media that there is a serious need to revisit the rules and regulations relating to issues of CALD people with disabilities.<sup>24</sup> CALD people with disabilities living in group homes and similar accommodation settings are more vulnerable to abuse from other residents and/or carers due to language barriers, fear of authority and fear of not being believed. Individuals from these backgrounds are often not in a position to make complaints, do not understand the complaint procedure or are afraid to make complaints as it may make their situation worse. These barriers contribute to the underreporting of these horrific incidents of abuse and neglect of people in institutional settings.

Cultural hindrances also play an important role. There is a considerable amount of cultural stigmatisation around disability itself and abuse further stigmatises the individual. Due to the stigma of disability and especially sexual abuse many individuals from CALD backgrounds may be reluctant to complain about the incidents of abuse. Furthermore, the victims of such abuse in most instances are intimidated by the perpetrators.

CALD people with disability in these settings may confide in their parents or family members about their experiences. Often, these parents or family members are unaware of the avenues available to obtain assistance, complaint procedures and could also be socially isolated. The lack of knowledge about mechanisms for complaints and redress can cause further distress.

Individuals from CALD backgrounds who are subjected to abuse in institutional settings are more likely to be comfortable talking about incidents of violence with people who understand

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<sup>20</sup> See further: University of Sydney and People with Disability Australia, Submission to the ALRC Equality, Capacity and Disability in Commonwealth Laws Inquiry, p.2.

<sup>21</sup> Ibid

<sup>22</sup> Juan E. Méndez. "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment." 2013. A/HRC/22/53.

<sup>23</sup> Ibid

<sup>24</sup> Submission to The Senate Inquiry Into Domestic Violence, Joint Submission from the National Cross-Disability Disabled People's Organisations Alliance, September 2014, accessed at: <http://wwda.org.au/submission-senate-inquiry-domestic-violence/> , Violence Through Our Eyes: Improving Access to Services for women from non-English Speaking Backgrounds with Disability and Carers Experiencing Violence Project Report, accessed at: <http://www.adfvc.unsw.edu.au/PDF%20files/Violence%20Through%20Our%20Eyes.pdf> <http://www.adfvc.unsw.edu.au/PDF%20files/Violence%20Through%20Our%20Eyes.pdf>

their language and culture. The measures taken by the government to protect people with disability from harm must ensure that CALD people with disabilities are aware of and have access to culturally appropriate services, especially translation and interpreter services.

In some instances, the issues are caused by the lack of awareness of the rights and entitlements of people in these institutional settings. People who are unaware of the Australian legal system, policies and procedures, especially those coming from a migrant or refugee background, may live under the misconception that neglect and restraints used by the employers, employees and/or carers of these institutions are the accepted norm or that such wrongful acts are authorised by the law. Thus, it is imperative that the people with disabilities and their family members are aware of their rights and the legislative frameworks relating these institutions.

The lack of cultural diversity within institutions and care settings may create numerous challenges. A carer's or staff member's inability to understand or effectively communicate with people from CALD backgrounds due to language barriers may cause tension and frustration between the parties. This may lead to unhealthy relationships of neglect and resentment in care settings. There is a clear need for multi-lingual workers in these institutions and the staff and/or carers should be provided with appropriate training on cultural sensitivity and competency.

### Mental health

Nearly 200,000 humanitarian entrants arrived in Australia between 2000 and 2014.<sup>25</sup> Based on current plans, Australia will welcome an additional 48,750 humanitarian entrants by 2019.<sup>26</sup> In addition, Australia is in the process of resettling 12,000 Syrian and Iraqi refugees.<sup>27</sup> It is estimated that about 45,000 people who are survivors of torture and trauma have settled in Australia during the last decade and it is likely that many future arrivals will have also experienced trauma and torture.<sup>28</sup> The mental health needs of this cohort are distinct to those of the general population. Thus, we urge the NDS to engage with the relevant government bodies and stakeholders to address the service delivery gaps in relation to mental health in multicultural communities.

In 2014, the Mental Health in Multicultural Australia (MHiMA) was launched to improve the cultural responsiveness of mental health service delivery for people from CALD backgrounds. The Framework is aligned with current policies, plans and standards relevant to multicultural mental health and it is cross-referenced to the relevant standards and accreditation requirements.<sup>29</sup> FECCA reiterates the need for the Australian Government to provide targeted funding for a national multicultural mental health structure. The structure must provide an informed, representative and legitimate leadership that will ensure that mental health reforms

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<sup>25</sup> NEDA data-cube based on Department of Social Services settlement database.

<sup>26</sup> Media release: Minister - Restoring integrity to refugee intake, Peter Dutton MP, Minister for Immigration and Border Protection, accessible at <http://www.minister.border.gov.au/peterdutton/2015/Pages/restoring-integrity-to-refugee-intake.aspx>

<sup>27</sup> Australia's response to the Syrian and Iraqi humanitarian crisis, Department of Immigration and Border Protection, <https://www.border.gov.au/Trav/Refu/response-syrian-humanitarian-crisis> (accessed on 09/02/2016).

<sup>28</sup> The Forum of Australian Services for Survivors of Torture and Trauma (FASSTT), The case for specialist mental health services for refugee survivors of torture and trauma, *Australian Mosaic*, FECCA, Issue 41 (2015), p. 30.

<sup>29</sup> Hamza Vayani, The Framework for Mental Health in Multicultural Australia: Towards culturally inclusive service delivery, *Australian Mosaic*, FECCA, Issue 41 (2015), p. 8.

achieve positive outcomes for culturally and linguistically diverse individuals and communities.<sup>30</sup>

### Older people with disability

FECCA is concerned that the mainstream discussions in relation to people with disability often has limited focus on older people with disability. Older people with disability, especially those who acquire disabilities in old age are often not engaged in the national dialogues. Navigating different support systems is challenging for many older migrants. This cohort may also not be familiar with the new developments in assistive technology, support services they are able to access, etc. Information about services for people with disability should be available in multiple formats and should use culturally appropriate media such as ethnic radio and ethnic newspapers.

Due to a lack of understanding about medical conditions and the stigma associated with ageing, age related mental and physical conditions and disabilities older people from CALD backgrounds could be reluctant to seek help. Many older people from CALD backgrounds, their families and carers tend to access aged care services when they reach a crisis point rather than accessing basic services gradually.<sup>31</sup> A lack of appropriate support services can place the older person at higher risk of abuse. Furthermore, there is evidence to suggest that the victims of abuse, especially those who are physically, mentally and sexually abused intimidated by the perpetrators. Tolerance of abuse due to fear could be interpreted as tacit consent in some instances. Therefore, a balanced protection framework should be underpinned by unambiguous and simple guidelines/benchmarks as to the capacity and extent of consent provided by older persons.

One of the key principles under the *National Ageing and Aged Care Strategy for people from CALD backgrounds* is the empowerment of older people from CALD backgrounds to have the knowledge and confidence to maximise their use of the aged care system, including having their human rights respected and being free from elder abuse.<sup>32</sup> These principles must be supported with requisite support structures and sustainable funding models.

FECCA urges the NDS to ensure continuous funding to advocacy groups working with and behalf of older people with disability and encourage the development an elder abuse strategy to prevent, identify and respond to the abuse of older persons with disability. It is vital that these measures identify the factors that are specific to CALD communities such as communication barriers, lack of access to culturally and linguistically appropriate services and the role and influence of family including the extended family. Further, FECCA recommends adopting measures to ensure professionals working with older people from CALD backgrounds are culturally competent and are able to utilise culturally appropriate language resources when delivering services, especially in relation to elder abuse and legal rights.

### **Other related matters—Racism and discrimination**

Misconceptions and misinformation witnesses many employers failing to recognise or utilise the skills of CALD people with disability. Racist or ableist attitudes, inaccurate judgements

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<sup>30</sup> See further: FECCA and National Ethnic Disability Alliance, *MHiMA Project Consultation: Joint submission from the Federation of Ethnic Communities' Councils of Australia and the National Ethnic Disability Alliance*, 2016, accessible at: <http://fecca.org.au/wp-content/uploads/2016/02/MHiMA-project-submission-to-MHA.pdf>

<sup>31</sup> Slewa-Younan et al, 'Enhancing the lives of older refugees: an evaluation of a training resource' (2016) *International Journal of Mental Health Systems*.

<sup>32</sup> Department of Social Services, *National Ageing and Aged Care Strategy for People from Culturally and Linguistically Diverse Backgrounds* (2012), 9.

about a person's ability, and assumptions that it is too difficult or costly to accommodate CALD people with disability in the workforce promotes experiences of discrimination.

People from ethnic and racial minority groups encounter increased social stress.<sup>33</sup> As social stress is associated with the development of mental illness, racism is considered a possible specific risk factor for mental illness in ethnic minority groups.<sup>34</sup> The experiences of racism and discrimination of people from CALD backgrounds may result in increasing mental health issues among people from CALD backgrounds. These examples highlight the need for the Commissioner to work closely with other key players including the Racial Discrimination Commissioner.

Limited access in economic, cultural, social, civil and political life impact on many areas of a person's life. For a CALD person with disability, the restricted access to these aspects of their life may enhance feelings of acceptance by society at large – a sense of being outside society as opposed to part of it. Discrimination based on visible differences cannot be understated as it profoundly impacts on CALD people with disability accessing and securing equity in the labour market leading to possible increased isolation, emotional and psychological harm.

### **Other related matters—Complaints mechanisms and culture**

In many CALD communities, making complaints about Government funded services is not a cultural norm. Mechanisms must be in place to provide information to people with disability, their family members and carers in relation to complaint mechanisms, rights of service recipients and other support mechanisms such as advocacy services to assist them to navigate employment, education, housing and other services. Key to this is continuous funding to advocacy and support services that are responsive to cultural needs, in particular when working with CALD people with disability.

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<sup>33</sup> Kwame McKenzie, 'Racial Discrimination and Mental Health', *Psychiatry*, [Volume 5, Issue 11](#), November 2006, pp 383 – 387.

<sup>34</sup> *ibid*