**Statement of Concern – Plain English Version**

**COVID-19: Human rights, disability and decision-making**

This statement is written by experts in human rights, disability and ethics who have come together to support the rights of people with disability during the Coronavirus (COVID-19) pandemic.

We are worried that people with disability are at high risk of suffering from the COVID-19 pandemic. Older people with disability, people with intellectual disability, Aboriginal and Torres Strait Islander people with disability, people with psychosocial disability and people with chronic health conditions are at particularly high risk.

We welcome the development of the *Management and Operational Plan for People with Disability* (the Plan) as part of the *Australian Health Sector Emergency Response Plan for the Novel Coronavirus (COVID-19)*.[[1]](#endnote-1)

But, we are still worried that the decisions made in emergency healthcare and medical settings in Australia will not be inclusive of the needs of people with disability. We are very concerned that decisions made in these settings will exclude the needs of people with disability as resources become scarce.

We understand that difficult decisions need to be made to ensure that people who are sick with COVID-19 get the medical care they need. However, we are very worried that these decisions will be made with views which devalue the lives of people with disability.

To make sure people with disability are treated fairly in Australia, we believe that a human rights framework must be used in all decision-making processes during the COVID-19 pandemic. We have outlined these human rights principles below.

**Human rights and disability**

The *Convention on the Rights of Persons with Disabilities* (CRPD)[[2]](#endnote-2) is an international document made by the United Nations about the rights of people with disability. Australia agreed to the *Convention on the Rights of Persons with Disabilities* (CRPD)[[3]](#endnote-3) in July 2008.

The CRPD requires Australia to use the following principles to support the rights of people with disability in all decisions. This includes decisions that are made in health and medical settings.

1. **Equality and human dignity[[4]](#endnote-4)**

People with disability have the same human rights as people without disability. People with disability must not be treated like they are worth less.

1. **Non-Discrimination**

People with disability must be treated equally with people without disability in all areas of life. For some people with disability, this means extra support is needed.

People with disability may also require extra supports to make sure they are not treated unfairly because of their race, colour, ethnicity, gender, sexuality, language, political opinion, age or other social status.

1. **Right to life[[5]](#endnote-5)**

People with disability have a right to a good quality of life. To enjoy the right to life, people with disability must be provided with the health care, medical treatment and social services that they need.

1. **Equal recognition before the law[[6]](#endnote-6)**

People with disability are equal in law. People with disability have the right to make decisions about all aspects of their healthcare and treatment. People with disability must be given the supports they need to express their wants and preferences and be given the right to choose who supports them.

1. **Right to health**

People with disability must be given the health care and health services they need. People with disability should have access to the same range and quality of free or affordable health care as others. People with disability should also be given access to any specialist health services they require.

1. **Situations of risk and humanitarian emergencies[[7]](#endnote-7)**

Everything that is possible to be done must be done to make sure that people with disability are not at risk in emergency situations. This includes health pandemics like the Coronavirus.

1. **Participation of people with disability and their representative organisations[[8]](#endnote-8)**

People with disability and the organisations that represent them should be involved in the development and implementation of laws and decisions that affect people with disability. This includes people with all types of disability at all ages.

**In summary, the framework of ethical decision-making should include the following principles:**

1. People with disability should not be denied any form of healthcare because of their disability or impairment. This means that people with disability should be treated equally in decisions made about health care and medical treatment, including for lifesaving and emergency treatments.
2. People with disability should have the same access as people without disability to all forms of health care, including emergency care.
3. Health care should not be denied or limited because a person with disability needs specific supports to access it. Supports and adjustments may include things like ramps, adjustable hospital beds, disability aids and equipment, and interpreters.
4. People with disability must be given information about all health and medical treatments and/or procedures they receive in a way that they can understand. All health and medical treatments and/or procedures must be agreed to by the person with disability receiving it before it takes place.
5. People with disability must not have their access to health care limited or denied based on the opinions of a person, group or institution about their quality of life.
6. People with disability and their representative organisations should be involved in all decisions that affect them.

**People who contributed to and signed on to support this statement include:**

**Robin Banks**

Human Rights Lawyer and former Anti-Discrimination Commissioner, Tasmania

**Andrew Byrnes**

Professor of Law, Faculty of Law, University of NSW

Research Associate, Australian Human Rights Institute, University of NSW

**Kevin Cocks AM**

Former Queensland Anti-Discrimination Commissioner

**Megan Davis**

Expert Member, United Nations Expert Mechanism on the Rights of Indigenous Peoples, UN Human Rights Council

Professor of Law, UNSW Law

**Graeme Innes AM**

Former Disability Discrimination Commissioner

**Rosemary Kayess**

Vice-Chair, United Nations Committee on the Rights of Persons with Disabilities

Senior Research Fellow, Social Policy Research Centre, University of NSW

2019 Australian Human Rights Medallist

**Ron McCallum AO**

Emeritus Professor and former Dean of Law, University of Sydney

Former Chair, United Nations Committee on the Rights of Persons with Disabilities

Senior Australian of the Year 2011

**Jackie Leach Scully FAcSS, FRSA**

Professor of Bioethics

Director, Disability Innovation Institute, University of NSW

**This Statement of Concern was commissioned by: People With Disability Australia (PWDA); Women with Disabilities Australia (WWDA); National Ethnic Disability Alliance (NEDA); Australian Federation of Disability Organisations (AFDO); First Peoples Disability Network (FPDN); ACT Council of Social Service Inc. (ACTCOSS).**

1. ‘Immediate response plan to focus on people with disability during Coronavirus’ (Media Release, Greg Hunt, Minister for Health) 3 April 2020 <https://www.greghunt.com.au/immediate-response-plan-to-focus-on-people-with-disability-during-coronavirus/> [↑](#endnote-ref-1)
2. *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008). [↑](#endnote-ref-2)
3. *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008). [↑](#endnote-ref-3)
4. *Convention on the Rights of Persons with Disabilities,* supra n 5, article 3(a) and (e) and article 5. [↑](#endnote-ref-4)
5. Ibid. Article 10. [↑](#endnote-ref-5)
6. Ibid. Article 12. [↑](#endnote-ref-6)
7. Ibid. Article 11. [↑](#endnote-ref-7)
8. Ibid. Article 4(3). [↑](#endnote-ref-8)