



**Australian Federation of
Disability Organisations**

Accessible Summary

OPAN and AFDO Discussion Paper

Supports for older people with
disability

12 September 2023

Supports for older people with disability

- Adequate supports for people with disability are necessary to ensure they enjoy their human rights and to enable them to realise their full potential. This benefits individuals and society more broadly.
- Support is the act of providing help or assistance to someone who requires it to carry out daily activities and participate in society. Support can be provided by informal supporters such as family and friends. Support can also be provided by paid and/or professional supporters with specific qualifications and/or experience.
- Australia, on behalf of all Australians, has agreed and has an obligation to provide adequate supports for all people with disability under a range of international human rights treaties, including the:
 - International Covenant on Civil and Political Rights (ICCPR),
 - International Covenant on Economic, Social and Cultural Rights (ICESCR), and
 - Convention on the Rights of Persons with Disabilities (CRPD).
- Many reviews, inquiries and consultations since the NDIS was introduced have highlighted the significant inequalities in supports for older people with disability.
- Australian Federal, state and territory governments have not taken responsibility for addressing those inequities through coordinated and targeted strategies.

The NDIS does not meet the needs of many older people with disability

- There has been positive change to access to high quality supports for many Australians eligible for the National Disability Insurance Scheme (NDIS).
- However, many older people with disability continue to fall through the gaps and do not receive the supports they require.
- This is partly because the NDIS was never designed to provide funded services to all people with a disability, such as those with lower-level needs. It is also because of the aged-based eligibility requirement for the NDIS.
- The NDIS was supposed to support all Australians with disability across an ecosystem of supports with three tiers:

- **Tier 1:** Promoting opportunities, increasing inclusion, and raising awareness.
- **Tier 2:** Informing effective care and support options and making referrals to other (non-NDIS) services for lower-level or short-term functional impairments.
- **Tier 3:** Funding individualised services for NDIS participants.
- The 2023 NDIS Review interim findings showed that this ecosystem with three tiers of supports is not functioning as intended. Almost all funding and efforts are being directed to Tier 3- the provision of supports to NDIS participants.
- The 2023 NDIS Review describes the NDIS as an 'oasis in the desert' for people with disability.
- This means that older people with lower levels of needs, or who are ineligible for the NDIS due to their age, are left to navigate a complex support system without assistance.

The age-restrictions on eligibility for the NDIS have human rights implications

- Discrimination on the basis of age is prohibited by international treaties by which Australia is bound, including:
 - Article 26 of the International Covenant on Civil and Political Rights (ICCPR),
 - Article 2(2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and
 - Article 5(2) of the Convention on the Rights of Persons with Disabilities (CRPD).
- The NDIS Act 2013 states that only people who are under 65 years of age when they apply to access the NDIS are eligible to become participants in the Scheme.

- When the NDIS Bill was introduced, this exclusion of people aged 65 and over was justified as not being in breach of Australia's obligations under international human rights treaties because people over 65 would be able to access equivalent government-funded supports from other services.
- This paper will demonstrate that neither the aged care system nor other services are currently meeting the needs of older people with disability who are not eligible for the NDIS.

Older people with disability outside the NDIS are not having their needs met

- If older people do receive care, it is often not of the same quality or not based on the same principles as the supports provided under the NDIS.
- The 2018 Survey of Disability, Ageing and Carers (SDAC) found that 1 in 3 older people living at home with the need for assistance with everyday living assistance were having their needs only partly met or not met at all. For those receiving assistance, most supports were provided by informal (i.e., unpaid) carers.

Aged care

- The Royal Commission into Aged Care Quality and Safety concluded that "The aged care system is not set up or funded to provide disability care, support and rehabilitation". The Commission noted inequities in supports between under the aged care system and NDIS.
- OPAN and AFDO members have many examples of these inequities and discrimination and the poorer outcomes older people with disability are facing as a result.
- The Royal Commission into Aged Care Quality and Safety recommended the inequities in supports between the NDIS and aged care systems be addressed through actions in the national disability strategy now termed, Australia's Disability Strategy 2021-2031.
- However, Australia's Disability Strategy 2021-2031 does not mention or reference aged care services.

- Australia's Disability Strategy 2021–2031 also does not specifically address the inequities and discrimination leading to human rights breaches currently experienced by older people with disability.
- Aged care reforms are currently underway but there are fundamental differences and gaps between the disability and aged care sector. These differences include how human rights are upheld, the available supports, how supports are funded, and the principles the supports are based upon.
- It is unlikely that these reforms will ensure equivalence of supports for older people with disability under the NDIS and aged care systems, as required by international human rights treaties and recommended by the Royal Commission into Aged Care Quality and Safety.

Disability Support for Older Australians (DSOA) program

- The Disability Support for Older Australians (DSOA) program (formerly the Continuity of Support programme, CoS) is only available for a small number of older people with disability who were receiving state and territory disability supports prior to the NDIS rollout and who were not eligible for the NDIS on its rollout.
- The DSOA is a closed program not accepting new applications. In 2020, there were approximately 3,600 people using the CoS Programme who were expected to transition to the DSOA program.
- For those in the DSOA program, the supports provided are insufficient. The inadequacy of DSOA supports was also highlighted by the Royal Commission into Aged Care Quality and Safety.

Disability Gateway

- The Disability Gateway provides links to service providers of a range of disability services. It is developed to provide information to all people with a disability, regardless of whether they are an NDIS participant or not.
- However, the Disability Gateway does not provide guidance on which programs a person should apply for based on their needs.

Instead, it is up to the individual to explore and/or to seek alternative avenues for advice (such as an allied health practitioner or independent advocacy service).

National Injury Insurance Scheme (NIIS)

- The National Injury Insurance Scheme (NIIS) was supposed to complement the NDIS and provide insurance for those whose functional impairments and related needs arose from catastrophic injuries.
- The scope and future of the NIIS is outstanding and remains to be determined.

Specialist services for older people living with psychosocial and cognitive functional impairments

- The Royal Commission into Aged Care Quality and Safety found that it is hard for older people living with psychosocial and cognitive functional impairments to access specialist services.
- The Royal Commission into Aged Care Quality and Safety also highlighted the inequities between the states and territories in these programs particularly for older people living with psychosocial and cognitive functional impairments.

Where to next? It's time to start a solutions-focussed discussion

- In the final section of this paper, OPAN and AFDO hope to promote a continued discussion on addressing the inequities and discrimination faced by older people with disability.
- We do not have the answers and are not suggesting that the answer is that all people with disability should receive funding from the same program, regardless of age. We want to see the system improved so that the inequality and discrimination cease.

OPAN and AFDO begin the discussion on how these inequities can be addressed by exploring:

- Returning to the original intention of an ecosystem of disability supports.
- Ensuring all Australians with disability receive supports that are based on the same principles and of the same quality, regardless of their age or the program where they receive funding.
- Moving away from attempting to categorise each person as having 'disability-related' or 'ageing-related' needs and then restricting them to receiving funding from only one program/system.
- Creating an integrated system of supports where people may access funding from multiple streams.
- Changing the discourse around financing disability supports for older people. This includes acknowledging the important contributions older people make to our society and the return on investment in services.
- Looking to the disability sector to lead the solution in collaboration with other sectors. This includes through allowing the experiences of the disability sector to inform any required changes to the aged care system so that it can better support older people with disability.
- Learning from both the disability and ageing sectors to uphold the rights of older people with disability.