



Submission: Inquiry into Rural and Regional Access to Secondary and Tertiary Education Opportunities

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About DDLC

The NSW DDLC was set up in 1994 to help people with disability to use disability discrimination laws. Our role is to provide accurate and easy to comprehend advice to people with disability in NSW who want to make a complaint of disability discrimination. We give free legal advice, run disability discrimination cases and represent people with cases of disability discrimination.

The NSW DDLC aims for a society where people will be able to participate in all aspects of life through the:

- removal of barriers;
- elimination of discrimination;
- empowerment of people with disabilities;
- promotion of awareness; and
- ability to exercise rights.

DDLC's objectives are:

- To promote community awareness of the potential to use discrimination laws to advance the rights of people with disabilities;
- To provide legal services for people with disabilities, their associates and representative organisations, who have been discriminated against;
- To ensure the effective participation of people with disabilities in the management and operation of the Centre;
- To reform laws and change policies, practices and community attitudes that discriminate against people with disabilities;
- To develop and be involved in appropriate networks; and
- To maintain the necessary infrastructures and administration systems in order to further the Centre's aims and objectives.

Introduction

The New South Wales Disability Discrimination Legal Centre (DDLC) welcomes the opportunity to contribute to the Inquiry into Rural and Regional Access to Secondary and Tertiary Education Opportunities. People with disability represent 20% of Australia's population¹. Education is a priority for the DDLC, as it is the second highest area of complaints which we receive. We have provided 56 advices in the area this year to date.

It is unlawful to discriminate against people with disability in education under s. 22 of the *Disability Discrimination Act 1992 (Cth) (DDA)* and the *Disability Standards for Education 2005 (Education Standards)*.

People with disability are also entitled to inclusive education under Article 24 of the *Convention on the Rights of Persons with Disabilities (CRPD)*, which Australia ratified in July 2008.

There has been some improvement in Australia in moving towards inclusive education. According to the Australian Institute of Health and Welfare, the number of children with

¹ Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings* (2003) Page 3 / 15

disability attending mainstream schools, including students in special classes within mainstream schools has increased by 93% between 1981 and 2003.

That being said, students with disability living in rural and regional areas face a double disadvantage in accessing secondary and tertiary education opportunities. It is difficult for all students living in rural and regional areas to access secondary and tertiary education opportunities. These difficulties are compounded when these students also have a disability. This is due to physical barriers, attitudinal barriers and the failure of some education providers to make reasonable adjustments for students with disability.

This submission will focus on the following terms of reference:

- a)** the financial impact on rural and regional students who are attending metropolitan secondary schools, universities or TAFE;
- c)** the implications of current and proposed government measures on prospective students living in rural and regional areas;
- e)** the adequacy of government measures to provide for students who are required to leave home for secondary or post-secondary study;
- f)** the educational needs of rural and regional students;
- h)** other related matters.

Summary of Recommendations

Recommendation 1

DDLC submits that the Commonwealth recommends that the maximum amount that can be claimed by the NSW Taxi Transport Subsidy Scheme be increased in accordance with the rise in taxi fares.

Recommendation 2

DDLC recommends that rural and regional students with disability attending metropolitan secondary schools, universities or TAFE who are unable to catch public transport, receive an additional allowance to assist them with the costs associated with having to pursue educational opportunities in the city.

Recommendation 3

DDLC recommends that the Commonwealth encourages State and Territory governments to improve access to public transport in rural and regional areas in accordance with the Transport Standards.

Recommendation 4

DDLC recommends that the Commonwealth encourages and supports Local Governments to bolster funding for community transport to assist in the transportation of students with disability to and from university and TAFE.

Recommendation 5

DDLC recommends that the Access to Premises Standards be passed by Parliament without further delay.

Recommendation 6

DDLC recommends that the Commonwealth, in conjunction with State and Territory governments, establish a program for the provision of personal care services for students with physical disability under 16 years of age, who require high level personal care support and are required to leave home to attend secondary school.

Recommendation 7

DDLC recommends that the Commonwealth require, as a funding pre-requisite that all education providers demonstrate compliance with the Education Standards.

Recommendation 8

DDLC submits that the Commonwealth keep a watching brief on implementation of the proposed Guidelines for the Management of Health and Safety Risks Posed to Schools by a Student with a History of Violent Behaviour, to ensure compliance with the Education Standards.

a) The financial impact on rural and regional students who are attending metropolitan secondary schools, universities or TAFE

There is a great financial impact in commuting to metropolitan secondary schools, universities or TAFE. As discussed in the section below, the majority of public transport in rural areas remains inaccessible for people with disability and accordingly many rely on taxis for transport. People with vision impairments and physical disability may be eligible for the Taxi Transport Subsidy Scheme, administered by the NSW Ministry of Transport, which gives the person 50% subsidy for each fare. However, the subsidy is capped at \$30 per fare. This is problematic for students living in rural and regional as they are required to travel longer distances in order to get to their educational institution. Furthermore, there was a 4.2% rise in taxi fares in urban New South Wales and 4.1% rise in rural New South Wales, which came into effect on 5 July 2009². In order to match the increase in fares and to mitigate the disadvantage faced by students with disability from rural and regional areas, DDLC recommends that the maximum amount that can be claimed by the Taxi Transport Subsidy Scheme be increased.

Recommendation 1

DDLC submits that the Commonwealth recommends that the maximum amount that can be claimed by the NSW Taxi Transport Subsidy Scheme be increased in accordance with the rise in taxi fares.

In regards to income support, people with disability who are over the age of 16 and unable to work for more than 15 hours a week may be eligible to receive the Disability Support Pension³.

The Disability Support Pension rate for a single independent person under the age of 21 is \$476.50 per fortnight and for a person over 21, the rate is \$569.80 per fortnight⁴. People with disability under the age of 21 may also be eligible to receive the Youth Disability Supplement, at the maximum rate of \$105.10 per fortnight⁵. Students with disability may be eligible to receive a mobility allowance if they are unable to use public transport without substantial assistance. The standard rate is \$79.30 per fortnight⁶.

It is evident that the financial assistance currently provided to students with disability is

2 The New South Wales Taxi Service, Taxi Fare Adjustment, http://www.nswtaxi.org.au/public/breaking%20news/breaking_news_Fare%20Adjustment_20.06.09.html

3 http://www.centrelink.gov.au/internet/internet.nsf/payments/qual_how_dsp.htm

4 http://www.centrelink.gov.au/internet/internet.nsf/payments/pay_how_dsp.htm

5 http://www.centrelink.gov.au/internet/internet.nsf/payments/qual_how_yds.htm

6 http://www.centrelink.gov.au/internet/internet.nsf/payments/pay_how_mob.htm

insufficient to cushion the financial impact on rural and regional students with disability attending metropolitan secondary schools, universities or TAFE. Indeed the cost for a student who is able to catch public transport is far less than a student who is unable to catch public transport because of their disability. For example, the cost of a CountryLink fare for a⁷ university student travelling from Mittagong to Strathfield is \$9.80 each way. Mittagong to Strathfield is 96 kilometres; therefore it would cost \$227.44 each way, excluding the \$30 taxi fare subsidy.

Therefore, DDLC submits that rural and regional students with disability attending metropolitan secondary schools, universities or TAFE who are unable to catch public transport should receive an additional allowance to assist them with the costs associated with having to pursue educational opportunities in the city.

Recommendation 2

DDLC recommends that rural and regional students with disability attending metropolitan secondary schools, universities or TAFE who are unable to catch public transport receive an additional allowance to assist them with the costs associated with having to pursue educational opportunities in the city.

c) The implications of current and proposed government measures on prospective students living in rural and regional areas

i) Limited Accessible Public Transport

There are a number of current and proposed government measures that have profound implications for students with disability living in rural and regional areas. As noted above, accessible transport is a major problem in rural and regional areas, particularly for people with disabilities. It is often the deciding factor for people with disability who are considering

whether or not to pursue tertiary education opportunities.

For example, CountryLink services between Broadmeadow and Taree are operated by a coach service which has no provision for wheelchair bound passengers and passengers using motorised scooters⁸. Despite the introduction of the *Disability Standards for Accessible Public Transport 2002* (Transport Standards), there has been little improvement to the accessibility of public transport. The 2007 draft review of the Transport Standards concluded that although there had been some progress, 'this progress has not yet reached a threshold level where there is 'whole of journey' accessibility or greater increased confidence in public transport systems.' Furthermore, it was noted that improvements to date have been focused on metropolitan areas. A key problem in the implementation of the Transport Standards is that it is the responsibility of the State and Territory governments, as transport falls within their jurisdiction⁹.

Case Study

A student with a physical disability lives in Bateman's Bay and is required to travel 29 kilometres to Moruya to attend TAFE. The only available public transport are buses which are not accessible. Accordingly, the student is required to take a taxi each way to TAFE. Although she is a participant of the Transport Taxi Subsidy Scheme, the journey still costs the student \$43.88 each way¹⁰. Often, the taxi driver requires her to pay a return fare each time she travels, even though it is only one way. Premier Transport Group runs a coach service from Bateman's Bay to Moruya. The fare is \$7.00 each way for students¹¹. Therefore, the student with physical disability is significantly disadvantaged and the cost of transport is prohibitive for the student to pursue their studies at TAFE.

Recommendation 3

⁸ http://www.CountryLink.info/travelling_with_us/special_needs

⁹ *Ibid.*, p. 80

¹⁰ This is based on maximum taxi fares for country areas, <http://www.transport.nsw.gov.au/taxi/fares.html>

¹¹ Premier Transport Group, <https://www.premierms.com.au/NewHome/EZBookingCheckStop.aspx>

DDLC recommends that the Commonwealth encourages State and Territory governments to improve access to public transport in rural and regional areas in accordance with the Transport Standards.

ii) Limited School and Community Transport

Students with physical disabilities attending secondary schools may be entitled to the School Student Special Transport for Students with Disabilities Scheme¹² by taxi. This scheme entitles eligible students with disability to access government and non-government schools closest to their homes in New South Wales for a maximum of two trips per day to get to and from school.

However, this scheme does not facilitate transport to tertiary institutions and community transport or taxi is the only assistance provided.

Notwithstanding this, there is limited community transport in rural and regional areas. For example, Bathurst Community Transport has to service 380 people with two vehicles and two fulltime drivers. Based upon information provided by Bathurst Community Transport¹³, community transport is able to provide transport to or from university or TAFE if the person is assessed as a Home and Community Care client. However, the service is limited to business hours, Monday to Friday and does not assist people to attend evening or weekend classes.

Recommendation 4

DDLC recommends that the Commonwealth encourages Local Governments to bolster funding for community transport to assist in the transportation of students with disability to and from university and TAFE.

i) Transition Programs are Limited

The NSW Department of Ageing, Disability and Home Care's Transition to Work Program supports people with disability who are eligible for the program to attend university or TAFE. The program aims to support people living in regional and rural areas by developing outreach

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12 <http://www.schools.nsw.edu.au/studentssupport/scholarshipsmore/transprtspecial.php>

13 E-mail correspondence from Leonie Schumacher, Bathurst Community Transport on 7 July 2009

14 *Ibid.*, p. 7

services. However, the program is only available for courses with a vocational orientation. Accordingly, it disadvantages students with disability wishing to undertake university degrees, particularly degrees which take a number of years to complete as the program is limited to two years with a possible six months extension¹⁵. Anecdotal evidence suggests that is a factor in students with disability deciding not to pursue a university education.

e) The adequacy of government measures to provide for students who are required to leave home for secondary or post-secondary study;

Students with disability face a greater disadvantage when they are required to leave home for secondary or post-secondary study due to a number of factors. These factors include:

a) Limited accessible accommodation

Private Accommodation

People with disability experience a range of difficulties in terms of accommodation. Often boarding school accommodation is not accessible to students with disability. Further, it is very difficult to find accessible accommodation in the private rental market. For this reason, there was a call from at least 63 submissions to the Inquiry into Draft Disability (Access to Premises – Buildings) Standards (Access to Premises Standards) to include Class 2 buildings (apartment buildings) in the Access to Premises Standards¹⁶. The Committee has recommended that Class 2 buildings be included in the Access to Premises Standards on the grounds that “the market has not responded to the needs of people with a disability”¹⁷.

¹⁵ *Ibid.*, p. 45

¹⁶ House of Representative Standing Committee on Legal and Constitutional Affairs, *Report of the Inquiry into Draft Disability (Access to Premises – Buildings)* (June 2009), p.24

¹⁷ *Ibid.*, p. 30

Some universities have accessible accommodation facilities.

School boarding houses and university accommodation would fall under the category of Class 1b buildings and are therefore covered by the Access to Premises Standards. The Committee has recommended that “requirements for accessibility be imposed on all new and purpose-built Class 1b buildings regardless of the number of bedrooms or dwellings they contain, but that the proposed four bedroom threshold be maintained for existing buildings.” DDLC supports this recommendation and urges that the Access to Premises Standards be passed as soon as possible. The Access to Premises Standards have been in the development stage for almost ten years¹⁸ and many new buildings, including school boarding houses and university accommodation, have been constructed whilst that time has elapsed.

Public Accommodation

The NSW Department of Housing offers accessible properties. However, there is a long waiting list and properties are offered to people who have waited the longest first rather than according to need.

Case study

Our client lives in Government provided housing. He lives on the first floor but must climb down two flights of stairs to access the street level and the shared laundry facilities. Our client has spine, back and neck injuries that make climbing stairs, particularly when carrying things such as laundry, very difficult. He wished to be transferred to a ground floor unit with an internal laundry that was in close proximity to his medical supports. In 2003 he contacted the Government Department to request a transfer. Our client was approved for a transfer however 5 years later he remains on the transfer waiting list. Between 2003 and 2009 our client received a number of letters from the Department telling him he would be allocated a property ‘when it is your turn’.

Some Department of Housing accommodation will be captured by the Premises Standards.

Recommendation 5

DDLC recommends that the Access to Premises Standards be passed by Parliament without further delay.

18 *Ibid.*, p.4

Personal care support for people with physical disability

The Department of Ageing, Disability and Home Care's Attendant Care Program is only available to people with physical disability over 16¹⁹. People with high support needs and who are under 16, have minimal access to personal care support. Consequently, this group of people find it difficult to live away from home. This policy needs to be changed in order to meet Australia's obligations under Article 19 of CRPD, which provides that the government must provide people with disability the means to live independently and participate in the community. This includes access to personal assistance.

Recommendation 6

DDLC recommends that the Commonwealth, in conjunction with State and Territory governments, establish a program for the provision of personal care services for students with physical disability under 16 of age, who require high level personal care support and are required to leave home to attend secondary school.

iii) Need for adequate support for people with intellectual disability, autism and mental health issues

Students with intellectual disability, autism and mental health issues from rural and regional areas who leave home for secondary and post-secondary study require adequate support. Common mental health issues experienced by students include eating disorders, depression²⁰ and anxiety. Psychological difficulties are likely to increase when students live away from home, particularly students in secondary school. Although, students with significant needs may be eligible for Level 2 assistance from a Department of Ageing, Disability and Home Care, Local Support Coordinator, this program is limited in the support that it provides.

f) The educational needs of rural and regional students

Rural and regional students with disability have specific educational needs and challenges.

¹⁹ Department of Ageing, Disability and Home Care, *Application Form In-Home Personal Care Services for People with High Support Needs (Attendant Care Program & High Needs Pool)* (March 2009)

²⁰ Approximately 160, 000 people aged 16-24 live with depression . Youth beyondblue, [Factsheet 1 Depression in young people.](#)

Inconsistency in adjustments provided at tertiary level

In order to obtain equal access to education at university or TAFE, some students require reasonable adjustments to be made in accordance with the *Education Standards*. There is varying support from disability units at tertiary institutions. For example, Charles Sturt University offers support to students with disability including specialised equipment or furniture for use on campus, assistive software, alternative format study materials such as Braille, electronic, large print or audio, peer note takers or lecture notes, special provisions for exams, library assistance and accessible student accommodation²¹. The University of Newcastle provides advocacy, assessment and exam support, lecture support, library support, accessible formats and parking.²² However, compliance with the Education Standards varies between universities as illustrated by the case study below.

Case study

Our client has multiple chemical sensitivity. This prevents her from attending university on campus and as such she is currently studying a Bachelor of Law by distance education at a university in regional NSW. Multiple chemical sensitivity also means that she cannot come in to contact with certain types of dyes used in the printing of course materials and text books. Our client has arranged for the University to provide her with electronic versions of course materials and for the relevant portions of set texts to be scanned and emailed to her. Our client has had difficulty in obtaining course materials and texts at the same time that they are made available to other students. Recently our client was unable to complete an end of session assessment as the course materials for that subject had not been provided to her in an accessible format. When she requested an extension she was told that she could only be provided with a two week extension despite the fact that other students had access to course materials for 12 weeks.

Recommendation 7

DDLC recommends that the Commonwealth require, as a funding pre-requisite that all education providers demonstrate compliance with the Education Standards.

²¹ <http://www.csu.edu.au/division/studserv/disability/aguidetoservicesandresources.htm>

²² <http://www.newcastle.edu.au/service/disability/index.html>

h) Other related matters

DDLC is concerned about amendments made to the *Education Act 1990* (NSW) and the proposed 'Guidelines for the Management of Health and Safety Risks Posed to Schools by a Student with a History of Violent Behaviour' (the Guidelines), and in particular the effect these will have on rural and regional students. As a result of the Amendments the Director-General of the Department of Education and Training will be able to move students to another school if they exhibit violent behaviour. This impacts disproportionately on students with autism, intellectual disability and mental health issues as they may be more likely exhibit this kind of behaviour due to the nature of their disability. Furthermore, this policy has a more profound impact on students living in rural and regional areas as they will have to travel further to attend the next closest school. Families may be forced to move or home school their child if they are forced to enrol in a school which is too far away. DDLC is concerned that the Guidelines may be implemented in such a manner that breaches the DDA.

Recommendation 8

DDLC submits that the Commonwealth keep a watching brief on implementation of the proposed Guidelines for the Management of Health and Safety Risks Posed to Schools by a Student with a History of Violent Behaviour, to ensure compliance with the Education Standards.

Conclusion

In order to comply with domestic and international obligations, the needs of students with disability must be considered in every aspect of both State and Commonwealth policy concerning rural and regional access to secondary and tertiary education opportunities. While there is a raft of legislation, including the Education Standards, Transport Standards and Draft Access to Premises Standards which address the needs of students with disability from rural and regional areas, compliance is varied. We recommend that the Commonwealth government focus on strengthening compliance in this area.