

Feedback on the Electoral Commission SA draft Disability Access and Inclusion Plan

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251 Morphett Street, Adelaide, SA 5000
GPO BOX 1146, Adelaide SA 5001
08 8226 3355 | commissionercyp@sa.gov.au

Background and summary of recommendations

Thank you for the opportunity to provide feedback on the Electoral Commission SA's (ECSA) draft Disability Access and Inclusion Plan (DAIP). The draft DAIP details some promising outcomes and actions, particularly those that support the participation of "young electors" with disability in decision-making in state and local government elections and in the design of resources.

Given that ECSA is responsible for providing community awareness programs on the electoral system in addition to conducting elections, ECSA is an important point of contact between young people and the voting process. This office therefore recommends that the final DAIP broaden its focus beyond "electors with disability" and the "voting process" to recognise children and young people with disability as future voters and significant stakeholders in ECSA's community awareness and engagement work.

As South Australia's Commissioner for Children and Young People, my mandate is to promote and advocate for the rights, interests and wellbeing of all children and young people in South Australia, particularly those whose voices are not usually heard.

My advocacy is led by the voices of children and young people. Their voices are the voices of our state's future voters and future leaders. Although they are ineligible to vote in elections, children and young people under 18 years want to understand the voting system and civics in general. They want to be recognised as capable individuals and they want to exercise their right – in accordance with Article 12 of the United Nations Convention on the Rights of the Child – to have their voices listened to and their views taken seriously.

Children and young people are judging present leaders and governments based on their responses to the issues they care about. They overwhelmingly believe that it is the government's responsibility to protect the rights of children, including those with disability. At the same time, children and young people do not always feel confident that they can trust adults to listen to them and value their contributions. As with the broader population, some young people are becoming increasingly disillusioned by, or disengaged from, mainstream politics.

"They [Adults] don't take younger people as seriously as they take adults... Our thoughts and ideas are not respected."

"It's the government's job to look after the welfare of the people. If they do not, they neglect to do the most important job they have."

Article 7 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) obliges state authorities to take all necessary measures to ensure that children living with a disability enjoy fundamental freedoms and human rights on an equal basis with other children. These rights have been protected in the *Disability Discrimination Act 1992 (Cth)* and the *Disability Inclusion Act 2018 (SA)*.

Despite these legislative protections, I have consistently heard concerns from children, parents, carers and other stakeholders that children with disability are disproportionately excluded at every level of society. They report a lack of community understanding about

disability and a failure across many organisations, schools, service providers and state authorities to respond appropriately to disability-related needs and behaviours. This impacts a child's personal wellbeing and social life, their engagement in education and community, and their ability to access and ultimately benefit from mainstream systems and services or therapeutic interventions.

Furthermore, the law allows for people with “unsound mind” to be excluded from voting and this vague phrase could discriminate against and demean children and young people with disability.

In light of the above conversations, this office makes the following recommendations to guide the final DAIP's implementation and ensure that it meets its obligations in line with the objects and principles of the *Disability Inclusion Act 2018 (SA)*:

1. **That the state government revisit the provision that exempts a person of “unsound mind” from voting.**
2. **That the proposed awareness strategy to support the participation of younger electors with disability has actionable and concrete goals, measurable targets and timeframes, and is developed and implemented through a youth-friendly and accessible engagement process.**
3. **That ECSA considers developing an awareness strategy to support children and young people with disability to understand the electoral system and to be informed and prepared to vote.**
4. **That ECSA considers developing an internal community accessibility and engagement toolkit for broader community awareness activities with a particular focus on the engagement of children and young people.**
5. **That ECSA provides extensive, meaningful and ongoing disability awareness training to all staff to understand disability and facilitate the inclusion and participation of children and young people.**
6. **That the final DAIP ensures that feedback and complaint mechanisms are child-friendly and that children and young people – in addition to “all electors” – are provided with simplified information about ECSA's feedback and complaint mechanisms.**

I hope this feedback proves useful. If you would like to discuss anything further, please do not hesitate to contact me.

Yours sincerely,



Helen Connolly
Commissioner for Children and Young People

Submission

1. That the state government revisit the provision that exempts a person of “unsound mind” from voting.

For many years, there has been a push to repeal the “unsound mind” provision in state and Commonwealth legislation that provides that a “person of ‘unsound mind’ who is ‘incapable of understanding the nature and significance of enrolment or voting’ is not entitled to have their name on the electoral roll”. This is both generally and in relation to children and young people living with a disability who may want to vote but who may be precluded from doing so automatically by parents or carers.

In 2014, the Australian Law Reform Commission found that the phrase was ‘derogatory, judgemental and stigmatising’ and recommended that the term be repealed. It also found no evidence to suggest that removing the provision “would cause any new problems with regard to the integrity of the electoral system, undue influence or fraud”.ⁱ

In respect to young people living with a disability, this provision should not preclude them from having a choice to vote by carers or parents who assume that they will not have an ability to vote and have not asked them whether they want to be involved. If a parent makes an application to exclude them under the current legislation, there needs to be some checks in place that the young person actually knows that this is happening so they can have some input into this decision, especially if their mental capacity to understand is not exactly known.

2. That the proposed awareness strategy to support the participation of younger electors with disability has actionable and concrete goals, measurable targets and timeframes, and is developed and implemented through a youth-friendly and accessible engagement process.

It is promising that the draft DAIP recognises that “young electors” face unique issues and barriers to electors of other ages and proposes the development of an awareness strategy to support the participation of young electors with disability in state and local government elections (Action 2.1.1).

The draft DAIP does not specify whether or how young electors are to be engaged in this process or whether they were engaged in the development of the draft DAIP. ECSA could consider partnering with youth-focused organisations, service providers or other agencies in the disability sector or with disability expertise.

Young people themselves should be deciding what the awareness strategy should look like based on the issues that are most important to them. In our office’s view, the earlier that young people are involved, the better embedded they are in the process.

Young people with disability should not only be consulted about the barriers to information about voting or how to participate in the actual process of voting, but they should also be included in the development of solutions and strategies to address these barriers.

They want to be involved in decision-making not just as individuals with disability but as young people. To maximise engagement, awareness-raising and truly support the

participation of young electors, opportunities to participate should be well promoted and offered in a range of formats.

The draft DAIP recognises the importance of ensuring that the “views of hidden and vulnerable people who live with disability are sought”. This could also involve reviewing plans for the proposed Electoral Disability Advisory Committee to ensure that young people with disability have opportunities to be part of the Committee.

Where young people with disability are engaged, it is important that their inclusion is not just “lip service”. These initiatives must value their voices and take their concerns seriously. In addition to creating opportunities for young people to inform the awareness strategy, ECSA should also ensure that the strategy sets concrete and actionable goals according to clear timeframes and measurable targets.

3. That ECSA considers developing an awareness strategy to support children and young people with disability to understand the electoral system and be informed and prepared to vote.

The longitudinal National Youth Electoral Study (YES) found that most young people consider “attending polling booths negatively, describing it as boring, daunting or intimidating”.ⁱⁱ The same study found that although parents have a significant influence on their child’s views about politics and democratic participation, most parents provide little to no factual information to their child about the practical process of voting and what is expected of citizens when they vote.

This highlights the significance of ECSA’s role in raising community awareness about the electoral system. It is essential that children and young people – as citizens, community members, first-time voters and future voters – are informed about the electoral system and how to vote before they turn 18. To this end, it seems logical for ECSA’s community awareness programs to be designed for children and young people, including those with disability, and with their input.

This office therefore recommends that ECSA consider developing an awareness strategy to support children and young people with disability to understand the electoral system and be informed and prepared to participate. This will ensure the state’s compliance with international conventions and complement and strengthen the awareness strategy that supports young electors with disability.

Regarding elections, this strategy might involve actions like the recruitment of (or collaboration with) people with disability expertise as Information Officers for Young Electors or first-time electors with disability. Their role may be similar to ECSA’s Multicultural Information Officers at the Cheltenham and Enfield by-elections in 2019, who raised awareness about how to vote correctly and received positive feedback from community members.

Given that being informed about enrolling and voting is central to being able to participate, other priority actions under this strategy should include the provision of clear and accessible information. There are promising actions already underway toward

Outcomes 3.4 and 3.5 of the draft DAIP, with existing EasyRead Guides on the website. However, the existing Brochures and Information Guides are currently hard to find under Publications on the ECSA website. It is important that key information is easy to find as well as easy to read.

While action 3.5.2 plans to co-design and make available publications and materials for “people with intellectual disability or low literacy”. This should also include young people with disability. Any communications outreach should also be child and young people-focused, targeting spaces – school, sports and community groups, shopping malls – where children and young people hang out, play, learn and earn.

The draft DAIP already commits to consultation and collaboration with stakeholders to “support electors with disability” and to “identify challenges and opportunities for engaging and supporting people with disability”. Greater collaboration with disability sector stakeholders and young people is likely to strengthen the effectiveness and sustainability of this strategy and ensure that young people are given developmentally appropriate opportunities to participate.

4. That ECSA considers developing an internal community accessibility and engagement toolkit for broader community awareness activities with a particular focus on the engagement of children and young people.

The draft DAIP proposes the development of internal community accessibility and engagement toolkits for local and parliamentary elections so that “electors can participate in accessible community engagement events”.

This office recommends the development of a similar toolkit to guide ECSA’s broader community awareness and engagement activities and ensure that children and young people can engage and participate in accessible events and interactions with ECSA staff. This could be part of the broader awareness strategy to support children and young people with disability to understand the electoral system and be informed and prepared to vote (See recommendation 2).

5. That ECSA provides extensive, meaningful and ongoing disability awareness training to all staff to understand disability and facilitate the inclusion and participation of children and young people.

Employees require adequate training to help them identify disability and offset misconceptions and stigma about people with disability. Meaningful training will facilitate the inclusion and participation of children and young people in civic education and processes.

The draft DAIP mentions disability awareness training for all ECSA head office staff and other training materials to improve disability awareness amongst election staff. This office recommends that these training materials should:

- Be prepared and delivered by or in collaboration with people with disabilities, the disability sector and other agencies with disability expertise;

- Be regular and ongoing;
- Provide practical experiences for employees to engage with people with disability, particularly children and young people with disability;
- Have a focus on trauma-informed practice; and
- Improve attitudes and responses of staff.

6. That the final DAIP ensures that feedback and complaint mechanisms are child-friendly and that children and young people – in addition to “all electors” – are provided with simplified information about ECSA’s feedback and complaint mechanisms.

This office is pleased to see that the draft DAIP commits to providing feedback and complaints systems that are “simple, flexible and accessible” and providing clear and simplified information about these systems “so that all electors understand their rights and responsibilities”. However, the draft DAIP’s actions in relation to feedback and complaints mechanisms primarily focus on feedback from electors about the voting experience or on the DAIP itself.

This office recommends a broader review of existing mechanisms to ensure that guides to providing feedback or complaints are accessible to children and young people with disability so that they too “understand their rights and responsibilities” in any interaction with ECSA through community awareness programs or when seeking information. These systems should also be well-promoted, easy to find online and offered in a range of formats.

It is also important that once a complaint has been lodged, that these complaints are taken seriously, acted and reported upon and monitored by properly resourced oversight mechanisms to ensure transparency and accountability.

ⁱ Australian Law Reform Commission, Equality, Capacity and Disability in Commonwealth Laws (ALRC Report 124), Available at <https://www.alrc.gov.au/publication/equality-capacity-and-disability-in-commonwealth-laws-alrc-report-124/9-electoral-matters-2/repeal-of-the-unsound-mind-provisions/>

ⁱⁱ Australian Electoral Commission, Youth Electoral Study Report 3: Youth, the Family, and Learning about Politics and Voting, p. 31. Available at https://www.aec.gov.au/About_AEC/Publications/files/youth-study/youth_electoral_study_03.pdf.