



Submission to the Senate Community Affairs References Committee

**Inquiry into the purpose, intent, and adequacy of the Disability
Support Pension**

25 June 2021

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Who is the Physical Disability Council of NSW?

The Physical Disability Council of NSW (PDCN) is the peak body representing people with physical disabilities across New South Wales. This includes people with a range of physical disability issues, from young children and their representatives to aged people, who are from a wide range of socio-economic circumstances and live in metropolitan, rural and regional areas of NSW.

Our core function is to influence and advocate for the achievement of systemic change to ensure the rights of all people with a physical disability are improved and upheld.

The objectives of PDCN are:

- To educate, inform and assist people with physical disabilities in NSW about the range of services, structure and programs available that enable their full participation, equality of opportunity and equality of citizenship.
- To develop the capacity of people with physical disability in NSW to identify their own goals, and the confidence to develop a pathway to achieving their goals (i.e. self-advocate).
- To educate and inform stakeholders (i.e.: about the needs of people with a physical disability) so that they are able to achieve and maintain full participation, equality of opportunity and equality of citizenship.

Recommendations

Recommendation 1

That an independent investigative panel be established to investigate how to align the DSP with Australia's international and domestic commitments, including those articulated in the UNCRPD, the Disability Inclusion Act and the National Disability Strategy.

Recommendation 2

That the Government investigate measures to ensure that those with disabilities who are under 65, but not eligible for the NDIS, are able to access funding to obtain the disability-related supports that they need to live within their communities.

Recommendation 3

That the Government convene a working group of social welfare organisations, disabled persons organisations, academics and people with lived experience to develop a consistent definition of poverty that is relative to Australian society and includes social and community participation as indicators.

Recommendation 4

That the Federal Government commission a comprehensive review by the Productivity Commission into the adequacy of the Disability Support Pension to support the achievement of rights for people with disability as prescribed in the UNCRPD, the Disability Inclusion Act and the National Disability Strategy.

Introduction

Under the United Nations Convention on the Rights of Persons with Disabilities (the UNCRPD), Australia is obligated to provide an adequate standard of living for people with disabilities, and their families, extending to ensuring that people with disabilities and their families have access to food, clothing, and housing, as well as disability specific needs.¹

The Disability Support Pension (the DSP) is one of the main strategies Australia utilises to meet this commitment. It is an important safety net for some 823,700 people across Australia who have reduced capacity to work on account of their disabilities.² Many PDCN members are DSP recipients or have been on the DSP at some point in their life.

The DSP was originally conceived as a paternalistic form of charity for the 'deserving' poor with disability³. Our concept of disability has moved on but current political decision-making relating to the DSP still bears the hallmarks of its conception - access to the DSP is still considered to be a privilege to be justified, as opposed to a fundamental right.

Over the last 18 months, the Covid19 Pandemic has provided an opportunity to examine and challenge the underlying philosophies and assumptions guiding the current Federal Government's position on the DSP.

We are concerned that many assumptions bear little correlation to the lived experiences of our members and set unrealistic expectations for DSP recipients. We are also gravely concerned at how the spirits of many people on the DSP have been thoroughly broken across this time - if being on the DSP is, as one person described it, '*a gradual dimming of the light*',⁴ the Coalition Government across the past 18 months has well and truly turned off the switch.

In our federal pre-budget submission for 2021-22, PDCN called on the Federal Government to establish a Social Security Commission to investigate the appropriateness of the DSP as a payment to support people with limited or no capacity to support themselves through paid work. This was after months of advocacy arguing that people on the DSP were facing substantial additional Covid related costs on a payment which was already insufficient to cover their basic needs. At that time, the Coalition Government held firm to the position that the DSP represented a liveable income.

¹ United Nations, *Convention on the Rights of Persons with Disability*, Art. 28.

² Australian Government, Australian Institute of Health and Welfare, *People with Disability in Australia*, web report, 2 October 2020 <[People with disability in Australia Income support - Australian Institute of Health and Welfare \(aihw.gov.au\)](https://www.aihw.gov.au/people-with-disability-in-australia-income-support)> accessed 18 June 2021.

³ Daniels, D., for Parliament of Australia, *Social security payments for the aged, people with disabilities and carers 1901 to 2010*, updated 21 February 2011 <[Social security payments for the aged people with disabilities and carers 1901 to 2010 – Parliament of Australia \(aph.gov.au\)](https://aph.gov.au/parliamentary-business/committees-and-inquiries/social-security-payments-for-the-aged-people-with-disabilities-and-carers-1901-to-2010)> accessed 18 June 2021, this was explicit within the legislation – see Invalid and Old Aged Pensioners Act 1908 <[Invalid and Old-age Pensions Act 1908 \(legislation.gov.au\)](https://www.legislation.gov.au/idx/instruments/1908-001)> accessed 18 June 2021, s. 17(c).

⁴ Amethyst De Wilde, Guardian Australia, *Living on the disability pension – 'It's like the slow dimming of the light'*, 23 April 2019 <https://www.theguardian.com/australia-news/2019/apr/23/living-on-the-disability-pension-its-like-the-slow-dimming-of-the-light> accessed 17 June 2021.

Our calls for a Social Security Commission are a pragmatic acknowledgement that, at this time, the Coalition Government will not shift on increasing the DSP regardless of the groundswell of support from the Australian community or the substantial investment from those living on the DSP who shared their harrowing stories of poverty and hardship. Even hard research showing the substantial average weekly costs exclusively from having a disability have not had traction⁵. We can only assume that there are fundamental ideological factors here – factors that are not relevant or appropriate in the context of the purpose of the DSP.

Access to an appropriate level of DSP for those with disability who need it, should be viewed as the execution of Australia's human rights commitments, that benefits not only those with disabilities but also their families and the broader community. We need to move away from a welfare mentality on income support for people with disability and we need to take a hard look at what it means to live a dignified life in the Australian context. We also need to acknowledge the entrenched socioeconomic disadvantage that many people on the DSP are living with and the practical realities that many on the DSP will not be able to work, and many more will struggle to gain work on account of their disabilities. This is not for want of a job, so much as it is about the everyday prejudice people with disability face when trying to compete as applicants in the workforce.

We greatly appreciate the opportunity to participate in this inquiry as a mechanism to examine the current functioning of the DSP. We hope that this inquiry will lead to substantial change for the better. We will focus on the purpose and the adequacy of the DSP as a mechanism for delivering on the rights of people with disabilities and welcome the opportunity to expand on any comments to assist the Committee in its deliberations.

The purpose of the DSP

'The primary purpose of government assistance payments is to ensure a minimum adequate standard of living, taking into account individual circumstances and prevailing community standards'.

- Attorney General's Department, Federal Government.

The DSP has served multiple purposes since its initial introduction as the Invalid Pension in 1910. Most significantly these purposes have included providing an economic safety net for people with disability and as the disability rights movement has grown, it has been co-opted to meet Australia's commitments towards the social and economic rights of people with disability.

However, increased recognition of the rights of people within Australia which has manifested in recent years through public policy initiatives such as the introduction of the Disability Inclusion Act (Cth), Australia's ratification of the UNCRPD and the introduction of the National

⁵ Li, J., Brown, L., and La, H. A., et al, *Inequalities in Standards of Living: Evidence for Improved Income Support for People with Disabilities*, report prepared for the Australian Federation of Disability Organisations, NATSEM at the Institute for Governance and Policy Analysis, University of Canberra, Sept 2019 <[02A-NATSEM-Online-Disability-Report.pdf \(afdo.org.au\)](#)> accessed 18 June 2021.

Disability Strategy, have not prompted any productive examination of the adequacy of the DSP as a mechanism for advancing the rights of people with disability. If anything, many of the reforms to the DSP that have detrimentally impacted those seeking to access it have occurred during the same period that we have seen the shift from a medicalised framing of disability to a focus on disability rights and inclusion.

Since the sweeping reforms to social security during the Howard Government, the DSP has substantially been viewed through an economic lens as a security net only for those with the most significant of disabilities, while its importance as a mechanism to facilitate the realisation of broader human rights for people with disabilities has been neglected. This leaves a significant gap in funding and supports for a proportion of people with disabilities, who must find alternative mechanisms to fund their basic costs as well as their disability-associated expenses.

We need a clear understanding of the purpose of the DSP in light of where we currently sit in terms of our international and domestic commitments to people with disability.

The purpose of the DSP should be read in line with Australia's international and domestic commitments to people with disability, including the UNCRPD, which requires signatory countries to:

*'Provide an adequate standard of living for people with disabilities, and their families, extending to ensuring that people with disabilities and their families have access to food, clothing, and housing, as well as disability specific needs.'*⁶

and the National Disability Strategy⁷, which requires income support to 'facilitate people with disability living with dignity'⁸. Bringing in these concepts – adequacy, dignity and individual needs requires a substantial rethinking of how the DSP is calculated and allocated to recipients. It also requires a philosophical shift from a welfare to a rights-based mindset.

What is the current situation?

*We are all diminished by this welfare system. Not just those who are on it, every single person in Australia is diminished by how we are treating our most vulnerable.*⁹

The DSP is currently based on Male Total Average Weekly Earnings (MTAWE). For a single person the full pension rate amounts to 27.7 per cent of MTAWE.

But how this may look across the lives of different people on the DSP can greatly vary, based on an individual circumstances, such as level of disability, whether an individual lives in an urban or regional area, if they are from a marginalised community or whether they have alternative means to support their living costs.

⁶ UNCRPD op cit, Article 28.

⁷ Commonwealth of Australia, *National Disability Strategy 2010-2020* <[national_disability_strategy_2010_2020.pdf \(dss.gov.au\)](https://www.dss.gov.au/national-disability-strategy-2010-2020)> accessed 18 June 2021, Outcome 3, policy direction 2, p. 43.

⁸ Ibid.,

⁹ Amethyst De Wilde, op. cit.

It has been argued that these variations are mitigated by additional supplements, such as the mobility allowance, or the Low-Income Health Care card, but we know that many people on the DSP with a 'full raft' of additional supports continue to experience extreme financial hardship on account of their individual circumstances.

"People would give me food for my chooks and I've actually picked through to see if there was anything eatable for me that night. Sometimes there was".¹⁰

In *Shut Out: The Experience of People with Disabilities and their Families in Australia*, a report prepared by the National People with Disabilities and Carers Council for the National Disability Consultation in 2009¹¹, a number of submissions highlighted what was referred to as an 'extraordinary gap which exists between the level of income support and the cost of disability'.¹²

We would argue that for many, nothing has fundamentally changed – people on the DSP continue to report that they cannot afford to eat regular meals, that they skimp on necessary medications, that they cannot afford basics like food and heating and consequently often face social exclusion.

For 13 days I did nothing. I couldn't go out because I didn't have my car, my rego, my licence. I couldn't ring anyone because I didn't have any credit on my phone. I didn't have the internet. I didn't have a television and I couldn't read because I didn't have glasses. I literally spent those 13 days in bed, counting down.¹³

Another concern for us is that rollout of the NDIS has overshadowed the hardship faced by many. The emphasis on the NDIS as a mechanism to support those with disability is misleading – of an estimated 4.3 million Australians who have a disability, only 500,000 Australians (or 10%) will receive NDIS supports and services over the next 5 years¹⁴, leaving a significant proportion of people with disabilities who cannot access the scheme.

This has been made harder with the erosion of supports which were previously offered under the Ageing Disability and Home Care Scheme.

We are already starting to see a stratification amongst those who can access the NDIS and those who cannot. We are likewise seeing social security supplements such as the Mobility Allowance being put at risk on the basis that equivalent supports are available within the scope of the NDIS. It is vitally important that these subsidies are retained for the majority of people who will continue to need them.

What do we need to do to address this?

¹⁰ Ibid.

¹¹ National People with Disabilities and Carers Council, for the Australian Government, *Shut Out – the experience of people with disabilities and their families in Australia*, National disability Strategy Consultation Report, 2009 <nds_report.pdf (dss.gov.au)> accessed 18 June 2021.

¹² Ibid., p.35.

¹³ Amethyst De Wilde., op cit.

¹⁴ National Disability Insurance Agency, *What is the NDIS?*, NDIS website, last updated 19 May 2021 <<https://www.ndis.gov.au/understanding/what-ndis>> accessed 19 June 2021.

As stated, Australia has committed to providing an adequate standard of living for all people with disability extending to the provision of income support.

In 2020, the UN clarified that, in meeting Article 28 of the UNCPRD, social protection legislation must involve the provision of financial supports both to address disability related costs and ensure inclusion in the community.¹⁵

We need to establish a model for income support in which an individual who has disability and cannot work can access the specific financial support that they need to cover their basic living expenses, disability related costs and any reasonable costs associated with participation within the community.

If the DSP is used as the vehicle to achieve this, then we need to shift thinking from the idea that the DSP should not provide more than the bare basics to encourage people work. The evidence is that 82% of people aged 16-64 stay on DSP for at least 5 years, and 5 in 10 or 53% for 10 or more years.¹⁶

Keeping the rate low can't incentive people to work who lack the capacity to do so.

In any new envisioning of the DSP, the allocation of supports and funding must be able to capture socioeconomic and other factors which affect day to day living costs, including geographic location, access to services, the type of disability and associated disability related supports a person may have and more.

The system of determining the allocation of financial support needs to be complex and nuanced, with the capacity for modification when circumstances change, and the right to appeal.

There are a number of ways this might be achieved.

The most ambitious approach would be to develop individual income support plans for the 823,700 people who currently access the DSP under a model not dissimilar to the current NDIS, with a focus on covering basic living costs and disability-associated costs, including costs associated with social and community connection building.

A second approach could be to retain the nominal base level of DSP and build up customisation from there based on individual circumstance including disability related supports and social and community connection building where there was no other government support mechanism in place to finance these costs.

¹⁵ Office of the United Nations High Commissioner for Human Rights (OHCHR), *Article 28: Illustrative indicators on adequate standard of living and social protection*, 2020 <<https://www.ohchr.org/Documents/Issues/Disability/SDG-CRPD-Resource/IndicatorsPDF/article-28-indicators-en.pdf>> accessed 18 June 2021.

¹⁶ Australian Government, Australian Institute of Health and Welfare, op. cit.

Government could also look at increasing current income limits so that people on the DSP who work could utilise these earnings to engage in community with reduced impact on the ability to cover their basic living costs.

A final but far less preferable option would be to create a broader range of supplementary payments which people on the DSP could apply for, including payments to assist people to access assistive technology and payments to offset costs associated with living in a remote area as well expanding the current supplements for disability aids and substantially increasing the cap on Rent Assistance.

Under the latter model community participation could be enhanced, for instance, via a voucher system, similar to those currently offered under the Active Kids and Creative Kids Programs, however removing any opportunity to customise income support would make this model least effective at addressing relative disadvantage.

Concluding comments

We know that the DSP currently does not support the needs of people with disability, forcing many to live with insufficient means to eat or find a place to live, let alone afford the additional costs attributed to living with a disability.

Given that there is no other mechanism to provide an economic social net for people with disabilities who have limited capacity to financially support themselves, it is imperative as a matter of urgency that we either modify the purpose of the DSP to align with our international and domestic responsibilities or we look at an alternative mechanism to meet these requirements. Until we do so, we are failing these people and are in breach of our international commitment to human rights.

The DSP is a legacy from a time before the rights of people with disability were evolved as a concept, but it may be possible to build up the DSP so that those who need it are able to live lives of dignity as members of their communities within a broader rights-based framework.

Significant work will be required to achieve this. We would propose the following recommendations to the Committee.

Recommendation 1

That an independent investigative panel be established to investigate how to align the DSP with Australia's international and domestic commitments, including those articulated in the UNCRPD, the Disability Inclusion Act and the National Disability Strategy.

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