



# How the DDA & the Disability Standards apply to the ECEC sector

#BestStartInLife

Submission to ACECQA Consultation Sept 2020



# Introduction

This brief submission was put together in response to the Australian Government's call for submissions from the Early Childhood Education and Care (ECEC) sector, to discuss and explore the awareness and understanding among ECEC service providers of their obligations in regard to children with disability under the *Disability Discrimination Act 1992* (the DDA).

The Australian Childcare Alliance (ACA) appreciates the opportunity to help inform the Australian Government's [2020 Review of the Disability Standards for Education 2005](#) ("the Disability Standards").

As the national peak body in the Australian ECEC sector, ACA represents more than 2,500 members and approximately 360,000 families throughout Australia. We work on behalf of Long Day Care service owners and operators, predominantly private, to ensure families have access to affordable, quality ECEC throughout Australia.

ACA has existed in various forms for more than 30 years. Our experience means that we understand the critical role that quality ECEC programs play in the life of families and the importance of a sustainable long day care sector in preparing children for the best start in life.

ACA's national and state bodies work collaboratively with all sides and levels of government, regulatory bodies and other stakeholders to ensure that families are supported into the future with a sustainable, affordable and viable sector.

We believe that the Disability Standards for Education 2005 should include early learning (child care) providers – not just preschools and kindergartens – whilst giving careful consideration to prevent any unintended negative consequences that may arise.

ACA holds this view in the context of ensuring that **every child in Australia** has access to a high quality early learning service, and therefore the **best start in life**.





## Current Disability Standards Do Not Reflect the Broad Range of ECEC Service Types

As pointed out in the ACECQA Discussion Paper, the distinction made in the Disability Standards between preschools/kindergartens and early learning (child care) service providers does not reflect the variety of service types in the ECEC sector.

There is a diverse range of services offered by ECEC providers, including preschools, kindergartens, centre-based Long Day Care, Family Day Care, mobile preschools, In Home Care, Outside School Hours Care (including for school age children), and a range of other options designed to meet the needs of families across the country.

Given that the Long Day Care (LDC) sector is not formally required to comply with the Disability Standards, we acknowledge that the level of understanding of this specific legislation across the sector is low.

The requirements of the National Quality Framework (NQF) however, are embedded with the concept of the inclusion of all children. These provisions, coupled with the provisions of the Australian Government's Inclusion Support Program, have resulted in a culture of inclusivity across the sector.

In complying with the obligations under the NQF, ECEC services support children with disability to do the following on the same basis as all children:

- Seek admission or apply for enrolment at an education and care service
- Access the education and care service environment and its facilities
- Participate in an educational program that has been designed to develop their skills, knowledge and understanding
- Access an education and care environment that is free from discrimination caused by harassment or victimisation on the basis of their ability.

## Existing Compliance Across the ECEC sector

As previously stated, the influence of the National Quality Framework (NQF) and its emphasis on **inclusion of all children**, plus the provisions of the Australian Government's Inclusion Support Program, have created a culture of inclusivity, with positive outcomes for children with disability in the ECEC environment.

This view is supported by the statistics in the ACECQA Discussion Paper, which illustrates that the proportion of children with disability enrolled in/attending ECEC services remains only slightly below representation levels in the population, while for children aged 6-12 years with disability attending a Child Care Subsidy (CCS) approved service (i.e. children attending Outside School Hours Care services), that gap between attendance and representation in the population is more pronounced.



## Identifying Barriers to Children With Disability Attending ECEC Services

Services unable to meet the specific needs of a child with disability may claim that to be inclusive would represent an 'unjustifiable hardship', mostly on the grounds of financial viability.

It is important to consider the various types of disability that can impact on whether an ECEC service can meet the needs of the child. Physical disabilities may require modifications to the physical environment of the service, along with additional care requirements, whereas other types of disability (e.g. sensory or cognitive challenges) may require specific care arrangements.

The following are potential perceived challenges or barriers to the family of a child with disability attending an ECEC service provider:

- Service may not have adequately trained early childhood educators to meet the needs of the child.
- Service may not have the necessary physical infrastructure to meet the needs of the child.
- The family may not understand the funding arrangements and may have unrealistic expectations of the level of care which may be offered.
- Service may not be able to find additional qualified educators able to work limited hours
- Inclusion Support team may not facilitate funding arrangements, or provide knowledge or experience to foster the inclusion of the child.
- Potential impact on other children.

We have outlined additional detail of some of these perceived and /or potential barriers below.

## Broadening the Disability Standards to Include Long Day Care

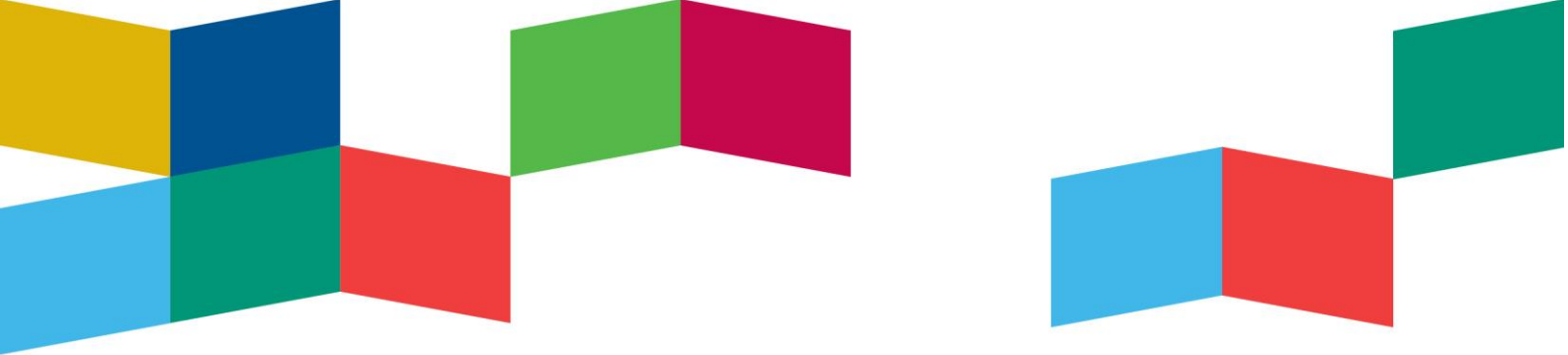
ACA would like to see the Disability Standards apply to all Long Day Care service providers to ensure that, if not already achieved, the entire ECEC sector is fully compliant with the Disability Standards for Education in the coming years.

We would recommend further analysis of the application of these standards to Long Day Care services, to identify any unintended consequences that may have a negative impact on the access of high quality, affordable ECEC services for children with disability, along with the broader community.

## Educating the ECEC Sector

If Long Day Care is to be included in the Disability Standards, ACA recommends an extensive education campaign which:

- Generates awareness of the legislation;
- Outlines the legal obligations of ECEC service providers;

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- Is targeted at the service level of experience and compliance;
  - Provides clarity on what is an unjustifiable hardship; and
  - Provides suggestions for support networks to help services best meet their obligations and the needs of these children and families.

This information needs to be clearly and simply expressed, and readily available for service providers to access whenever required. In addition, flexible learning options such as supporting education and mentoring (e.g. live web chats) would help answer questions and meet the knowledge requirements of services as they develop over time.

We recommend disseminating this information via the Federal and State Government Departments of Education, as well as through peak sector agencies and associations to ensure the broadest reach for this important campaign.

ACA also recommends case studies as useful tools to help illustrate how seemingly insurmountable obstacles can be overcome through a collaborative approach.

## Financial Support

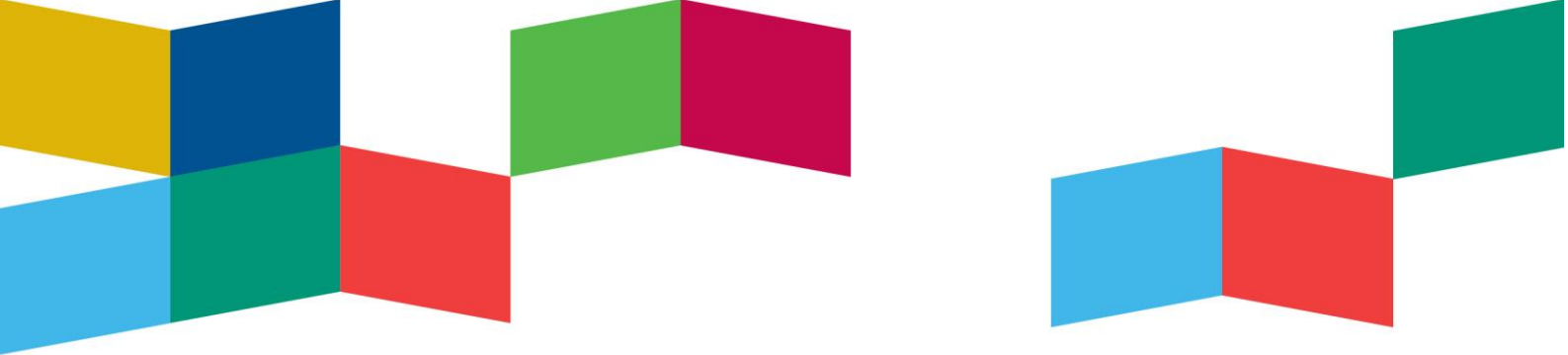
Many of the challenges and barriers faced by an early learning service can be overcome with adequate financial support. The adjustments that may need to be implemented by a service provider to appropriately accommodate a child with disability will very much depend on the child's specific needs. Such adjustments may require financial investments from the service. Whilst additional costs are a potential barrier to the implementation of these potential adjustments, this barrier would be relatively easy to overcome with funding support.

ACA acknowledges existing funding support that is provided under the Australian Government's Inclusion Support Program (ISS). This funding is not designed to target one particular child, and the hourly rate and maximum hours of funding significantly limit the ability of a service to support the child and other children.

The funding mechanism itself is hard to navigate, with the **Inclusion Support Portal** an unstable platform, and the structure of applications counter-intuitive and difficult to navigate. Services with experience and a supportive ISS provider are able to navigate this process, but many services find it too cumbersome and challenging, and eventually give up in exasperation.

This type of funding does not address the issue of **professional development of early childhood educators** to meet the individual needs of a child with disability. The complex needs of a child and their family often require very specific training (eg. feeding a child through a tube, appropriate lifting techniques, the correct use of augmented communication devices) and it is reasonable to support services the first time they embark on a new challenge through training and education.

Whilst the development of **Individualised Education Plans (IEPs)** is covered in a cursory way during some Early Childhood qualifications, the use of these plans in a real life setting is challenging, and mentoring during this process should be provided.



Whilst ISS is designed to be an adjunct to **NDIS funding** for a family, the two funding mechanisms do not dovetail well together, and often present additional barriers to support. A more flexible ability to use NDIS funding in an ECEC setting would better support families to make the most of early childhood education options.

The **physical and environmental changes** required for a child with disability can also be costly - from modifying the service to allow for wheelchair or walker access, to purchasing augmented communication devices (or even pictogram cards). Older services, particularly those in modified residential settings, have not always been designed with inclusion in mind, and thus may require extensive renovations in order to comply.

Whilst the initial cost of supporting children with disability seems obvious, there are **longer term financial implications** which may affect the viability of a service. Introducing ramps, disability parking, and modifying facilities, etc. may be considered as a reduction in the unencumbered floor space available for all children, and therefore require the service to reduce the licensed number of children who can be educated and cared for on the site. This then directly impacts their turnover, and financial sustainability.

There are significant costs which sit **above and beyond** what can be covered by the daily fee and ISS funding. In the context of the CCS hourly rate and annual cap, along with the maximum number of hours that funding is available, and the fact that if there is more than one child on site with additional needs, this funding is 'shared' by the children regardless of their individual circumstances, service providers are often required to absorb a significant financial burden. In addition, the application for funding cannot be made until a child starts attending, with no guarantee that - if successful - this will be backdated to the child's start date.

## Funding Recommendations

Many of the barriers outlined can be overcome through education, training and financial support. ACA therefore recommends expanding the current funding provisions to include targeted funding which allows service providers to adequately accommodate the needs of children with disability.

- Review the existing Inclusion Support Subsidy Portal to provide an easier system to navigate and upgrade to a stable platform with which to engage.
- Expand Inclusion Support funding to include:
  - Ability to secure short term funding support for one-on-one education and care for children with specialised needs.
  - Allow the Inclusion Support funding to be used to provide relevant educator training to support inclusion of children's specific needs as required.
  - Increase the hourly rate for Inclusion Support, the maximum number of hours of funding per day, and eliminate 'shared care' when more than one child is to be educated.
  - Allow for successive applications for physical/ environmental challenges to be overcome through structural changes to the service as the child develops over time.

- Expand the NDIS to include ECEC services for requirements not covered by Inclusion Support.

## RECOMMENDATIONS

We recommend that the Australian Government:

- Amends the Disability Discrimination Act DA & Disability Support Standards to include Early Childhood Education and in particular, centre-based Long Day Care service providers.
- Provide comprehensive education and support across the sector, partnering with peak agencies to ensure broad and thorough reach
- Review and upgrade the ISS portal
- Expand ISS funding to allow for flexible, needs-based support
- Allow flexible use of NDIS funding within the ECEC sector





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