



**Royal Commission**  
into Violence, Abuse, Neglect and Exploitation  
of People with Disability

# Public hearing 12

The experiences of people with disability, in the context of the Australian Government's approach to the COVID 19 vaccine rollout

**DRAFT COMMISSIONERS' REPORT**

Sydney  
27 September 2021

# Contents

<b>Overview and summary</b> .....	<b>1</b>
Findings .....	3
Recommendations.....	9
<b>Part 1: Introduction and background</b> .....	<b>13</b>
Preparation of this Report .....	14
The Hearing .....	16
<b>Part 2: Human rights Framework</b> .....	<b>18</b>
<b>Part 3: Public hearing 5 Report</b> .....	<b>21</b>
Findings and recommendations.....	21
Australian Government’s response.....	23
<b>Part 4: The Strategy and the rollout of the vaccine</b> .....	<b>24</b>
The COVID-19 Vaccine Roll-out Strategy .....	24
Commencement of the rollout.....	26
Concerns about the rollout for people with disability .....	30
Impact on people with disability in Phase 1a .....	32
<b>Part 5: Key events following Public hearing 12</b> .....	<b>36</b>
<b>Part 6: Key issues and findings</b> .....	<b>49</b>
Failure to consult.....	49
ATAGI Preliminary Advice .....	51
The undisclosed ATAGI advice .....	52
The inclusion of people with disability in Phase 1a .....	54
Submissions .....	59
What should DOH have known? .....	63
Disability sector vaccine implementation plan.....	66
The trial rollout to residents with disability.....	66
The prioritisation decision .....	70
Phased rollout and merging of Phase 1a and 1b .....	78

Transparency.....	79
Submissions .....	81
Accessible and timely information .....	84
Communication of key matters relating to the rollout .....	84
Appropriate language .....	86
Easy Read .....	87
Vaccine hesitancy and fear .....	88
Disability support workers.....	89
Opportunities for improvements in communications .....	91
The ongoing rollout.....	93
Data collection .....	95
Overall assessment .....	98
<b>Part 7: Where to from here? .....</b>	<b>100</b>
Developments post-7 May 2021 .....	100
Access to vaccines .....	101
Easing of restrictions.....	104
Consultations .....	107
Language and Communications .....	107
Further inquiries .....	108
Data .....	108
Follow up .....	109
<b>Appendices .....</b>	<b>110</b>
Appendix A: Parties with leave to appear and legal representatives.....	110
Appendix B: Acronyms and abbreviations .....	111
Appendix C: Lived experience witnesses .....	113
Clifford Stephens .....	113
Faith (a pseudonym).....	113
Suzannah MacNamara, Greg Tucker, Anthony Reid and Uli Kaplan .....	114
Pia Sappl .....	115

Isobel .....	115
Tara Elliffe and Catherine McAlpine .....	116
Appendix D: Evidence of Kevin Stone and Julia Squire .....	118
Kevin Stone .....	118
Julia Squire .....	120

# Overview and summary

1. On 17 May 2021, the Royal Commission conducted a public hearing in Sydney considering ‘The experiences of people with disability, in the context of the Australian Government’s approach to the COVID-19 vaccine rollout’ (Public hearing 12). The issues addressed at Public hearing 12 included when, why and in what circumstances decisions were taken to defer the delivery of vaccines to ‘disability care residents and workers’. This group, together with people in aged care accommodation and their support workers, were given the highest priority for the delivery of COVID-19 vaccines (Phase 1a) in the Australian Government’s ‘COVID-19 Vaccine Roll-out Strategy’<sup>1</sup> (Strategy).
2. This is the Report of the three Commissioners who participated in Public hearing 12. It is based on the evidence given at the hearing but also includes a factual account of significant developments in the rollout of vaccines to people with disability after the hearing.
3. In April 2021 reports appeared in the media that the aged care sector was being prioritised over people with disability living in disability residential settings in the vaccine rollout.<sup>2</sup> On 20 April 2021, officials in the Australian Government Department of Health (DOH) informed the Senate Select Committee on COVID-19 that, notwithstanding disability care residents were part of the most vulnerable group, DOH had pivoted to focus on aged-care residents.<sup>3</sup> As this Report explains, the ‘pivot’ had the effect of deprioritising people with disability – that is, placing them below people in aged care accommodation in the vaccine rollout even though both were included in Phase 1a of the Strategy.
4. The Commissioners have considered the evidence presented at the hearing together with the written submissions of Counsel Assisting the Royal Commission dated 12 July

---

<sup>1</sup> Exhibit 12-4.2, DRC.9999.0045.0001, p 2; Exhibit 12-12.3, DRC.9999.0035.0376, p 2.

<sup>2</sup> Tom Lowrey, ‘Disability sector surprised to learn aged care has taken priority in vaccine rollout’, *ABC News online*, ABC News, 21 April 2021.

<sup>3</sup> Transcript, Various speakers, Commonwealth Parliament, Senate Select Committee on COVID-19, Canberra, 20 April 2021, pp 4-6.

2021 (Counsel Assisting's Submissions)<sup>4</sup> and of the Australian Government dated 20 August 2021 (Australian Government's Submissions).<sup>5</sup> Counsel Assisting submitted that it is open to the Commissioners to make ten specific findings and seven recommendations.

5. The Australian Government argues that the proposed findings should not be made. However, the Australian Government says that it 'immediately acknowledges the need [to increase] the rate at which people with disability living in residential settings are receiving vaccinations ... and the expectation that the rate would be higher than it has been to date.'<sup>6</sup>
6. We accept Counsel Assisting's Submissions that there were three core problems with the rollout of vaccines for people with disability:
  - DOH **failed to consult** with people with disability, disability support workers, disability representative organisations and service providers at critical points in the development of the Strategy and its subsequent rollout. This directly affected people with disability by curtailing their access to vaccines.
  - DOH's **lack of transparency** in decision-making in effect denied people with disability the information they were entitled to receive. This was most evident in the failure of DOH to reveal the decision to deprioritise people with disability included in Phase 1a of the Strategy. In the absence of this information, people with disability and their representative organisations lost the opportunity to challenge or protest against the decision to defer the vaccination of people with disability in Phase 1a of the strategy.
  - There was a **failure to provide information in an accessible form** to people with disability at risk of serious consequences if they became infected with the virus. This also contributed to many people with disability losing trust in the Australian Government's handling of the rollout and created uncertainty and confusion among people.

---

<sup>4</sup> Submission of Counsel Assisting, Public hearing 12, 12 July 2021, SUBM.9999.0035.0361.

<sup>5</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131.

<sup>6</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [58].

# Findings

7. We make 17 findings in this Report. Some are very similar to findings proposed by Counsel Assisting's Submissions. All have been the subject of evidence and close consideration by the Commissioners.
8. Counsel Assisting invited the Commissioners to find that the framing of the Strategy and the rollout of vaccines to people with disability had been an 'abject failure'.<sup>7</sup> We acknowledge that DOH confronted significant challenges in framing the Strategy and conducting the rollout. Nonetheless, the evidence establishes that DOH failed to meet those challenges in important respects. We prefer to describe DOH's framing of the Strategy and the conduct of the rollout as seriously deficient.

## Finding 1

In framing the COVID-19 Vaccine Roll-out Strategy, the Australian Government Department of Health neither genuinely consulted with nor sought advice from the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability or Disability Representative Organisations. Consultations with the Advisory Committee about meeting the challenges of rolling out the vaccine to people living in disability residential settings could have taken place from December 2020 (if not earlier), since at that time the Advisory Committee was already considering the vaccine rollout.

## Finding 2

The Australian Government Department of Health framed the COVID-19 Vaccine Roll-out Strategy without appreciating or addressing the challenges associated with administering the vaccine to people living in disability residential settings and disability support workers in those settings.

---

<sup>7</sup> Submission of Counsel Assisting, Public hearing 12, 12 July 2021, SUBM.9999.0035.0361, at [6].

### **Finding 3**

The Australian Government Department of Health had sufficient information available to draft the COVID-19 Vaccine Roll-out Strategy with an appreciation of the most significant challenges it would face in rolling out the vaccine to the Priority Disability Group. The Department has not adequately explained the apparent failure to take that information into account.

### **Finding 4**

The Australian Government Department of Health used the critical first four weeks of the vaccine rollout to acquire 'core learning' to understand the challenges facing the rollout to the Priority Disability Group. Since the rollout of vaccines during this period was exclusively directed to people in Phase 1a, the Department lost an opportunity to make significant progress on vaccinating people within the Priority Disability Group who were most at risk of serious consequences from contracting COVID-19.

### **Finding 5**

If the Australian Government Department of Health genuinely consulted with and sought advice from key stakeholders, including the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability and Disability Representative Organisations:

- The COVID-19 Vaccine Roll-out Strategy could have been drafted with an appreciation of the challenges facing the rollout of the vaccine to the Priority Disability Group.
- The rollout could have taken into account the need to identify the people with disability in Phase 1a most at risk of serious consequences from contracting COVID-19 and to formulate a plan to reach them as soon as practicable.
- During the crucial first four weeks the Department could have achieved greater progress in vaccinating people in disability residential settings most at risk, and reassured people with disability that they were not being ignored.

### **Finding 6**

The Australian Government Department of Health's decision in the first week of March 2021 to prioritise aged care residents in the rollout of the vaccine had the effect, as the Department appreciated, of halting the administration of vaccines to people in residential disability accommodation even though they were in Phase 1a of the COVID-19 Vaccine Roll-out Strategy. It is accurate to describe the decision as one that deprioritised the vaccination of people in residential disability accommodation.

### **Finding 7**

The Australian Government Department of Health decided to deprioritise the vaccination of people in residential disability accommodation without consulting or notifying the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability or Disability Representative Organisations. The decision was not made public until Ms Edwards gave evidence before the Senate Select Standing Committee on COVID-19 on 20 April 2021.

### **Finding 8**

In determining priorities it was entirely reasonable for the Australian Government Department of Health to take into account advice that aged care residents were particularly at risk of serious illness or death if they contracted COVID-19. But the Department should have also considered the position of people in residential disability settings facing similar risks of serious illness or death from contracting the virus. This would have enabled the Department to determine if it could identify these people and reach them to offer the vaccine.

### **Finding 9**

The Australian Government Department of Health's failure to make public the decision to deprioritise the vaccination of people in residential disability accommodation meant that people with disability and Disability Representative Organisations were unaware of the Government's change of course until the decision was revealed to the Senate Select Standing Committee on COVID-19 on 20 April 2021. During this six-week period they were misled into continuing to believe that the Priority Disability Group would receive priority for administration of the vaccination in accordance with Phase 1a of the COVID-19 Vaccine Roll-out Strategy.

### **Finding 10**

The failure to communicate to people with disability the decision to deprioritise the vaccination of people in residential disability accommodation was a serious departure from the standards of transparency to which the Australian Government, through its departments and agencies, should adhere when making critical decisions affecting the health and safety of the community or specific groups within the community.

### **Finding 11**

Many people in the Priority Disability Group and in the wider disability community were surprised, and indeed shocked, when they finally learned of the decision to deprioritise the vaccination of people in residential disability accommodation. Not surprisingly, the failure to communicate the decision in a timely manner caused many people with disability to lose trust and confidence in the Australian Government's handling of the vaccine rollout.

### **Finding 12**

The Australian Government Department of Health did not provide information to people with disability in a form that ensured, so far as practicable, that the information would reach and be understood by people with disability, especially people in residential disability settings and people with intellectual disability. The lack of clarity in the flow of information contributed to confusion among people with disability.

### **Finding 13**

At the time of Public hearing 12, many people with disability including people in residential disability accommodation, and disability support workers were fearful and anxious about contracting COVID-19. The lack of clarity in communicating with the disability sector about the rollout also created uncertainty and confusion among many people with disability and disability support workers. While there were numerous factors leading to vaccine hesitancy in mid-2021, the uncertainty and confusion may have contributed to vaccine hesitancy among some people with disability, including people at greatest risk of serious consequences from COVID-19, and among some disability support workers.

#### **Finding 14**

The lack of transparency and the failure of the Australian Government to provide clear and easily comprehensible information about the rollout of vaccines to people with disability damaged the credibility and perceived trustworthiness of the Australian Government among many people with disability.

#### **Finding 15**

From the commencement of the rollout in March 2021 until 6 September 2021, the Australian Government Department of Health did not publish data recording the number of doses of vaccine administered to people living in residential disability accommodation or to NDIS participants.

#### **Finding 16**

The Australian Government did not conduct the vaccine rollout in accordance with the COVID-19 Vaccine Roll-out Strategy released on 7 January 2021. As of the date of the hearing (17 May 2021), the Australian Government had not met the objectives stated in the Strategy for the Priority Disability Group.

#### **Finding 17**

The Royal Commission acknowledges that the rollout of the vaccine to the Priority Disability Group presented significant logistical challenges. We also acknowledge that the Australian Government Department of Health was entitled to take into account that people in aged care residential accommodation, as a group, were at risk of serious consequences if they contracted COVID-19. Paying due regard to these matters, the framing of the COVID-19 Vaccine Roll-out Strategy and the conduct of the rollout by the Department were seriously deficient for the following reasons:

- The Strategy was framed without adequate consultation with the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability or Disability Representative Organisations.
- The Strategy was framed without the Australian Government Department of Health appreciating the challenges of administering the vaccine to the Priority Disability Group.

- The critical first four weeks of the rollout was a lost opportunity to make progress with the vaccination of the Priority Disability Group.
- At no stage did the Australian Government Department of Health consider identifying people within the Priority Disability Group most at risk of serious consequences from contracting COVID-19 or formulating a plan to reach these people and offer the vaccines.
- The Australian Government Department of Health failed to make public the decision to deprioritise the vaccination of people in residential disability accommodation or to inform the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability or Disability Representative Organisations of the decision until Ms Edwards gave evidence to the Senate Select Standing Committee on COVID-19 on 20 April 2021.
- People within the Priority Disability Group did not know of the decision to deprioritise the vaccination of people in residential disability accommodation for a period of six weeks. During this time, they proceeded on the misapprehension that the COVID-19 Vaccine Roll-out Strategy would be implemented according to its terms.
- The failure to communicate was a serious departure from the transparency reasonably to be expected of the Australian Government on issues of public health.
- The failures in framing and implementing the COVID-19 Vaccine Roll-out Strategy contributed to confusion and uncertainty among people in the Priority Disability Group and people with disability generally.

## Recommendations

9. The Australian Government supports six of the seven recommendations proposed by Counsel Assisting, either wholly or subject to qualifications. We accept the Australian Government's submission that the proposed recommendations deal with matters that are complex and arise in a rapidly evolving environment. We have also considered the Australian Government's observations on the form of the proposed recommendations.
10. This Report makes seven recommendations. Six broadly follow the proposed recommendations proposed by Counsel Assisting but with modifications. The seventh recommendation (Recommendation 4) takes account of the significant events that have taken place since Public hearing 12 was held on 17 May 2021. The account of these events in Part 5 of this Report is not controversial and includes matters referred to in the Australian Government's Submissions.
11. At this stage we do not adopt Counsel Assisting's proposed recommendation on the collection of data relating to disability support workers. However, this is an important issue that the Royal Commission will investigate further, either through a hearing or a roundtable.
12. The Commissioners makes the following recommendations:

### **Recommendation 1**

The Australian Government should continue to prioritise access to vaccination for COVID-19 for people with disability in residential settings through a strategy developed in consultation and co-ordination with: people with disability; Disability Representative Organisations; peak advisory bodies; the National Disability Insurance Agency; the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability; and representatives of disability support workers. The objective should be to ensure that all people with disability – but particularly all NDIS participants, people living in residential disability settings, and all people with intellectual disability – have a genuine opportunity to be fully vaccinated before the 70 per cent threshold is reached for significantly easing restrictions in any state or territory.

## **Recommendation 2**

The Australian Government should continue to prioritise access to vaccination for all disability support workers working in residential and other settings through a strategy developed in consultation and co-ordination with: people with disability; Disability Representative Organisations; peak advisory bodies; the National Disability Insurance Agency; the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability; and representatives of disability support workers. The objective should be to ensure that all such disability support workers are fully vaccinated before the 70 per cent threshold is reached in a particular state or territory.

## **Recommendation 3**

The Australian Government should ensure all people with intellectual disability are eligible for a COVID-19 vaccine and support them gaining urgent access to the vaccine in all settings. The Australian Government should also ensure that appropriate supports are provided to enable people with intellectual disability to understand information about the vaccine, make informed decisions about the vaccine and plan to access the vaccine through a range of informal and formal supports.

## **Recommendation 4**

The Australian Government should use its best endeavours to ensure that no state or territory significantly eases restrictions when the threshold of 70 per cent of the population 16 years of age and older being fully vaccinated is met (however the threshold is interpreted), unless and until the Australian Government is satisfied that:

- all people with disability – particularly NDIS participants, people living in residential disability accommodation and people with intellectual disability have and appreciate that they have the opportunity to be fully vaccinated; and
- all active disability support workers have been fully vaccinated.

### **Recommendation 5**

The Australian Government should prioritise consultations with people with disability (including people with intellectual disability), Disability Representative Organisations, peak advocacy bodies and the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability to ensure that:

- current pathways for vaccination are appropriate for all people with disability and disability support workers, including the pathways for people living in residential disability settings; and
- appropriate Easy Read materials are produced in time to assist people with intellectual disability.

### **Recommendation 6**

The Australian Government should review the language it uses in all publications to describe or refer to people with disability and their circumstances. The Australian Government should consult widely to ensure that the language is appropriate and is used consistently across all its departments and agencies.

## Recommendation 7

The Australian Government should prioritise clear and accessible communications for people with disability and the disability sector generally concerning the vaccine rollout and the importance of vaccination for people with disability by:

- improving access to Easy Read materials provided through formal support networks such as doctors and disability support workers;
- developing targeted communication strategies for people with intellectual disability, their families and supporters through advertisements, printed information and on social media;
- conducting public education campaigns on social media and other platforms including dedicated campaigns directed to people with disability, their families and supports and disability support workers;
- improving messaging on the importance of getting a vaccination targeted to disability support workers; and
- considering introducing Disability Vaccine Champions to promote the virtues of vaccination against COVID-19 (unless it has already done so).

# Part 1: Introduction and background

13. Public hearing 12 continued the Royal Commission's earlier work about the experiences of people with disability during the COVID-19 pandemic.
14. On 26 March 2020, during the early stages of the pandemic, the Royal Commission published a Statement of Concern about the impact of COVID-19 on people with disability, particularly those in closed residential settings.<sup>8</sup> The statement called on all Australian governments to ensure that their responses to the pandemic included all necessary measures to secure the protection and safety of people with disability.
15. In June 2020, the Royal Commission announced that it would hold a public hearing (Public hearing 5) to examine the impact of COVID-19 on people with disability and their experiences during the pandemic. Public hearing 5 took place from 18 to 21 August 2020 in Sydney before the Honourable Ronald Sackville AO QC (Chair), Ms Barbara Bennett PSM and Dr Rhonda Galbally AC.
16. The Commissioners submitted the Report on Public hearing 5 (Public hearing 5 Report) to the Governor General on 26 November 2020.<sup>9</sup> It was tabled in the Australian Senate on 30 November 2020.<sup>10</sup> The Public hearing 5 Report contained 22 recommendations, including that the Australian Government should publish clear guidelines to ensure that people with disability would not be denied access to health services on the basis of their disability.<sup>11</sup> The Public hearing 5 Report also recommended that the guidelines address access by people with disability to a COVID-19 vaccine, 'if and when one becomes available.'<sup>12</sup>

---

<sup>8</sup> Exhibit 5.37, ASA.0001.0001.9715, p 2.

<sup>9</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic*, November 2020, p 1.

<sup>10</sup> Commonwealth, *Parliamentary Debates*, Senate, 30 November 2020, 6306.

<sup>11</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic*, November 2020, p 127.

<sup>12</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic*, November 2020, p 127.

17. Public hearing 12 was convened following concerns that people living in disability residential settings did not have the opportunity to be vaccinated as the Strategy proposed. In late April 2021, reports appeared in the media that residents in aged care facilities were being prioritised for vaccination ahead of people with disability included in Phase 1a of the Strategy. These revelations were based on evidence given by officials of the Australian Government Department of Health (DOH) to the Senate Select Committee on COVID-19 on 20 April 2021.<sup>13</sup>
18. The principal purpose of Public hearing 12 was to examine when, why and in what circumstances decisions were taken to defer the delivery of vaccines to people with disability who were included in Phase 1a of the Strategy.
19. Public hearing 12 took place on 17 May 2021 in Sydney before the Honourable Ronald Sackville AO QC, the Honourable Roslyn Atkinson AO, Ms Barbara Bennett PSM and Dr Rhonda Galbally AC (Commissioners).
20. Senior Counsel Assisting the Royal Commission at Public hearing 12 was Ms Kate Eastman SC, instructed by the Office of Solicitor Assisting with the assistance of Ms Aditi Rao. A number of parties were given leave to appear at the hearing. Those parties and their legal representatives are listed in Appendix A.

## Preparation of this Report

21. At the conclusion of Public hearing 12, the Chair directed Counsel Assisting to prepare written submissions setting out the key issues that emerged from the evidence. These submissions are available on the Royal Commission's website.
22. On 20 August 2021, the Royal Commission received the Australian Government's Submissions in response to Counsel Assisting's Submissions. The Australian Government's Submissions are also available on the Royal Commission's website. These Submissions have been considered in the preparation of this Report.

---

<sup>13</sup> Transcript, Various speakers, Commonwealth Parliament, Senate Select Committee on COVID-19, Canberra, 20 April 2021, pp 4-6.

23. This Report has been prepared by the Chair and two Commissioners who participated in Public hearing 12. Commissioner Atkinson resigned as a Commissioner with effect from 24 June 2021 and was not involved in the preparation of the Report.
24. Commissioner McEwin very properly declared a potential conflict of interest in the subject matter of Public hearing 5, at the earliest possible time. As the subject matter of Public hearing 5 is directly connected to Public hearing 12, he has not been involved in the preparation of this Report or consideration of issues addressed in the Report.
25. This Report is organised into seven Parts:
  - Part 1 provides introductory comments and background to Public hearing 12.
  - Part 2 outlines the human rights framework relevant to the rights of people with disability in the context of the Australian Government's approach to the COVID-19 vaccine rollout.
  - Part 3 summarises the findings and recommendations in the Public hearing 5 Report and sets out the Australian Government's response to the Report.
  - Part 4 summarises the key events leading up to Public hearing 12 held on 17 May 2021.
  - Part 5 records the key events that have taken place in connection with the vaccine rollout since 17 May 2021.
  - Part 6 records key issues and presents the Commissioners' findings arising from Public hearing 12.
  - Part 7 records the Commissioners' recommendations considering the findings in Part 6. Part 7 also records matters the Royal Commission intends to investigate further.
26. Appendix B sets out the acronyms and abbreviations used throughout this Report.

## The Hearing

27. Public hearing 12 was convened at short notice because of the urgency of addressing the rollout of vaccines. We express appreciation to all witnesses participating in the hearing and to their representatives for providing statements and documents or pre-recorded evidence in very demanding timeframes. A summary of their evidence is set out in Appendices C and D.
28. The Royal Commission heard from a range of witnesses including:
- People with disability and self-advocates
    - A panel comprising Ms Suzannah MacNamara, Mr Greg Tucker, Mr Anthony Reid and Mr Uli Kaplan.<sup>14</sup>
    - Ms Pia Sappl.<sup>15</sup>
    - Ms Tara Elliffe.<sup>16</sup>
    - Family members of people with disability
    - Mr Clifford Stephens (with his son, Mr Christian Stephens (Christian)).<sup>17</sup>
    - 'Faith' (a pseudonym).<sup>18</sup>
  - Advocates
    - Mr Kevin Stone, Chief Executive Officer (CEO) of Victorian Advocacy League for Individuals with Disability (VALID).<sup>19</sup>
    - Ms Catherine McAlpine, CEO of Inclusion Australia.<sup>20</sup>
  - Disability support workers and service providers
    - 'Isobel' (a pseudonym).<sup>21</sup>
    - Ms Julia Squire, CEO of Ability Options.<sup>22</sup>

---

<sup>14</sup> Exhibit 12-3.1, 'Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan', 12 May 2021.

<sup>15</sup> Exhibit 12-8.1, 'Pre-record of Pia Sappl', 12 May 2021.

<sup>16</sup> Exhibit 12-11.1, 'Pre-record of Tara Elliffe and Catherine McAlpine no.1', 12 May 2021.

<sup>17</sup> Exhibit 12-1.1, 'Pre-record of Clifford Stephens', 6 May 2021.

<sup>18</sup> Exhibit 12-2.1, 'Pre-record of 'Faith'', 6 May 2021.

<sup>19</sup> Exhibit 12-9.1, 'Statement of Kevin Stone AM', 11 May 2021.

<sup>20</sup> Exhibit 12-4.1, 'Statement of Catherine McAlpine', 14 May 2021.

<sup>21</sup> Exhibit 12-7.1, 'Pre-record of 'Isobel'', 12 May 2021.

<sup>22</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021.

- Mr David Moody, CEO of National Disability Services (NDS).<sup>23</sup>
- An eminent academic
  - Professor Anne Kavanagh, Head of Disability and Health, Melbourne School of Population and Health.<sup>24</sup>

29. In addition, Ms Caroline Edwards, Associate Secretary of DOH, gave evidence at Public hearing 12 on behalf of the Australian Government. Ms Edwards was previously the Deputy Secretary and Acting Secretary of DOH. From February to August 2020, as Acting Secretary she was the senior officer responsible for the health response to the COVID-19 pandemic and for the rollout of the vaccine.

---

<sup>23</sup> Exhibit 12-5.1, 'Statement of David Moody', 11 May 2021.

<sup>24</sup> Exhibit 12-6.1, EXP.0031.0002.0001.

## Part 2: Human rights Framework

30. At Public hearing 5, the Royal Commission considered the human rights framework and Australia's obligations under the *Convention on the Rights of Persons with Disabilities* (CRPD).<sup>25</sup> The then United Nations Special Rapporteur on the rights of persons with disabilities, Ms Catalina Devandas, and human rights and international law expert, Ms Rosemary Kayess, gave evidence about how rights recognised under the CRPD apply in the context of a pandemic such as COVID-19.
31. In December 2020, the United Nations Office of the High Commissioner for Human Rights made the following statement:
- Focused efforts are essential to remove barriers, pre-empt potential discrimination, and monitor distribution to ensure equality and avoid discrimination. These efforts are not only essential to protect human rights, but to ensure the effectiveness of the vaccination campaign. Vaccination distribution plans need to ensure full accessibility for persons with disabilities.<sup>26</sup>
32. The articles of the CRPD most relevant to the Australian Government's response to the COVID-19 pandemic are discussed in the Public hearing 5 Report. For convenience, the articles most relevant to this report are reproduced below.<sup>27</sup>
33. The purpose of the CRPD is stated in Article 1 as:
- to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.
34. Article 4 of the CRPD specifies 'General obligations' with which States Parties must comply. Article 4(1)(d) obliges States Parties:

---

<sup>25</sup> *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008). The CRPD was signed by the Australian Government on 30 March 2007 and ratified on 17 July 2008.

<sup>26</sup> United Nations Office of the High Commissioner for Human Rights, *Human Rights and Access to COVID-19 Vaccines*, 17 December 2020, p 3.

<sup>27</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic*, November 2020, pp 30-33.

to refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention.

35. Article 4(3) imposes an obligation to consult people with disability:

In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

36. Article 9(1)(b) of the CRPD obliges State Parties, in part, to ensure people with disability are equally entitled to:

Information, communications and other services, including electronic services and emergency services.

37. For the purposes of both Public hearing 5 and Public hearing 12, the most significant provision of the CRPD is article 11. It provides that:

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

38. The Public hearing 5 Report recorded that the Committee on the Rights of Persons with Disabilities (CRPD Committee)<sup>28</sup> raised concerns about Australia's failure to expressly consider the needs of people with disability in emergency response and mitigation plans in its observations on Australia's first periodic report on its compliance with the CRPD.<sup>29</sup> Those concerns were repeated in the CRPD Committee's concluding observations on Australia's combined second and third periodic report.<sup>30</sup>

---

<sup>28</sup> The CRPD Committee is the body of independent experts which monitors the implementation of the Convention by the States Parties.

<sup>29</sup> Exhibit 5.19.10, p 2.

<sup>30</sup> Exhibit 5.19.11, EXP.0003.0001.0001.

39. Article 25 of the CRPD requires States Parties to recognise the rights of persons with disabilities to the highest attainable standard of health without discrimination on the basis of disability. Article 26(1) requires State Parties to make available to persons with disabilities comprehensive habilitation and rehabilitation services, and to take effective and appropriate measures:
- to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocation ability, and full inclusion and participation in all aspects of life.
40. Article 25(b) of the CRPD is particularly relevant to the rollout of vaccines. Research shows that, along with aged people, people with disability, especially intellectual disability, are at risk of serious illness from COVID-19 compared to the rest of the population.<sup>31</sup> As recognised in the Strategy, people with disability have a claim by reason of their disability to priority access to any available, effective vaccine.
41. Article 31 of the CRPD relates to the collection, disaggregation and dissemination of statistics and data relevant to the implementation of the obligations of States Parties.

---

<sup>31</sup> Exhibit 12-4.1, 'Statement of Catherine McAlpine', 14 May 2021, at [27]; Jonathan Gleason, Wendy Ross, Alexander Fossi, Heather Blonsky, Jane Tobias and Mary Stephens, 'The Devastating Impact of COVID-19 on individuals with Intellectual disabilities in the United States', *Commentary*, NEJM Catalyst: Innovations In care Delivery, 5 March 2021.

## Part 3: Public hearing 5 Report

42. During Public hearing 5, the Royal Commission heard evidence of the experiences of people with disability during the COVID-19 pandemic and examined the Australian Government's response.

### Findings and recommendations

43. In the Public hearing 5 Report the Royal Commission made several findings and recommendations. The findings included:
- The Australian Government and its agencies failed to consult with people with disability or their representative organisations during the early stages of the pandemic in 2020. Partly as a result, the Australian Government failed to develop policies specifically addressing people with disability, specifically those living in disability residential settings and their needs in the pandemic. These failures had serious adverse consequences for many people with disability.
  - The creation of the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability was a positive development (though it should have happened sooner). The Advisory Committee has played a useful role since its establishment in informing the responses of the Australian Government to protecting the safety, health and wellbeing of people with disability during the pandemic.
  - Independent advocacy from disability representative organisations is particularly important to protect the health, safety and wellbeing of people with disability during the pandemic.
  - The Australian Government did not collect or report adequate data on the impact of COVID-19 on people with disability. This constituted a failure to comply with Article 31 of the CRPD.
  - People with disability genuinely feared that health care rationing would be introduced if the health system could not cope with the demand on services created by the pandemic and that people with disability would be denied care because of their disability.

44. The Royal Commission's recommendations in the Public hearing 5 Report included:
- The Australian Government should immediately explicitly commit to ensuring that all agencies responsible for planning and implementing responses to the COVID 19 pandemic and any future emergencies establish and implement formal mechanisms for consulting with and involving people with disability and disability representative organisations in the process (Recommendation 2).
  - The Advisory Committee should continue in existence and should receive sufficient funding for its operations during and after the pandemic (Recommendations 5 and 6).
  - DOH should ensure that a single unit is responsible for planning to protect and improve the health, safety and wellbeing of people with disability in emergencies such as the COVID-19 pandemic (Recommendation 10).
  - Additional funding should be provided to disability representative organisations to support their advocacy work during the pandemic (Recommendations 12 and 13.)
  - The Australian Government should immediately introduce measures to compile and present disaggregated data concerning the nature, extent and consequences of COVID-19 infections among people with disability (Recommendation 14).
  - The Australian Government should prepare guidelines explaining criteria governing access to health services and, in consultation with the Advisory Committee, should explicitly address access to a COVID-19 vaccine if and when one becomes available (Recommendations 20-22).
45. The recommendations concerning access to vaccines are particularly significant for this report. But perhaps the most important lesson to be learned from Public hearing 5 is that in a national emergency such as a pandemic, it is vital from the outset to consult with people with disability and disability representative organisations, and to give appropriate effect to their advice and concerns.

# Australian Government's response

46. The Australian Government responded to the Public hearing 5 Report on 27 April 2021.<sup>32</sup> The Australian Government said that:

... [it] supports or supports in principle 21 of the [22] recommendations and notes one. The Government has already taken action to address and implement many of the recommendations including reform to consultation processes, improvements to data, governance arrangements and the development of further guidance for providers of disability accommodation services.<sup>33</sup>

47. The response expressly referred to the priority accorded to people with disability in Phase 1a and Phase 1b of the Strategy. The response explained that these phases would 'capture the disability sector' as follows:

For phase 1A:

People with disability living in residential support settings with two or more people with disability such as group homes, assisted boarding houses, other supported residential settings (including medium-term accommodation and shared social/community housing).

Staff working in the residential support settings outlined above (including all paid supporters and carers providing support in these settings).

For phase 1B:

People with disability who also have a medical condition that increases their risk. (These medical conditions include, but are not limited to, immunocompromised, multiple comorbidities, chronic lung disease, diabetes, cardiovascular disease and severe obesity. This will continue to be updated in line with evidence).<sup>34</sup>

---

<sup>32</sup>Australian Government, Australian Government response to Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Public Hearing Report - Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic, 27 April 2021.

<sup>33</sup> Australian Government, Australian Government response to Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Public Hearing Report - Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic, 27 April 2021, 2.

<sup>34</sup> Australian Government, Australian Government response to Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Public Hearing Report - Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic, 27 April 2021, p 14.

# Part 4: The Strategy and the rollout of the vaccine

48. Counsel Assisting's Submissions included a chronology of key events concerning the framing of the Strategy and the conduct of the rollout. The chronology was not contentious and what follows is based on Counsel Assisting's Submissions.

## The COVID-19 Vaccine Roll-out Strategy

49. In August 2020, the Australian Government considered the availability of possible COVID-19 vaccines and the rollout of any such vaccines to the Australian public. On 18 August 2020, the Department of Health advised that the rollout of the vaccines would be implemented in accordance with medical advice, stating 'The Australian Technical Advisory Group on Immunisation (ATAGI) is preparing advice to support planning for the allocation and use of safe and effective vaccines.'<sup>35</sup>
50. We accept that the Australian Government's priorities stated in the Strategy were based on technical medical advice.<sup>36</sup>
51. On 7 January 2021, the Australian Government published the COVID-19 Vaccine Roll-out Strategy.<sup>37</sup> The Strategy provided the rollout of the vaccine would commence with priority populations. 'Disability care residents and workers' were included in the highest priority groups nominated for Phase 1a of the Strategy.<sup>38</sup> They were therefore given the same priority as 'aged care residents and workers', quarantine and border workers, and frontline healthcare workers. Phase 1a applied to all people with disability in

---

<sup>35</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 1. Department of Health, 'Australia's COVID-19 Vaccine and Treatment Strategy', *Coronavirus (COVID-19) health alert*, web page, 18 August 2020. <<https://www.health.gov.au/sites/default/files/documents/2020/08/australia-s-covid-19-vaccine-and-treatment-strategy.pdf>>

<sup>36</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [20], [30-33], [37-42], [43-50].

<sup>37</sup> Exhibit 12-4.2, DRC.9999.0036.0001; Exhibit 12-12.10, DRC.9999.0045.0001, p 2.

<sup>38</sup> Exhibit 12-4.2, DRC.9999.0036.0001; pp 2-3.

disability residential settings, not only participants in the National Disability Insurance Scheme (NDIS).<sup>39</sup>

52. The Strategy was based on the availability of two vaccines:
- Pfizer–BioNTech COVID-19 vaccine with the brand name Comirnaty (Pfizer vaccine). This is an mRNA based COVID-19 vaccine. It received provisional approval from the Australian Therapeutic Goods Administration (TGA) for use in individuals aged 16 and older on 25 January 2021.<sup>40</sup>
  - Oxford–AstraZeneca COVID-19 vaccine, with the brand name Vaxzevria (AstraZeneca vaccine). This is a viral vector vaccine for the prevention of COVID-19. It received provisional approval from the TGA for use in individuals aged 18 and older on 16 February 2021.<sup>41</sup>
53. The Strategy provided that ‘disability care residents and workers’ would be vaccinated on location at their disability residential settings by contracted vaccination providers, a model of delivery termed ‘in-reach’. The vaccines would be distributed from designated ‘Pfizer Hubs’ by a contracted delivery workforce and delivered to disability residential settings on the day of vaccination. The same delivery model was intended to apply to aged care residential facilities.
54. An undated information sheet produced as part of the Strategy provided that in the Phase 1a ‘residential disability care cohort’, some members of the cohort would receive Pfizer vaccines and some would receive AstraZeneca vaccines.<sup>42</sup> The type of vaccine a particular member of the cohort would receive would depend on the delivery channel through which they were vaccinated.
55. The Strategy was framed broadly according to the contemporaneous publicly available medical advice from ATAGI: *Preliminary advice on general principles to guide the prioritisation of target populations in a COVID-19 vaccination program in Australia*

---

<sup>39</sup> Exhibit 12-12.5, DRC.9999.0035.0498.

<sup>40</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 2.

<sup>41</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 3.

<sup>42</sup> Exhibit 12-5.5, CTD.9800.0001.0013.

(Preliminary Advice), dated 13 November 2020. The Preliminary Advice stated that the priority population groups should be people:

- at increased risk of developing severe outcomes from COVID-19;
- at increased risk of exposure; or
- whose work is critical to the functioning of society.

56. The Preliminary Advice did not specifically identify people with disability in residential settings as a group at increased risk of developing severe outcomes from COVID-19.

57. The Strategy estimated that there were 190,000 'aged care and disability care residents' and 318,000 'aged care and disability care staff'. The Strategy did not separately estimate the number of people with disability living in residential settings, nor the number of disability support workers. The accuracy of these figures is referred to later.<sup>43</sup>

## Commencement of the rollout

58. On or about 2 February 2021, an additional criterion for eligibility of people with disability under Phase 1a was introduced. Phase 1a was only to apply to those in 'shared' disability residential settings (that is, accommodation with two or more residents with disability).<sup>44</sup> This was the first of several changes to eligibility criteria, some of which are mentioned later.

59. On 18 February 2021, the Australian Government announced that it expected that Phase 1a would be largely completed in a period of six weeks.<sup>45</sup> People with disability, Disability Representative Organisations (DROs) and service providers welcomed the announcement, as did the Royal Commission.<sup>46</sup> Ms Catherine McAlpine, the CEO of Inclusion Australia said in her evidence that:

---

<sup>43</sup> See Report, at [270] ff.

<sup>44</sup> Exhibit 12-12.5, DRC.9999.0035.0498, p 1; Exhibit 12-12.10, DRC.9999.0045.0001, p 2.

<sup>45</sup> The Hon. Greg Hunt MP, 'Doorstop interview about the COVID-19 vaccine rollout on 18 February 2021', press conference, 18 February 2021.

<sup>46</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *The Disability Royal commission welcomes Australia's COVID-19 vaccine national roll-out strategy and its prioritisation of people with disability and disability care staff*, media release, 9 February 2021.

We were really pleased because we know that people with intellectual disability in group homes are second only to people in residential aged care who are at risk, and we expected that they would roll out together, that people in group homes would receive the vaccine before other people in the population, because they were a priority group.<sup>47</sup>

60. On about 18 February 2021 (six weeks after the Strategy was published), DOH published a presentation detailing 'Initial towns, suburbs, hubs and groups for COVID-19 vaccine Phase 1a' to be administered to the first priority populations. The presentation provided details of the aged care rollout, which was expected to reach 'over 240 facilities in over 190 locations'.<sup>48</sup>
61. On 18 February 2021 the website of the Australian Government Department of Social Services (DSS) announced that 'Phase 1a: people with disability in residential accommodation commences 22 February 2021'.<sup>49</sup>
62. On 19 February 2021, DOH contacted Ms Squire, the CEO of Ability Options, requesting her to locate a person with disability and a carer willing to participate at a media event marking the launch of the vaccine rollout. Ms Squire understood that vaccinations were often stressful events for NDIS participants, that very little was known about the particular vaccination process and that a media event could be uncomfortable for a person with disability. However, she arranged instead for a willing disability support worker employed by Ability Options to participate. This worker received the first dose of vaccine alongside the Prime Minister at the media event.<sup>50</sup>
63. Week 1 of the rollout commenced on Monday, 22 February 2021. By the middle of second week, on 3 or 4 March 2021, between 94 and 97 people across eight disability residential settings had received a first dose of the Pfizer vaccine.<sup>51</sup>

---

<sup>47</sup> Transcript, Catherine McAlpine, Public hearing 12, 17 May 2021, P-21 [24-29].

<sup>48</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 3.

<sup>49</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 3. Department of Social Services, *COVID-19 Vaccine roll-out: Disability Providers*, web page, 18 February 2021.  
<<https://web.archive.org/web/20210223070106/http://blcw.dss.gov.au/articles/covid-19-vaccine-rollout/>>.

<sup>50</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [10].

<sup>51</sup> Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, 'Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People

64. By 4 March 2021 NDS, the peak Australian representative body for disability service providers, received information from members operating disability residential settings that ‘very few residential settings were visited by vaccinators and that the rollout was happening much slower than anticipated.’<sup>52</sup>
65. Some service providers reported being given only 48 hours’ notice of vaccination visits, which they considered inadequate to prepare the staff and residents for vaccinations and to organise support.<sup>53</sup>
66. Inclusion Australia received feedback from its members that residents in many group homes had not been notified when they would be vaccinated or what vaccine they would receive.<sup>54</sup> There were reports that most people with intellectual disability over the age of 50 living in group homes had not received the vaccine.<sup>55</sup> Advocacy organisations reported being overrun with calls from people with disability trying to find out what was happening.<sup>56</sup>
67. Ms Edwards said that between 22 February and 19 March 2021, DOH reached approximately 23 or 24 disability residential settings under an ‘initial’ or ‘trial’ vaccine rollout program.<sup>57</sup> Three disability residential settings were reached in week 1, five in week 2, and a further 15 in weeks 3 and 4.<sup>58</sup> The initial rollout plans contemplated that Pfizer would be the vaccine to be delivered via in-reach, as it was the first vaccine to receive regulatory approval. These plans did not consider the use of the AstraZeneca vaccine as the plans were put in place when it was unclear whether AstraZeneca would be approved and, if so, for what population groups.<sup>59</sup>

---

with Disability – 4 March 2021 Key Outcomes’, communique, 4 March 2021; Exhibit 12-12.10, DRC.9999.0045.0001, p 5; Transcript, Kate Eastman SC, Public hearing 12, 17 May 2021, P-79 [6-10].

<sup>52</sup> Exhibit 12-5.1, ‘Statement of David Moody, 11 May 2021, at [28].

<sup>53</sup> Exhibit 12-5.1, ‘Statement of David Moody, 11 May 2021, at [31]; Transcript, David Moody, Public hearing 12, 17 May 2021, P-40 [25-27].

<sup>54</sup> Exhibit 12-4.1, ‘Statement of Catherine McAlpine’, 14 May 2021, at [16]; Transcript, Catherine McAlpine, Public hearing 12, 17 May 2021, P-21 [36-50].

<sup>55</sup> Transcript, Catherine McAlpine, Public hearing 12, 17 May 2021, P-22 [1-10]

<sup>56</sup> Transcript, Catherine McAlpine, Public hearing 12, 17 May 2021, P-22 [15-18].

<sup>57</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-79 [11-14].

<sup>58</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-76.

<sup>59</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-73 [7-14].

68. There was no evidence as to the precise number of doses administered to people with disability during the four weeks of the trial rollout program, but the total would have been very low.
69. On 20 March 2021, towards the end of week 4 of the rollout, the Australian Government announced the finalised eligibility criteria in the Strategy for Phase 1b and the arrangements for commencing Phase 1b of the rollout.<sup>60</sup> The priority groups included:
- people with disability who require frequent assistance with activities of daily living as well as people living with Down syndrome, muscular dystrophy, traumatic brain and spinal cord injury, or severe intellectual disability.<sup>61</sup>
70. The announcement provided no guidance for determining when intellectual disability would be classified as ‘severe’.
71. Vaccinations for Phase 1b priority groups commenced on Monday, 22 March 2021, week 5 of the rollout.<sup>62</sup>
72. On 8 April 2021, ATAGI published updated advice concerning the AstraZeneca vaccine, recommending that:
- the Pfizer vaccine was preferred over the AstraZeneca vaccine in adults aged under 50 years; and
  - the AstraZeneca vaccine could be used in adults over 50 years as well as those under 50 years, where the benefits are likely to outweigh the risks for that individual and the person to be vaccinated has made an informed decision based on an understanding of the risks and benefits.<sup>63</sup>

---

<sup>60</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 6; ‘COVID-19 vaccination – Disability provider alert 19 March 2021’, *Australian Government Operation COVID Shield*, web page, 20 March 2020. <<http://www.health.gov.au/resources/publications/covid-19-vaccination-disability-provider-alert-19-march-2021>>.

<sup>61</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 6.

<sup>62</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 6.

<sup>63</sup> Department of Health, ‘ATAGI statement on AstraZeneca vaccine in response to new vaccine safety concerns’, *Coronavirus (COVID-19) health alert*, web page, 8 April 2021. <<https://www.health.gov.au/sites/default/files/documents/2021/04/COVID-19-vaccine-rollout-update-30-april-2021.pdf>>

## Concerns about the rollout for people with disability

73. DOH did not publish data specifically tracking the progress of the rollout to people in disability residential settings. Nor did DOH publish data about the number or locations of disability residential settings whose residents were in Phase 1a.
74. By early April 2021, people with disability and disability service providers operating disability residential settings were becoming concerned at the apparently indefinite wait for in-reach services for people with disability in Phase 1a. Some people with disability sought vaccinations from general practitioners (GPs) under the arrangements applicable to people in Phase 1b. Some service providers offered to take both residents and workers to GP clinics for this purpose. These efforts were beset by confusion and uncertainty when people with disability and disability support workers were turned away from GP clinics.<sup>64</sup>
75. One disability support worker described their attempts to access a vaccine under Phase 1b as follows:
- ... despite the fact that Health Direct keeps on saying that I would be eligible to get the vaccine [at GP clinics under Phase 1b] that appears not to be true, [of] the 7 GP vaccine places I've spoken to[,] 4 of which got back to me to explain further[,] made it very clear they are not responsible for 1a people. They have limited supply and are only prioritising 1b in the belief that that the Fed government is taking care of us [that is, people within Phase 1a].<sup>65</sup>
76. The implications of this predicament confronting people with disability and support workers are clear. First, people with disability in Phase 1a were not accorded the priority in the rollout they were encouraged and entitled to expect. Second, people with disability in Phase 1b were also denied the priority they were encouraged and entitled to expect. The practical result was that while many other Phase 1b groups were progressively being vaccinated, the vaccination of people with disability and disability

---

<sup>64</sup> Exhibit 12-5.1, 'Statement of David Moody', 11 May 2021, at [33]; Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [23].

<sup>65</sup> Exhibit 12-10.2, IND.0086.0001.0001, p 1.

support workers in Phase 1a was very slow. Vaccination of people with disability and support workers in Phase 1b was also very slow.

77. Far from 'ensuring that those at greatest risk are vaccinated first'<sup>66</sup> as the Australian Government said the Strategy was designed to achieve, people with disability at greatest risk of becoming seriously ill if they contracted COVID-19 were not afforded that opportunity.
78. Between late-March and early April 2021, NDS received reports from its members that 'they had had no contact with vaccinators and did not know when, where and how this would occur.'<sup>67</sup>
79. On 20 April 2021, Ms Edwards gave evidence at a hearing of the Senate Select Committee on COVID-19 that the Australian Government's rollout had only vaccinated a very small number of disability residential settings because of its 'pivot to aged care'.<sup>68</sup> As noted earlier, media outlets reported that the Australian Government had decided to prioritise the rollout of vaccines to aged care facilities in preference to people living in and working at disability residential settings. Some reports pointed out that this appeared to be inconsistent with the Strategy which had classified residents and workers at both aged care facilities and disability residential settings as 'first priority populations' in Phase 1a.

---

<sup>66</sup> Australian Government, Australian Government response to Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Public Hearing Report - Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic, 27 April 2021, p 14.

<sup>67</sup> Exhibit 12-5.1, 'Statement of David Moody', 11 May 2021, at [34].

<sup>68</sup> Transcript, Caroline Edwards, Commonwealth Parliament, Senate Select Committee on COVID-19, Canberra, 20 April 2021, p 4-6.

## Impact on people with disability in Phase 1a

80. This was the first time members of the Australian community, including people with disability, had been informed of DOH's decision to 'pivot to aged care'. There had been no prior consultations or communications with people with disability, peak disability advocacy groups, DROs, the Advisory Committee or disability service providers (collectively, the disability community) concerning the decision.<sup>69</sup>
81. The media also reported that a decision had been taken to 'merge' Phase 1a and Phase 1b. Again, no one in the disability community had been made aware that a decision to this effect was to be made.<sup>70</sup>
82. According to the daily DOH update, by 21 April 2021 over 1.78 million doses of vaccine had been administered.<sup>71</sup> The update reported that the Australian Government had administered a total of 189,321 vaccine doses in aged care and disability residential settings. The update did not distinguish between doses received by aged care residents and people in disability residential settings.
83. Of the 189,321 doses administered by 21 April 2021:
- 746 residents with disability had received at least one dose (117 had been fully vaccinated with two doses, with 629 receiving one dose). This accounted for 863 doses in total.
  - 894 disability support workers had received at least one dose (75 had been fully vaccinated with two doses, and the balance of 819 people had received one dose). This accounted for 969 doses in total.

---

<sup>69</sup> Transcript, Catherine McAlpine, Public hearing 12, 17 May 2021, PP-22 [19-30] – 23 [14-19]; Transcript, David Moody, Public hearing 12, 17 May 2021, P-35 [19-26].

<sup>70</sup> Mary Ward, 'NSW to merge vaccine rollout phases, provide doses to workers' families', *The Sydney Morning Herald*, updated 3 March 2021.

<sup>71</sup> 'COVID-19 vaccine rollout – 22 April 2021', *Australian Government Operation COVID Shield*, web page, 22 April 2021. <[https://www.health.gov.au/sites/default/files/documents/2021/04/COVID-19-vaccine-rollout-update-22-april-2021\\_0.pdf](https://www.health.gov.au/sites/default/files/documents/2021/04/COVID-19-vaccine-rollout-update-22-april-2021_0.pdf)>.

- The total of 1,832 doses delivered to the disability residential sector constituted 0.96 per cent of the 189,321 doses delivered in-reach across 'aged care and disability settings' in Phase 1a.<sup>72</sup>

84. By 29 April 2021, over 2.17 million doses had been administered in total, with 226,934 doses administered via the Australian Government in-reach program to aged care and disability residential settings.<sup>73</sup> This figure included 37,613 doses delivered via in-reach in the eight days since 21 April 2021. By 29 April 2021:

- 771 residents with disability had received at least one dose of vaccine. Of these, 118 had received two doses (just one more person in the preceding eight days) and 653 had had one dose (just 24 since 21 April 2021). This was a cumulative total of 889 doses.
- 968 disability support workers had received at least one dose. Of these, 79 had received two doses (just four more over eight days) and 889 had received one dose (70 since 21 April 2021). This accounted for 1,047 doses.
- A total of 1,936 doses had been delivered via in-reach to the disability residential sector. This amounted to 0.85 per cent of the total 226,934 doses administered to 29 April 2021 via the in-reach program.
- The data shows that 104 doses had been directed to the residential disability sector in the eight days from 21 to 29 April 2021, or 0.27 per cent of the 37,613 in-reach doses administered during those eight days.<sup>74</sup>

85. By 6 May 2021, over 2.5 million people had received at least one dose of vaccine in Australia.<sup>75</sup> This included 254,632 doses via the Australian Government's in-reach

---

<sup>72</sup> Material obtained by the Royal Commission from Australian Government Department of Health in response to Cth notice, 23 April 2021, CTD.1000.0002.0105, p 6.

<sup>73</sup> 'COVID-19 vaccine rollout – 30 April 2021', *Australian Government Operation COVID Shield*, web page, 30 April 2021. <<https://www.health.gov.au/sites/default/files/documents/2021/04/COVID-19-vaccine-rollout-update-30-april-2021.pdf>>.

<sup>74</sup> Material obtained by the Royal Commission from Australian Government Department of Health in response to Cth notice, 30 April 2021, CTD.1000.0002.0110, pp 2-3.

<sup>75</sup> 'COVID-19 vaccine rollout – 7 May 2021', *Australian Government Operation COVID Shield*, web page, 7 May 2021. <<https://www.health.gov.au/sites/default/files/documents/2021/05/covid-19-vaccine-rollout-update-7-may-2021.pdf>>.

program to aged care and disability residential settings, an increase of 27,698 doses during the six days after 29 April 2021.<sup>76</sup>

86. While the aggregate figure of over 250,000 appears substantial, the number of doses administered to the disability sector remained low. By 6 May 2021:
- A total of 834 residents with disability had received at least one dose, of whom 63 received the vaccine after 29 April 2021. Of these 834, 127 people had two doses (nine additional people in the six days since 29 April 2021) and 707 people had received one dose (54 additional people in the six days since 29 April 2021). In total, 961 doses were administered to this group.
  - 1,098 workers in disability residential settings had been vaccinated. Ninety had received two doses (an increase of 11 since 29 April 2021), and 1,008 had received one dose (an increase of 119 over those six days). In total, 1,188 doses were administered to workers in disability in residential settings.
  - 2,156 doses had been delivered to the disability residential sector via in-reach since the beginning of the rollout, equating to 0.84 per cent of the 254,632 in-reach vaccination doses administered.
  - 220 doses had been delivered in the six days to 6 May 2021, 0.79 per cent of the 27,698 doses administered via in-reach during that period.<sup>77</sup>
87. By May 2021, the Australian Government's rollout of vaccines to people with disability and to disability support workers had not exceeded single figures in some states:
- In South Australia, six people with disability living in residential settings had been vaccinated, three of whom had received two doses. Four support workers in disability residential settings had been vaccinated, two of whom had received both doses.<sup>78</sup>

---

<sup>76</sup> 'COVID-19 Vaccine Roll-out – 30 April 2021', *Australian Government Operation COVID Shield*, web page, 30 April 2021. <<https://www.health.gov.au/sites/default/files/documents/2021/04/covid-19-vaccine-rollout-update-30-april-2021.pdf>>.

<sup>77</sup> Material obtained by the Royal Commission from Australian Government Department of Health in response to Cth notice, 11 May 2021, CTD.1000.0002.0133, p 2.

<sup>78</sup> Material obtained by the Royal Commission from Australian Government Department of Health in response to Cth notice, 11 May 2021, CTD.1000.0002.0133, p 2.

- In Tasmania, eight people with disability in residential settings had been vaccinated, four of whom had received both doses. Seven support workers in disability residential settings had been vaccinated, four of whom had received both doses.<sup>79</sup>

88. The 834 residents with disability who had received at least one dose of vaccine by 6 May 2021 represented between 3.2 per cent and 4 per cent of all residents with disability.<sup>80</sup>
89. Mr Moody said that, according to the NDS 2020 workforce census of 284 member organisations, there were over 51,000 disability support workers.<sup>81</sup> This number did not necessarily reflect the total number of disability support workers working in residential settings across the sector, which on some estimates ranged as high as 90,000 to 120,000.<sup>82</sup> Taking 51,000 as a conservative underestimate of the numbers as of 6 May 2021, fewer than 2 per cent of that workforce had received one dose of a vaccine.<sup>83</sup>
90. On 17 May 2021, the date of Public hearing 12, DOH reported that over 3.1 million vaccine doses had been administered, including 296,336 doses in aged care and disability settings.<sup>84</sup>
91. From 17 April 2021, DOH published daily updates on the number of vaccine doses administered under the vaccine rollout.<sup>85</sup> However, the updates continued the practice of publishing only aggregated numbers of ‘Commonwealth vaccine doses in aged and disability facilities’. The position did not change until 6 September 2021.

---

<sup>79</sup> Material obtained by the Royal Commission from Australian Government Department of Health in response to Cth notice, 11 May 2021, CTD.1000.0002.0133, p 2.

<sup>80</sup> Transcript, David Moody, Public hearing 12, 17 May 2021, P-42 [1-4].

<sup>81</sup> Transcript, David Moody, Public hearing 12, 17 May 2021, P-32 [21-28]; Exhibit 12-5.1, ‘Statement of David Moody’, 11 May 2021, at [11].

<sup>82</sup> Transcript, David Moody, Public hearing 12, 17 May 2021, P-32 [7-37].

<sup>83</sup> Transcript, David Moody, Public hearing 12, 17 May 2021, P-42 [5-10].

<sup>84</sup> ‘COVID-19 vaccine rollout – 17 May 2021’, *Australian Government Operation COVID Shield*, web page, 17 May 2021. <<https://www.health.gov.au/sites/default/files/documents/2021/05/covid-19-vaccine-rollout-update-17-may-2021.pdf>>.

<sup>85</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 6; Department of Health, ‘COVID-19 vaccination daily rollout update’, *Coronavirus (COVID-19) health alert*, web page, last updated 17 September 2021. <<http://www.health.gov.au/resources/collections/COVID-19-vaccine-rollout-updates>>.

# Part 5: Key events following Public hearing 12

92. During the period between the conclusion of Public hearing 12 and the preparation of this Report, several significant developments took place. All are matters of public record.
93. On 19 May 2021, DOH announced the Australian Government would ‘enhance access to the AstraZeneca vaccine for disability accommodation residents of two or more people, where all residents are 50 years and over.’<sup>86</sup>
94. On 24 May 2021, DOH reported that over 3.6 million vaccine doses had been administered in Australia, including 326,117 doses in aged care and disability residential settings.<sup>87</sup>
95. At a meeting of the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability on 28 May 2021, DOH provided an update on the rollout of vaccines to people with disability and disability support workers. DOH advised that those eligible for vaccination under Phase 1a or 1b could access vaccines through:
- in-reach
  - state and territory vaccination clinics
  - primary care
  - GP in-reach.<sup>88</sup>

---

<sup>86</sup> Australian Government, ‘Disability Provider Alert’, *COVID-19 Vaccination*, web page, 19 May 2021. <<https://www.health.gov.au/sites/default/files/documents/2021/05/covid-19-vaccination-disability-provider-alert-19-may-2021.pdf>>.

<sup>87</sup> ‘COVID-19 vaccine rollout – 24 May 2021’, *Australian Government Operation COVID Shield*, web page, 24 May 2021. <<https://www.health.gov.au/sites/default/files/documents/2021/05/covid-19-vaccine-rollout-update-24-may-2021.pdf>>.

<sup>88</sup> Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, ‘Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – 28 May 2021 Key Outcomes’, *communiqué*, 28 May 2021.

The Advisory Committee pointed to the need to strengthen vaccination data and provide in-reach vaccination options for people with disability who live independently and receive disability support at home.<sup>89</sup>

96. On 31 May 2021, the Honourable Greg Hunt MP, Minister for Health and Aged Care, announced that a total of 345,583 vaccinations had been administered in 'aged and disability care'.<sup>90</sup> Of that total, the Minister said about 7,000 people with disability in a residential setting had received at least one COVID-19 vaccination.
97. On 1 June 2021, DOH officials gave evidence to the Senate Select Committee on COVID-19 that only 355 of 22,685 people living in disability residential settings had received two doses of the vaccine.<sup>91</sup>
98. On 2 June 2021, DOH announced a national support payment of \$150 for each NDIS participant who received funding for supported independent living and was eligible for vaccination under Phase 1a.<sup>92</sup> This payment was available to service providers who supported the NDIS participant to attend an offsite location to receive their vaccine.
99. On 4 June 2021, National Cabinet agreed to open eligibility for COVID-19 vaccines to a number of groups by 8 June 2021, including NDIS participants aged 16 years and over and carers aged 16 years and over of NDIS participants of any age.<sup>93</sup>
100. During a meeting of the Advisory Committee on 8 June 2021, DOH provided an update on the vaccination rollout and efforts to collect data on people with disability and disability support workers who had been vaccinated.<sup>94</sup> The Key Outcomes of the meeting record that DOH agreed to improve data collection and consider options for

---

<sup>89</sup> Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, 'Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – 28 May 2021 Key Outcomes', communique, 28 May 2021.

<sup>90</sup> The Hon. Greg Hunt, 'COVID-19 Vaccine Rollout Update', *Transcript – Press Conference – Canberra*, web page, 31 May 2021. <<http://www.greghunt.com.au/transcript-press-conference-canberra-16/>>.

<sup>91</sup> Transcript, Various Speakers, Commonwealth Parliament, Senate Select Committee on COVID-19, Canberra, 1 June 2021, pp 65-66.

<sup>92</sup> Australian Government, 'Disability Provider Alert', *COVID-19 Vaccination*, web page, 2 June 2020. <<https://www.health.gov.au/sites/default/files/documents/2021/06/covid-19-vaccination-disability-provider-alert-2-june-2021.pdf>>.

<sup>93</sup> Prime Minister of Australia, *Media Statement*, media release, Canberra, 4 June 2021.

<sup>94</sup> Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, 'Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – 8 June 2021 Key Outcomes', communique, 8 June 2021.

publishing data on the number of vaccinated people with disability. The Advisory Committee raised the possibility of allowing people in Phase 1b to receive the Pfizer vaccine regardless of age so they would be ‘protected sooner’.<sup>95</sup> The Advisory Committee also pointed to the need to clarify the definition of ‘significant disability’ in the vaccine eligibility checker.

101. On 14 June 2021, DOH announced that over 5.8 million vaccine doses had been administered, including 401,102 doses in aged care and disability care settings.<sup>96</sup>
102. On 17 June 2021, ATAGI reviewed its advice on the AstraZeneca vaccine and recommended the Pfizer vaccine as the preferred vaccine for people aged under 60 years.<sup>97</sup>
103. On 21 June 2021, DOH announced that over 6.5 million vaccine doses had been administered, including 414,555 doses in aged care and disability care settings.<sup>98</sup>
104. On 23 June 2021, the Advisory Committee held an extraordinary meeting, during which DOH provided updates on:
  - measures taken by DOH to bolster the Phase 1a rollout in disability residential accommodation
  - the status of the COVID-19 vaccine rollout implementation plan for people with disability and the disability workforce
  - data collection strategies to improve data on vaccination rates of people with disability and the disability workforce.<sup>99</sup>

---

<sup>95</sup> This is presumably a reference to the shorter waiting time between the first and second dose of the Pfizer vaccine, in comparison to the AstraZeneca vaccine.

<sup>96</sup> ‘COVID-19 vaccine rollout – 14 June 2021’, *Australian Government Operation COVID Shield*, web page, 14 June 2021. <<https://www.health.gov.au/sites/default/files/documents/2021/06/covid-19-vaccine-rollout-update-14-june-2021.pdf>>.

<sup>97</sup> Department of Health, ‘ATAGI statement on revised recommendations on the use of COVID-19 Vaccine AstraZeneca, 17 June 2021’, *Coronavirus (COVID-19) health alert*, web page, 17 June 2021. <<http://www.health.gov.au/news/atagi-statement-on-revised-recommendations-on-the-use-of-covid-19-vaccine-astrazeneca-17-june-2021>>.

<sup>98</sup> ‘COVID-19 vaccine rollout – 21 June 2021’, *Australian Government Operation COVID Shield*, web page, 21 June 2021. <[http://www.health.gov.au/sites/default/files/documents/2021/06/covid-19-vaccine-rollout-update-21-june-2021\\_1.pdf](http://www.health.gov.au/sites/default/files/documents/2021/06/covid-19-vaccine-rollout-update-21-june-2021_1.pdf)>.

<sup>99</sup> Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, ‘Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – 23 June 2021 Key Outcomes’, communique, 23 June 2021.

Professor Anne Kavanagh presented data to the extraordinary meeting collected by the Centre of Research Excellence in Disability and Health on vaccine hesitancy among disability support workers.<sup>100</sup>

105. On 28 June 2021, DOH announced over 7.3 million vaccine doses had been administered including 426,811 doses in aged care and disability care settings.<sup>101</sup>
106. On 1 July 2021, media reported that data from DOH revealed ‘about 16,510 total doses had been administered to a cohort of about 27,236 NDIS participants who were 16 years and over and living in shared disability residential accommodation.’<sup>102</sup> Of the 27,236 people, about 11,470 people had received one dose and 5,040 had received two doses. When considered against the statistics published by DOH on 28 June 2021, this means that NDIS participants received 6.38 per cent of the total doses administered in aged care and residential disability settings.
107. On 2 July 2021, National Cabinet agreed to a four-phase ‘National Plan to transition Australia’s National COVID Response’ (National Plan) from a pre-vaccination setting to a post-vaccination setting.<sup>103</sup> The National Plan provided that movement between phases would be ‘triggered by achieving vaccination thresholds expressed as a percentage of the eligible population (16+), based on the scientific modelling conducted for the COVID-19 Risk Analysis and Response Task Force.’<sup>104</sup>

---

<sup>100</sup> Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, ‘Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – 8 June 2021 Key Outcomes’, communique, 8 June 2021; see also, Exhibit 12-6.1, EXP.0031.0002.0001.

<sup>101</sup> ‘COVID-19 vaccine rollout – 28 June 2021’, *Australian Government Operation COVID Shield*, web page, 28 June 2021. <<https://www.health.gov.au/sites/default/files/documents/2021/06/covid-19-vaccine-rollout-update-28-june-2021.pdf>>.

<sup>102</sup> Christopher Knaus, ‘Hit and miss: fewer than one in five Australians in disability care vaccinated against COVID-19’, *The Guardian online*, last updated 1 July 2021.

<sup>103</sup> Prime Minister of Australia, *Media Statement*, media release 2 July 2021.

<sup>104</sup> ‘National Plan to transition Australia’s National COVID-19 Response’, *Australian Government*, web page, 2 July 2021. <<https://www.pm.gov.au/sites/default/files/media/national-plan-to-transition-australias-national-covid-19-response-july2021.pdf>>.

108. According to the weekly DOH update, by 4 July 2021 over 8.2 million vaccine doses had been administered, including 444,223 doses in aged care and disability care settings.<sup>105</sup>
109. On 8 July 2021, the Honourable Linda Reynolds MP, Minister for the NDIS, announced that 36 per cent of the disability workforce had received their first vaccine dose.<sup>106</sup>
110. Lieutenant General John Frewen DSC AM, Coordinator General for Operation COVID-19 Shield, addressed another extraordinary meeting of the Advisory Committee on 20 July 2021. The Advisory Committee discussed the need for more effective messaging on vaccine access for disability support workers and prioritisation of vaccine access for this cohort.<sup>107</sup> The Advisory Committee also raised concerns about vaccine access for First Nations people with disability living in rural and remote communities and non-NDIS participants, as well as accessibility issues for people with vision impairments booking the vaccine online.
111. According to the weekly DOH update, by 25 July 2021, over 11.2 million vaccine doses had been administered including 501,070 doses in aged care and disability care settings.<sup>108</sup>
112. On 30 July 2021, National Cabinet agreed in-principle to an updated National Plan.<sup>109</sup> National Cabinet agreed:
- To formulate a national plan to transition Australia's National COVID-19 Response from its current pre vaccination settings, focussing on continued suppression of

---

<sup>105</sup> 'COVID-19 vaccine rollout – 5 July 2021', *Australian Government Operation COVID Shield*, web page, 5 July 2021. <<https://www.health.gov.au/sites/default/files/documents/2021/07/covid-19-vaccine-rollout-update-5-july-2021.pdf>>.

<sup>106</sup> 'NDIS Minister wants COVID vaccine to be mandatory for disability care workers', *ABC News*, 8 July 2021, updated 20 July 2021.

<sup>107</sup> Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, 'Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – Extraordinary Meeting 20 July 2021 Key Outcomes', communique, 20 July 2021.

<sup>108</sup> Department of Health, 'COVID-19 vaccine rollout – 26 July 2021', *Australia's COVID-19 Vaccine Roadmap*, web page, 26 July 2021. <<https://www.health.gov.au/sites/default/files/documents/2021/07/covid-19-vaccine-rollout-update-26-july-2021.pdf>>.

<sup>109</sup> Prime Minister of Australia, *Media Statement*, media release, 30 July 2021; 'National Plan to transition to Australia's National COVID-19 Response', *Australian Government*, web page, 30 July 2021. <<https://www.pm.gov.au/sites/default/files/media/national-plan-to-transition-australias-national-covid-19-response-30-july-2021.pdf>>.

community transmission, to post vaccination settings focussed on prevention of serious illness, hospitalisation and fatality...<sup>110</sup>

113. The National Plan identified four phases:

- A. Current Phase: Vaccinate, Prepare and Pilot
- B. Vaccination Transition Phase
- C. Vaccination Consolidation Phase
- D. Final Post-Vaccination Phase<sup>111</sup>

114. Phases were to be:

... triggered in a jurisdiction when the average vaccination rates across the nation have reached the threshold and that rate is achieved in a jurisdiction expressed as a percentage of the eligible population (16+), based on the scientific modelling conducted for the COVID-19 Risk Analysis and Response Task Force.<sup>112</sup>

115. This formulation poses a dual test for a Phase to be triggered in a particular jurisdiction:

- The average vaccination rates across the nation for the eligible Australian population aged 16 or over must reach the threshold; and
- The specific jurisdiction must reach the same threshold of average vaccination rates.

116. The threshold for the transition from Phase A to Phase B is said to be 70 per cent of the eligible population receiving two doses of vaccine. Accordingly, for the test to be satisfied in a particular jurisdiction, the 70 per cent target must be reached nationally **and** in that jurisdiction. This means, for example, that a state which reached the 70 per cent target cannot move to Phase B until the country as a whole achieves that target.

---

<sup>110</sup> Prime Minister of Australia, *Media Statement*, media release, 30 July 2021; 'National Plan to transition to Australia's National COVID-19 Response', *Australian Government*, web page, 30 July 2021. <<https://www.pm.gov.au/sites/default/files/media/national-plan-to-transition-australias-national-covid-19-response-30-july-2021.pdf>>.

<sup>111</sup> 'National Plan to transition to Australia's National COVID-19 Response', *Australian Government*, web page, 30 July 2021. <<https://www.pm.gov.au/sites/default/files/media/national-plan-to-transition-australias-national-covid-19-response-30-july-2021.pdf>>.

<sup>112</sup> 'National Plan to transition to Australia's National COVID-19 Response', *Australian Government*, web page, 30 July 2021. <<https://www.pm.gov.au/sites/default/files/media/national-plan-to-transition-australias-national-covid-19-response-30-july-2021.pdf>>.

117. As of 1 August 2021, DOH reported that over 12.3 million vaccine doses had been administered, including 524,237 doses in aged care and disability facilities.<sup>113</sup>
118. On 2 August 2021, ATAGI recommended that the following groups of children among those aged 12 to 15 years be prioritised for the Pfizer vaccine:
- children with specific medical conditions at increased risk of severe COVID-19
  - Aboriginal and Torres Strait Islander children
  - children in remote communities.<sup>114</sup>
119. At a meeting of the Advisory Committee on 3 August 2021, DOH provided an update on the vaccination rates among NDIS participants and disability workers who had undergone NDIS worker screening.<sup>115</sup> The Advisory Committee discussed the lack of publicly available data on the status of the vaccine rollout for people with disability and the disability workforce. It also discussed issues about choice and control. These included substitute decision makers withholding consent for the vaccination of some people with disability and restrictions imposed on residents of some New South Wales group homes who were confined to their residence.
120. According to the weekly DOH update, by 4 August 2021, over 13 million vaccine doses had been administered, including a total of 538,685 doses in aged and disability facilities.<sup>116</sup>
121. The Australian Government's Submissions record that at 8 August 2021, 558,650 vaccine doses had been administered to aged care residents and people with disability in residential settings through the Australian Government's in-reach program.<sup>117</sup>

---

<sup>113</sup> 'COVID-19 vaccine rollout – 2 August 2021', *Australian Government Operation COVID Shield*, web page, 2 August 2021. <[www.health.gov.au/sites/default/files/documents/2021/08/covid-19-vaccine-rollout-update-2-august-2021.pdf](http://www.health.gov.au/sites/default/files/documents/2021/08/covid-19-vaccine-rollout-update-2-august-2021.pdf)>.

<sup>114</sup> Department of Health, 'ATAGI statement regarding vaccination of adolescents aged 12-15 years', *Coronavirus (COVID-19) health alert*, web page, 2 August 2021. <[www.health.gov.au/news/atagi-statement-regarding-vaccination-of-adolescents-aged-12-15-years](http://www.health.gov.au/news/atagi-statement-regarding-vaccination-of-adolescents-aged-12-15-years)>.

<sup>115</sup> Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, 'Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability –Meeting 3 August 2021 Key Outcomes', communiqué, 3 August 2021.

<sup>116</sup> 'COVID-19 vaccine rollout – 5 August 2021', *Australian Government Operation COVID Shield*, web page, 5 August 2021. <[www.health.gov.au/sites/default/files/documents/2021/08/covid-19-vaccine-rollout-update-5-august-2021.pdf](http://www.health.gov.au/sites/default/files/documents/2021/08/covid-19-vaccine-rollout-update-5-august-2021.pdf)>.

<sup>117</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [11].

However, on 9 August 2021, the media reported that Australian Government data recorded 17,311 people in disability residential settings (about 63.6 per cent) had received one vaccine dose and 12,132 people (about 44.5 per cent) had received two doses.<sup>118</sup>

122. On 13 August 2021, DOH published the 'National Roadmap for improving the Health of People with Intellectual Disability'.<sup>119</sup> This document is intended to be an Associated Plan to 'Australia's Disability Strategy 2021-2031', which is to be released later in 2021.<sup>120</sup>
123. The Australian Government's Submissions record that, at midnight on 18 August 2021, of the 27,293 NDIS participants aged 16 and over living in a 'residential setting (disability and aged care)', 67 per cent had received at least one dose of the vaccine.<sup>121</sup> At the same date, 'more than 91,598 NDIS screened workers had received at least one dose of a vaccine, representing 55.6 per cent of all screened workers linked to an NDIS registered provider or NDIS participant.'<sup>122</sup> Part 6 of this Report discusses the interpretation and limitations of these figures.<sup>123</sup>
124. On 22 August 2021, the media reported data held by the NDIS Minister on vaccination rates among NDIS participants and support workers. The data showed:
- of the 267,526 NDIS participants aged over 16 years who were in Phase 1a or 1b of the Strategy:
    - 44.9 per cent had received one vaccine dose
    - 26.9 per cent had received two doses
  - of NDIS participants in 'group homes', 67.3 per cent had received one vaccine dose, and 51.9 per cent had received two doses

---

<sup>118</sup> Matt Coughlan, 'Labor criticises disability care rollout', *Northern Beaches Review*, 9 August 2021.

<sup>119</sup> Department of Health, National Roadmap for Improving the Health of People with Intellectual Disability – July 2021, 10 August 2021.

<sup>120</sup> Department of Health, National Roadmap for Improving the Health of People with Intellectual Disability – July 2021, 13 August 2021, p 3.

<sup>121</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [11].

<sup>122</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [11].

<sup>123</sup> See Report, at [270] ff.

- of the 164,660 people in the disability workforce:<sup>124</sup>
  - 55.6 per cent had received one vaccine dose
  - 36.7 per cent had received two doses.<sup>125</sup>

125. As of 22 August 2021, DOH reported that over 17.1 million vaccine doses had been administered, including 709,819 doses in aged care and disability settings.<sup>126</sup>

126. On 25 August 2021, the Australian Government announced that all NDIS participants aged 12 to 15 years would be eligible to receive a Pfizer vaccine from 25 August 2021.<sup>127</sup>

127. On 27 August 2021, the Prime Minister announced that all persons aged 12 to 15 years would be eligible to receive the Pfizer vaccine from 13 September.<sup>128</sup>

128. On 31 August 2021, DOH informed the Royal Commission that Australian Immunisation Register data indicated that by 24 August 2021:

- 14,680 people living in residential care facilities had two doses of the vaccine, including 11,159 NDIS participants living in disability accommodation and 3,521 NDIS participants living in residential aged care.
- 18,661 people living in residential care facilities had one or two doses of the vaccine, including 14,797 NDIS participants living in disability accommodation and 3,864 NDIS participants living in residential aged care.
- 68.4 per cent of people living in residential care facilities received at least one dose of the vaccine. For NDIS participants living in disability accommodation, the

---

<sup>124</sup> The provenance of this figure is unclear, as the article does not include the original dataset or define 'people in the disability workforce'. In 2020, the Department of Social Services' *NDIS National Workforce Plan: 2021-2025* estimated 270,000 people were employed by NDIS providers. See Report, at [257]; Department of Social Services, *NDIS National Workforce Plan: 2021-2025*, June 2021, p 8.

<sup>125</sup> James Massola, 'People with disabilities not safe with NDIS job rollout months behind', *The Sydney Morning Herald*, 22 August 2021.

<sup>126</sup> 'COVID-19 vaccine rollout – 23 August 2021', *Australian Government Operation COVID Shield*, web page, 23 August 2021. <[www.health.gov.au/sites/default/files/documents/2021/08/covid-19-vaccine-rollout-update-23-august-2021\\_0.pdf](http://www.health.gov.au/sites/default/files/documents/2021/08/covid-19-vaccine-rollout-update-23-august-2021_0.pdf)>.

<sup>127</sup> The Hon. Linda Reynolds MP, *Expanded Vaccine Access for NDIS Participants*, media release, 23 August 2021.

<sup>128</sup> Department of Health, 'ATAGI statement on the use of COVID-19 vaccines in all young adolescents in Australia', *Coronavirus (COVID-19) health alert*, web page, 27 August 2021. <[www.health.gov.au/news/atagi-statement-on-the-use-of-covid-19-vaccines-in-all-young-adolescents-in-australia](http://www.health.gov.au/news/atagi-statement-on-the-use-of-covid-19-vaccines-in-all-young-adolescents-in-australia)>.

proportion was 66.2 per cent and for NDIS participants living in residential aged care, the proportion was 78.5 per cent.

- 64,322 NDIS Screened Workers received two doses of the vaccine.
- 95,530 NDIS Screened Workers received at least one dose of the vaccine.
- 58 per cent of NDIS Screened Workers received at least one dose of the vaccine.<sup>129</sup>

129. These vaccination rates are considerable improvements on the situation in May 2021. However, we remain concerned that many people with disability included in Phase 1a of the Strategy who wish to be vaccinated have not received even one dose of the vaccine.

130. On 1 September 2021, the Premier for Victoria, the Honourable Daniel Andrews MP, announced that:

... almost all of the current lockdown restrictions will remain in place until 70 per cent of Victorians have had at least one dose of vaccine. This is estimated to be around 23 September 2021.<sup>130</sup>

131. It is not clear how this announcement, which refers only to the threshold of 70 per cent of eligible persons receiving at least one dose (rather than being fully vaccinated) being achieved in Victoria (and not nationally) is consistent with the National Plan's test. Nor is it clear how a threshold to be achieved only in Victoria (not nationally as well) is consistent with the National Plan's dual test. Victoria made a further announcement on 19 September 2021, which is referred to below.<sup>131</sup>

132. On 6 September 2021, DOH began to publish separate data on the number of 'NDIS participants living in shared accommodation' who had received at least one or two vaccine doses in its daily update on the COVID-19 vaccine rollout.<sup>132</sup> DOH defines this

---

<sup>129</sup> Material obtained by the Royal Commission from the Department of Health in response to Cth notice, 31 August 2021, CTD.1000.0002.1176.

<sup>130</sup> The Hon. Daniel Andrews MP, *Slowing the Spread and Keeping our State Safe*, media release, 1 September 2021.

<sup>131</sup> See Report, at [140].

<sup>132</sup> 'COVID-19 Vaccine Roll-out', *Australian Government Operation COVID Shield*, web page, 6 September 2021, p 10. <[www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccine-rollout-update-6-september-2021.pdf](http://www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccine-rollout-update-6-september-2021.pdf)>. This shows the number of 'NDIS participants living in shared accommodation' as at 2 September 2021.

group as ‘two or more people with disability living in share residential accommodation and NDIS participants in Aged Care accommodation as per eligibility in Phase 1a.’<sup>133</sup> Consequently, the data does not include people with disability who are not NDIS participants but are included in Phase 1a of the Strategy. The data also does not distinguish between NDIS participants residing in Aged Care and those in disability residential settings.

133. On 7 September 2021, DOH began to publish the number of ‘NDIS Screened Workers’ who had received at least one or two vaccine doses in its daily update on the COVID-19 vaccine rollout.<sup>134</sup>
134. On 7 September 2021, the Advisory Committee held another extraordinary meeting during which DOH provided the following updates:
- the vaccination rates among NDIS participants living in residential care settings, NDIS participants 16 years and over and disability workers who have undergone NDIS worker screening
  - the measures to target areas with lower disability support worker vaccination rates.<sup>135</sup>
135. The Advisory Committee expressed concern about the ‘lagging vaccination rates’ among people with disability and disability support workers. The Advisory Committee requested ‘the publication of data on progress’.<sup>136</sup>

---

<sup>133</sup>‘COVID-19 Vaccine Roll-out’, *Australian Government Operation COVID Shield*, web page, 6 September 2021, p 10. <[www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccine-rollout-update-6-september-2021.pdf](http://www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccine-rollout-update-6-september-2021.pdf)>. This shows the number of ‘NDIS participants living in shared accommodation’ as at 2 September 2021.

<sup>134</sup> ‘COVID-19 Vaccine Roll-out’, *Australian Government Operation COVID Shield*, web page, 7 September 2021, p 11. <[www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccine-rollout-update-7-september-2021.pdf](http://www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccine-rollout-update-7-september-2021.pdf)>.

<sup>135</sup> Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, ‘Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – Extraordinary Meeting 7 September 2021 Key Outcomes’, communique, 7 September 2021.

<sup>136</sup> Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, ‘Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – Extraordinary Meeting 7 September 2021 Key Outcomes’, communique, 7 September 2021.

136. On 9 September 2021, the New South Wales Government published its 'Roadmap to Freedom'.<sup>137</sup> This provided that several restrictions would be lifted in that state once 70 per cent of adult residents of New South Wales became fully vaccinated. As with the Victorian announcement, it is not clear how the 'Roadmap to Freedom' is consistent with the National Plan's dual test.
137. On 10 September 2021, the Australian Council of Social Service (ACOSS) expressed concern at the higher rates of infection and lower rates of vaccination amongst 'higher-risk communities'.<sup>138</sup> These communities were identified in a report by the Australian Institute of Health and Welfare.<sup>139</sup> The CEO of ACOSS named people from low income groups, people from culturally and linguistically diverse backgrounds, First Nations communities, and people with disability as being at risk of being 'left behind' during the vaccine rollout. She called upon the Australian, state and territory governments to commit to not easing restrictions 'in a way that leaves whole communities exposed.'<sup>140</sup>
138. On 13 September, People with Disability Australia also publicly expressed concerns about the low rate of people with disability who had been vaccinated. It had written to the Prime Minister requesting 'a commitment to reaching the vaccination targets for people with disability and support workers before ending lockdowns.'<sup>141</sup>
139. On 13 September 2021, DOH announced over 22.8 million vaccine doses had been administered, including a total of 859,976 doses in aged care and disability care settings.<sup>142</sup> Of that total, 19,708 NDIS participants living in shared accommodation

---

<sup>137</sup> New South Wales Premier and Deputy Premier, *Roadmap to freedom unveiled for the fully vaccinated*, media release, 9 September 2021.

<sup>138</sup> Australian Council of Social Service, *We need specific vaccination targets to tackle vaccine divides before easing restrictions*, media release, 10 September 2021.

<sup>139</sup> Australian Institute of Health and Welfare, *The first year of COVID-19 in Australia: direct and indirect health effects*, Report, 10 September 2021.

<sup>140</sup> Australian Council of Social Service, *We need specific vaccination targets to tackle vaccine divides before easing restrictions*, media release, 10 September 2021.

<sup>141</sup> People with Disability Australia, *Advocates Fear People with Disability Set For COVID Lockdown Limbo as Race to Reopen Leaves Them Behind*, media release, 13 September 2021.

<sup>142</sup> 'COVID-19 vaccine rollout – 13 September 2021', *Australian Government Operation COVID Shield*, web page, 13 September 2021. <[www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccine-rollout-update-12-september-2021.pdf](http://www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccine-rollout-update-12-september-2021.pdf)>.

(aged care and disability settings) had received at least one dose, and 119,538 NDIS screened workers had received at least one dose.

140. On 19 September 2021, the Victorian Government published 'Victoria's Roadmap', which identified the vaccination rate thresholds at which it would ease restrictions certain restrictions in the state.<sup>143</sup> Although Victoria's Roadmap refers to the National Plan, it still differs from the National Plan in a number of ways. First, like the New South Wales' Roadmap, the Victorian Roadmap envisions movement between the Phases based on vaccination rates among eligible Victorians only, and so does not adopt the National Plan's dual test.<sup>144</sup> Second, Phase A is triggered by 80 per cent of the population aged 16 and older receiving at least one dose of vaccine (not both doses).<sup>145</sup> Third, Phase A and Phase B provide different restriction for Metropolitan Melbourne and Regional Victoria.<sup>146</sup> Finally, the Victorian Roadmap envisions a Phase D which requires 80 per cent of the population aged 12 and older to receive both doses of the vaccine.<sup>147</sup>

---

<sup>143</sup> 'Victoria's Roadmap: Delivering the National Plan', *Coronavirus vic.gov.au*, web page, last updated 20 September 2021. <[www.coronavirus.vic.gov.au/node/18728/](http://www.coronavirus.vic.gov.au/node/18728/)>.

<sup>144</sup> 'Victoria's Roadmap: Delivering the National Plan', *Coronavirus vic.gov.au*, web page, last updated 20 September 2021. <[www.coronavirus.vic.gov.au/node/18728/](http://www.coronavirus.vic.gov.au/node/18728/)>.

<sup>145</sup> This is higher than the 70 per cent single dose target announced on 1 September 2021. See Report, at [130].

<sup>146</sup> 'Victoria's Roadmap: Delivering the National Plan', *Coronavirus vic.gov.au*, web page, last updated 20 September 2021. <[www.coronavirus.vic.gov.au/node/18728/](http://www.coronavirus.vic.gov.au/node/18728/)>.

<sup>147</sup> 'Victoria's Roadmap: Delivering the National Plan', *Coronavirus vic.gov.au*, web page, last updated 20 September 2021. <[www.coronavirus.vic.gov.au/node/18728/](http://www.coronavirus.vic.gov.au/node/18728/)>.

## Part 6: Key issues and findings

141. The evidence suggests that there were three core deficiencies in the rollout of vaccines for people with disability:

- The first was the failure to genuinely consult with the disability community at critical points in the development of the Strategy and its subsequent rollout. This included people with disability, disability advocates, DROs, the Advisory Committee, representatives of disability support workers and service providers. This failure directly affected people with disability, especially NDIS participants and people in residential disability settings, and curtailed their access to vaccines.
- Second, DOH lacked transparency in decision-making on the rollout, especially the failure to reveal the decision to deprioritise the vaccination of people in residential disability accommodation. This denied people with disability the information they were entitled to receive. Without this information people with disability, DROs and disability advocates lost the opportunity to challenge or protest the decision to defer the vaccination of people with disability in Phase 1a of the strategy.
- Third, the lack of transparency and information in accessible form contributed to ongoing vaccine hesitancy and fear among people with disability at risk of serious consequences if they contracted the virus.

### Failure to consult

142. The Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability was established in April 2020. It was set up as a forum through which DOH would consult and receive advice from people with significant knowledge and experience of the issues facing people with disability, including from people with disability themselves.<sup>148</sup>

---

<sup>148</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Public hearing 5: experiences of people with disability during the ongoing COVID-19 pandemic*, November 2020, at [80], [103-110].

143. From August 2020 to the beginning of May 2021, the Advisory Committee met 13 times, including at roundtable meetings. The Key Outcomes of the meetings record that the Committee discussed significant matters for the management of potential COVID-19 outbreaks in disability residential settings. These included:
- accessibility of COVID-19 testing for people with disability
  - the provision of information to people with disability and disability support workers on measures such as personal protective equipment
  - infection control
  - continuity of services during the COVID-19 pandemic
  - the impact of the pandemic on the mental health of people with disability
  - collection of important health data; supporting people with disability (including students) transitioning out of extended lockdown
  - the need for interpreters during public broadcasting of announcements about COVID-19
  - the circumstances of people with disability in hotel quarantine.<sup>149</sup>
144. In addition to the Advisory Committee, the DSS established the Disability Support Services Committee. The Committee was designed to bring together cross-portfolio social services agencies (including the NDIS and the NDIS Quality and Safeguards Commission) and the disability support sector. The Committee's role included obtaining information on the needs of people with disability throughout the COVID-19 pandemic.<sup>150</sup> Ms Edwards said that DOH spoke to DSS 'frequently', but she did not

---

<sup>149</sup> See e.g. Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, 'Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – Tenth Meeting 25 August 2020 Key Outcomes', communique, 25 August 2020; Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, 'Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – Eleventh Meeting 29 September 2020 Key Outcomes', communique, 29 September 2020; Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, 'Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – Meeting No. 12: 3 November 2020 Key Outcomes', communique, 3 November 2020.

<sup>150</sup> Australian Government, Australian Government response to the Royal Commission on Violence, Abuse, Neglect and Exploitation of People with Disability – Public Hearing Report – Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic, April 2021, DRC.9999.0035.0131, pp 3–4.

indicate whether she had directly consulted the Disability Support Services Committee.<sup>151</sup>

## ATAGI Preliminary Advice

145. In September 2020, ATAGI convened the ATAGI COVID-19 Working Group (Working Group).<sup>152</sup> ATAGI provides technical advice to the Australian Government Minister for Health on the medical administration of vaccines available in Australia, and other matters within its terms of reference.<sup>153</sup>
146. The Working Group's remit is to 'provide advice to the Government on the effective and equitable use of COVID-19 vaccines available in Australia, as directed by the Department of Health'. Members of the Working Group are described as having knowledge of specialist areas of expertise. However, the available information suggests that no member of the Working Group has specific expertise in the health care of people with disability, particularly people with cognitive disability.
147. On 13 November 2020, ATAGI published its Preliminary Advice.<sup>154</sup> ATAGI acknowledged that the available data did not enable 'definitive' advice and that it planned to 'iteratively' expand on the advice as more data became available. It identified three possible priority population groups for vaccination:
- people who have an increased risk of developing severe disease or dying from COVID-19
  - people who are at increased risk of exposure and hence of being infected with and transmitting SARS-CoV-2 to others at risk of severe disease, or are in a setting with high transmission potential
  - people working in services critical to societal functioning.

---

<sup>151</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-93 [5].

<sup>152</sup> Department of Health, 'Australian Technical Advisory Group on Immunisation (ATAGI) COVID-19 Working Group', *Coronavirus (COVID-19) health alert*, web page, last updated 17 September 2021. <[www.health.gov.au/committees-and-groups/australian-technical-advisory-group-on-immunisation-atagi-covid-19-working-group](http://www.health.gov.au/committees-and-groups/australian-technical-advisory-group-on-immunisation-atagi-covid-19-working-group)>.

<sup>153</sup> 'Australian Technical Advisory Group on Immunisation (ATAGI) - Terms of Reference', *Department of Health*, web page, 15 January 2018. <[www.health.gov.au/sites/default/files/atagi-terms-of-reference.pdf](http://www.health.gov.au/sites/default/files/atagi-terms-of-reference.pdf)>.

<sup>154</sup> Exhibit 12-12.1, DRC.9999.0035.0923.

148. The people listed as having an increased risk of developing severe disease or dying from COVID-19 included ‘Older people; people with certain pre-existing underlying medical conditions and Aboriginal and Torres Strait Islander people.’ The Preliminary Advice made no mention of people with disability as a potential priority population group. Nor did ATAGI address risk factors associated with COVID-19 for people with disability.
149. Ms Edwards said she understood that ATAGI had considered all of the evidence and listed the groups most at risk of severe disease and death from COVID-19. However, these groups did not include people with intellectual disability.<sup>155</sup>
150. There are only two mentions of disability in the ATAGI Preliminary Advice and both relate to ‘disability care’ workers as a potential priority population group. These workers were deemed to be ‘at high risk of COVID-19 due to frequent exposure to persons and settings that could transmit SARS-CoV-2’. People with disability were not recognised as a priority population group warranting protection. In effect, they were identified essentially as a hazard to the health of their disability support workers.
151. This oversight is likely to be due to DOH’s failure to consult, since the risks of COVID-19 for people with disability were recognised very early in Australia, including in the Royal Commission’s Public hearing 5 Report.<sup>156</sup>

## The undisclosed ATAGI advice

152. By the time the COVID-19 Vaccine Roll-out Strategy was published on 7 January 2021, a decision had been made that residents with disability should be a first priority population.
153. Ms Edwards was asked why people with disability were included in the Strategy. She replied that ATAGI had modified its Preliminary Advice in a later advice:

... the [Preliminary Advice] from ATAGI was not the core advice from which we built the phases [in the Strategy]. It was later advice, which I don't have in front of me,

---

<sup>155</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-66 [25].

<sup>156</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic*, November 2020, at [152-153], [196].

which identified three core priority groups described for priority in vaccinations, those being people at most risk of severe disease or death from COVID-19; those in circumstances where there would be more likely to be spread of COVID-19, including spread to people at more risk of severe disease and death from COVID-19; and critical workers. Those three groups were understood by us, and I believe by the Government in finalising the document, to cover people in Aged Care who are at risk, especially because of age, but also because of the nature of the places in which they live, and also extended to apply to people with disability who might live in similar types of facilities, because the potential for spread might be great and also critical workers, healthcare workers and so on.<sup>157</sup>

154. Ms Edwards confirmed that the later advice was given by ATAGI some time before 7 January 2021. The following exchange then took place:

MS EDWARDS: ... And I'm sure that we could provide very quickly after the hearing the detail of the advice which I'm understanding was putting the three groups --- perhaps we can give it later today if that's convenient.

MS EASTMAN: We may take that as a question on notice, and it may be that the solicitors assisting you can identify, in the production of documents that we have asked for, where that document is.<sup>158</sup>

155. DOH subsequently claimed that the later advice is subject to public interest immunity. The Royal Commission has therefore not been provided with a copy of that advice or of a document recording the advice.

156. At its 1 December 2020 meeting, the Advisory Committee considered 'the inclusion of people with disability in the priority groups for the vaccine'.<sup>159</sup> According to Professor Kavanagh, who was and is a member of the Advisory Committee,<sup>160</sup> the Advisory Committee argued for people with disability living in residential settings and disability support workers to be included in Phase 1a. The Advisory Committee also argued for

---

<sup>157</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-69 [3-16].

<sup>158</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-70 [5-10].

<sup>159</sup> Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability 'Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – Meeting No. 13: 1 December 2020 Key Outcomes', communique, 1 December 2020.

<sup>160</sup> Transcript, Professor Anne Kavanagh, Public hearing 12, 17 May 2021, P-45 [4-6].

the inclusion of people with disability and disability support workers generally in Phase 1b.

157. Ms Edwards said that she was 'not specifically aware' that the Advisory Committee had discussed the need for the inclusion of people with disability in the priority population groups.<sup>161</sup> She also did not know whether any steps were taken to convey the concerns of the Advisory Committee to ATAGI or to ask ATAGI to re-examine its Preliminary Advice to include people with disability as a priority group.<sup>162</sup>

## The inclusion of people with disability in Phase 1a

158. DOH's failure to genuinely consult with the Advisory Committee or with DROs contributed to its failure to compile critical data on people living in disability residential accommodation. In particular, the COVID-19 Vaccine Roll-out Strategy was framed on incorrect assumptions about the number of people in such accommodation.
159. Ms Edwards said that at the time the Strategy was framed, DOH did not have the data necessary to provide a true picture of the disability residential sector. She said DOH had engaged with other agencies that held data, including DSS and the National Disability Insurance Agency (NDIA), but data had not yet been exchanged.<sup>163</sup> Therefore, the Strategy contained only a very preliminary estimate of numbers and 'we were always aware that we would have to seek a lot more granularity of information in order to ensure the design of the rollout was appropriate'.<sup>164</sup>
160. Although people in disability residential accommodation were included as a first priority population in the Strategy on 7 January 2021, it appears that DOH assumed that this was a relatively small group whose needs could be addressed as an addition to the planned rollout to aged care facilities.<sup>165</sup> The Strategy was premised on there being about 190,000 combined aged care residents and residents with disability, of whom

---

<sup>161</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-67 [9].

<sup>162</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-67 [15].

<sup>163</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-71 [23].

<sup>164</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-72 [20].

<sup>165</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, PP-71 [33-47] – 72 [1-11].

DOH estimated about 184,000 were aged care residents.<sup>166</sup> On this basis, the Strategy assumed there were about 6,000 residents with disability who required in-reach vaccination. In reality, there were 6,000 distinct disability residential settings, with about 26,000 residents.<sup>167</sup>

161. Ms Edwards was asked whether those planning the rollout assumed that disability residential settings were broadly the same or similar to aged care residences. She answered that:

Our intention with this document and the plan was to ensure that a similar service was provided to disability facilities, which might be akin to an aged care residence.<sup>168</sup>

162. Ms Edwards then said:

There was an assumption that **there might be Disability Residences very much like Aged Care Residences** in which we knew there was severe risk of spread of COVID-19, and we wanted to make sure that **in that event**, they were also included.<sup>169</sup>

... the plan was put in place [at] the time to ensure that **if there were similar disability residences with similar risk factors** [to those in aged care], **that they were included** and we have learnt a lot since then.<sup>170</sup>

[Emphasis added].

163. Ms Edwards did not refer to any work conducted by DOH on the logistics of rolling out the Pfizer vaccine, with its stringent cold chain requirements,<sup>171</sup> to disability residential settings prior to the announcement of the Strategy on 7 January 2021. Ms Edwards said that DOH did a lot of work prior to the rollout, but they were learning as they went

---

<sup>166</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 5; Department of Health, *Ensuring senior Australians are vaccinated against COVID-19*, media release, 16 February 2021.

<sup>167</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-72 [6].

<sup>168</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-70 [40].

<sup>169</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, PP-70 [47] – 71 [1-3].

<sup>170</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-71 [23].

<sup>171</sup> Ms Edwards gave evidence that the Pfizer vaccine has 'more complex' cold chain requirements than the AstraZeneca vaccine, including 'deep freeze ... thawing ... storage solution[s]': Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-72 [5-10]. The challenges posed by these 'stringent cold chain requirements' in the context of the vaccine rollout to disability residential settings were emphasised in the Australian Government's Submissions. See Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [8(2)], [23].

along. In particular, they were gaining a better understanding of the logistical challenges in providing the Pfizer vaccine to large and small facilities, public hospitals, other hospitals and clinics.<sup>172</sup> She said that she did not know whether anyone in DOH specifically considered the characteristics of group homes (which constituted the most common disability residential setting), although she thought they would have been in contemplation.<sup>173</sup>

164. The effect of Ms Edwards' evidence is that, contrary to what appeared in the Strategy, DOH considered disability residential settings should be prioritised equally with aged care residential settings only to the extent that they closely resembled aged care residential settings. The evidence suggests that DOH gave no independent thought to the risks posed by COVID-19 to people in disability residential settings. DOH assumed that the settings would be very similar to aged care residential accommodation and vaccines could be administered in similar ways.
165. DOH's inability to compile reliable data on the number and circumstances of people in disability residential settings had significant consequences for the implementation of the Strategy and the vaccine rollout.
166. First, as noted above, the Strategy was framed on a significant underestimate of the number of residents with disability who qualified under Phase 1a. The Strategy was premised on there being about 190,000 combined aged care and residents with disability. Since DOH estimated the number of aged care residents at just under 184,000,<sup>174</sup> this implicitly indicated that approximately 6,000 residents with disability required in-reach vaccination. In reality, there were 6,000 distinct disability residential settings, with about 26,000 residents.<sup>175</sup>
167. Ms Edwards conceded that DOH underestimated the number of residents with disability but denied that the Strategy was formed on the assumption that there were only 6,000 residents with disability. She disagreed with the suggestion that DOH had

---

<sup>172</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-74 [21-31].

<sup>173</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-74 [15-24].

<sup>174</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 5; Department of Health, *Ensuring senior Australians are vaccinated against COVID-19*, media release, 16 February 2021.

<sup>175</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-72 [6].

probably confused the number of disability residential settings with the number of residents. She said that DOH had underestimated the combined total of aged care residents and residents with disability.<sup>176</sup>

168. Whatever the true explanation, it is clear that the Strategy was framed and implemented based on inadequate information on people in disability residential settings, including a significant underestimate of the people in such settings.
169. Second, when developing the Strategy DOH lacked information about the number of settings that would have to be reached if Phase 1a was to be implemented successfully,
170. Ms Edwards gave evidence that DOH engaged with the NDIA and DSS to identify group homes and their residents with disability.<sup>177</sup> Providers were initially contacted via the NDIS Quality and Safeguards Commission with an urgent request for this data.<sup>178</sup> This process continued until 23 April 2021 when it was terminated.<sup>179</sup> Providers were informed that:

... the opportunity to provide this data through the DSS portal has now closed. After today, we will not be collecting information on any further residential sites and it will be the responsibility of the disability provider to find alternative vaccination options for its residents.<sup>180</sup>

171. Third, DOH did not have access to data on the number of disability support workers working in residential settings included in Phase 1a. As noted earlier, NDS's survey estimated that there were 51,000 workers across 284 organisations, based on a response rate of only 25 per cent of organisations who were members of NDS. Other estimates put the numbers at between 90,000 and 120,000.<sup>181</sup> The Strategy estimated that there was a combined total of 318,000 aged care and disability care workers, with

---

<sup>176</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, PP-71 [33-47] – 72 [1-11].

<sup>177</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, PP-101 [43-47] – 102 [1-31].

<sup>178</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 4.

<sup>179</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 8.

<sup>180</sup> Australian Government, 'Disability Provider Alert', *COVID-19 Vaccination*, web page, 23 April 2021. <[www.health.gov.au/sites/default/files/documents/2021/04/covid-19-vaccination-disability-provider-alert-23-april-2021.pdf](http://www.health.gov.au/sites/default/files/documents/2021/04/covid-19-vaccination-disability-provider-alert-23-april-2021.pdf)>.

<sup>181</sup> Transcript, David Moody, Public hearing 12, 17 May 2021, P-41 [35].

an estimated 245,042 residential aged care staff.<sup>182</sup> This implied that there were fewer than 73,000 disability support workers covered by Phase 1a. Although there is no robust data available on the number of disability support workers in disability residential settings, the available information suggests that this is an underestimate. Furthermore, there was no data on the number of disability support workers who were sole providers working with people with disability, such as support workers providing 24-hour care but not in disability residential settings.<sup>183</sup>

172. Fourth, and fundamentally, the assumption that disability residential settings are analogous to aged care facilities was not well founded. Ms Edwards accepted in her evidence that there are significant differences between the two.
173. Disability residential settings generally have two to six residents and rarely, if ever, more than ten residents. Aged care facilities may have hundreds of residents in dedicated purpose-built facilities. DOH planned the vaccine rollout to 2,943<sup>184</sup> aged care facilities but about another 6,000 disability residential settings also required the vaccines. In-reach vaccination for people in disability residential accommodation would therefore involve the administration of far fewer vaccines during each site visit and many more site visits to reach all residents. It appears that in the early stages of the rollout DOH did not appreciate these logistical complications.
174. Clearly enough, DOH found it a difficult exercise to gather the information needed to plan a rollout to people in disability residential settings. As Ms Edwards said: 'It's been quite a task for us to work out exactly where and who are and to come up with an estimate of 26,000 people.'<sup>185</sup>
175. Ms Edwards accepted in her evidence that consultation is 'an extremely good idea in all circumstances' but was not sure that 'it would have been simple'.<sup>186</sup> The fact is that DOH did not make use of the Advisory Committee to inform its 'surveillance' and data

---

<sup>182</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 5.

<sup>183</sup> Transcript, David Moody, Public hearing 12, 17 May 2021, P-41; Transcript, 'Faith', Public hearing 12, 17 May 2021, PP-12 [44-48] – 13 [1-17]; Transcript, Professor Anne Kavanagh, Public hearing 12, 17 May 2021, P-49 [34-40].

<sup>184</sup> Exhibit 12-12.10, DRC.9999.0045.0001; Department of Health, 'COVID-19 vaccination – 'Aged Care Implementation Plan', 9 March 2021, last updated 22 March 2021.

<sup>185</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-72 [30].

<sup>186</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-72 [29-31].

gathering to identify people in disability residential settings who were eligible to receive the vaccine under Phase 1a. That would not have been difficult or time consuming. Had DOH consulted the Advisory Committee it plainly would have been better informed about the nature and magnitude of the tasks involved in a rollout of vaccines to people in residential disability settings.

## Submissions

176. Counsel Assisting submitted that it is open to the Commissioners to find that:
1. The rollout was framed without much understanding of disability residential settings and residents with disability, and without the opportunity for co-design of the rollout with the disability sector
  2. There was a failure to engage with the disability sector in relation to the design to the vaccine rollout to residents with disability generally. There was a significant opportunity for planning and co-design to be developed in advance of the rollout commencing. These matters could have been explored with the disability community. Better consultation and co-design may have led to more robust and better informed plans for the rollout.<sup>187</sup>
177. The Australian Government submits that these findings should not be made. It cites the following as instances of relevant consultation prior to the public hearing:
- A Roundtable with state and territory Representatives and Key Stakeholders on COVID-19 Vaccination Program for People with Disability, held on 2 February 2021<sup>188</sup>
  - A 'Targeted discussion on COVID-19 Vaccine Communications for Disability Support Workers and People with Disability' on 6 May 2021, in which 'views and advice on the vaccine roll-out was sought from people with intellectual disability as well as disability support workers, organisations, service providers and peak groups'
  - Meetings of the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability on 18 January 2021, 2

---

<sup>187</sup> Submission of Counsel Assisting, Public hearing 12, 12 July 2021, SUBM.9999.0035.0361, at [101].

<sup>188</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [34].

February 2021, 4 March 2021, 7 April 2021, and 14 April 2021, all of which (according to the Australian Government) ‘concerned the nature and implementation of the vaccine roll-out for people with disability’<sup>189</sup>

- The ‘trial’ or ‘initial’ rollout, which the DOH intended to use to gain lessons about how to carry out a rollout to residential disability settings later in the year<sup>190</sup>
- The engagement of Aspen Medical and Healthcare Australia ‘[d]uring the initial weeks of the roll-out to consult with disability providers to inform the detailed roll out of the COVID-19 Vaccination Program in residential disability accommodation settings’,<sup>191</sup> which has supported various refinements and informed various decisions and developments.<sup>192</sup>

178. The consultations relied on by the Australian Government were mostly events at which information was largely presented by governments to stakeholders. They were not designed to identify and rectify deficiencies in the design of the roll-out.

- The ‘Key Outcomes’ report from the Roundtable with state and territory Representatives and Key Stakeholders on COVID-19 Vaccination Program for People with Disability held on 2 February 2021 indicates that this was an event at which the Government informed ‘stakeholders’ about the general features of the Strategy. It was not a consultation at which the Australian Government sought information from the disability sector on issues that were known to be critical to the success of the roll-out.<sup>193</sup>
- The ‘Targeted discussion on COVID-19 Vaccine Communications for Disability Support Workers and People with Disability’ occurred on 6 May 2021, four months after the Strategy was announced and over two months after the rollout had commenced. This was long after the exclusive period for Phase 1a had

---

<sup>189</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [36].

<sup>190</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-76 [12-27].

<sup>191</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [87].

<sup>192</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [87].

<sup>193</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-75 [34-42].

concluded (Phase 1b had started on 22 March 2021). The 'Targeted discussion' occurred less than 10 days before Public hearing 12 was scheduled to take place.

- While meetings of the Advisory Committee were held on 18 January 2021, 2 February 2021, 4 March 2021, 7 April 2021, and 14 April 2021, the Advisory Committee was informed of some decisions about the vaccine rollout at a high level of generality. There is no evidence that DOH took these opportunities to ask the Advisory Committee for comment on issues vital to the rollout, such as the number and nature of disability residential settings and the issues presented for a rollout by the complex needs of residents. Moreover, it seems that the Government did not follow the advice that was given, such as the need for a public campaign with appropriately framed materials to inform people with disability about the vaccine.<sup>194</sup>
- The 'trial rollout' was designed to gain information and 'learnings' about rolling out the vaccine to disability residential settings.<sup>195</sup>
- The engagement of Aspen Medical and Healthcare Australia may have constituted consultation with 'disability providers' but not with people with disability.<sup>196</sup>

179. There was no consultation with the disability community prior to the decision in the first week of March to prioritise aged care settings over disability residential settings for access by 'in-reach' resources. Had there been, it may have been feasible to devise an alternative route, to run in parallel, for the vaccination of people in disability residential settings most at risk of serious illness or death from contracting the virus.

180. The Australian Government seeks to downplay the significance of the lack of consultation with the disability sector by arguing that consultations would have

---

<sup>194</sup> See e.g. Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, 'Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – Meeting NO. 14: 18 January 2021 Key Outcomes', communique, 18 January 2021; Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, 'Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – 12 May 2021 Key Outcomes', communique, 12 May 2021.

<sup>195</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-76 [19-27].

<sup>196</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [87].

unreasonably delayed the whole vaccine rollout.<sup>197</sup> Had consultations taken place in a timely manner, there is no reason to think that the rollout would have been delayed. On the contrary, consultations would have improved DOH's understanding of the circumstances of people in disability residential accommodation. This may well have allowed some resources to be allocated to those people most at risk without impeding the pace of the rollout of the vaccine to aged care residents.

181. Ms Edwards' evidence supports the proposition that DOH, for a considerable period, lacked a sound appreciation of the nature of group homes and the difficulties of reaching people living in disability residential accommodation. DOH vastly underestimated the number of residents of shared disability residential facilities across the country and did not have a true picture of the number of residences that would have to be reached. DOH waited until the roll-out had commenced before seeking important 'learnings'/ 'lessons' about the practicalities and logistics of the roll-out to disability residential settings.

### **Finding 1**

In framing the COVID-19 Vaccine Roll-out Strategy, the Australian Government Department of Health did not genuinely consult with or seek the advice of the Advisory Committee on Health Emergency Response to Coronavirus for People with Disability or Disability Representative Organisations. Consultations with the Advisory Committee about meeting the challenges of rolling out the vaccine to people living in disability residential settings could have taken place from December 2020 (if not earlier), since at that time the Advisory Committee was already considering the vaccine rollout.

### **Finding 2**

The Australian Government Department of Health framed the COVID-19 Vaccine Roll-out Strategy without appreciating or addressing the challenges of administering the vaccine to people living in disability residential settings and disability support workers in those settings.

---

<sup>197</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [17], [99].

## What should DOH have known?

182. DOH's understanding of aged care facilities and disability residential settings and the 'learning' process it had to undertake in the early stages of the vaccine rollout need to be considered in the context of findings and recommendations made in the Public hearing 5 Report. It is also necessary to consider the Australian's Government response to that report.
183. The Public hearing 5 Report examined the *CDNA national guidelines for the prevention, control and public health management of COVID-19 outbreaks in residential care facilities in Australia* (Residential Care Facilities Guidelines), published by the Communicable Disease Network of Australia (CDNA) on 13 March 2020.<sup>198</sup> At Public hearing 5, Dr Nick Coatsworth, the then Deputy Chief Medical Officer of Australia, gave evidence that the aged care sector was the 'focus' of this version of the Residential Care Facilities Guidelines.<sup>199</sup> However, the Guidelines defined 'residential care facilities' to include 'disability services or other congruent accommodation settings ... where residents are provided with personal care or health care by facility staff.'<sup>200</sup>
184. Evidence at Public hearing 5 established that neither the NDIS Commission nor the NDIA was consulted in drafting the Residential Care Facilities Guidelines.<sup>201</sup> Evidence at Public hearing 5 also suggested that disability service providers were unable to apply the Guidelines without significant modification.<sup>202</sup> According to Ms Samantha Taylor, Deputy Registrar of the NDIA, this was because the Guidelines:
- ... did not reflect the very particular nature of disability accommodation and the smaller scale and configuration of the types of accommodation services that have traditionally been in place in disability ...<sup>203</sup>

---

<sup>198</sup> Exhibit 5.76, DRC.2000.0002.1670.

<sup>199</sup> Exhibit 5.44, 'Statement of Nick Coatsworth', 7 August 2020, at [12].

<sup>200</sup> Exhibit 5.76, DRC.2000.0002.1670; Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic*, November 2020, at [67].

<sup>201</sup> Transcript, Samantha Taylor, Public Hearing 5, 21 August 2020, P-392 [22]; Transcript, Graeme Head AO, Public Hearing 5, 21 August 2020, P-392 [24].

<sup>202</sup> Exhibit 5.48, 'Statement of Samantha Taylor', 13 August 2020, at [201-206].

<sup>203</sup> Transcript, Samantha Taylor, Public hearing 5, 21 August 2020, P-395 [39-41].

185. The Public hearing 5 Report, published in November 2020, expressed the view that it was unsatisfactory to require disability accommodation providers to review and adapt the Guidelines to their own settings.<sup>204</sup> The Public hearing 5 Report emphasised the importance of providing accurate advice that was appropriate for disability residential settings, considering the potentially very serious consequences of a COVID-19 outbreak.<sup>205</sup>

186. The Public hearing 5 Report found that the Australian Government failed to give clear guidance to service providers about the differences between residential aged care settings and disability accommodation settings in relation to infection control and outbreak management.<sup>206</sup> Recommendation 9 stated:

9. The Australian Government Department of Health in consultation with the NDIS Quality and Safeguards Commission and the National Disability Insurance Agency should prepare comprehensive guidelines specifically addressing the prevention, control and public health management of COVID-19 outbreaks in disability accommodation settings, taking into account the differences between residential aged care settings and disability accommodation settings.

187. On 27 April 2021, the Australian Government published its response to the Public hearing 5 Report.<sup>207</sup> The Australian Government supported Recommendation 9 and added that:

The Australian Government, with advice from state and territory governments and the Advisory Committee, is developing guidance on the prevention, control and management of COVID-19 in disability accommodation settings.

---

<sup>204</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic*, November 2020, at [119].

<sup>205</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic*, November 2020, at [119].

<sup>206</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic*, November 2020, at [120].

<sup>207</sup> Australian Government, Australian Government response to Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Public Hearing Report – Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic, 27 April 2021, p 73.

Preparation of the guidance is well advanced. As part of the finalisation process, the materials will be reviewed by the Infection Control Expert Group, which advises the Communicable Diseases Network of Australia (CDNA), before being formally being considered by the CDNA.<sup>208</sup>

188. As noted earlier in this Report,<sup>209</sup> Ms Edwards gave evidence that, when formulating the Strategy for the vaccine rollout and in the early stages of its implementation, DOH believed that aged care and disability residential settings presented similar challenges.<sup>210</sup> If DOH held that belief, it is difficult to understand how DOH failed to appreciate that the two settings presented very different challenges in administering vaccines given the evidence presented at Public hearing 5.
189. We note that the evidence at Public hearing 5 was adduced in the context of infection control and public health management, and it did not specifically address the administration of vaccines to residents (no vaccines for COVID-19 were available at the time). However, the evidence clearly explained the differences between aged care and disability residential settings in design of accommodation, the facilities provided and the number of residents. All these matters were relevant to the risk factors in each setting and to the challenges presented for the rollout of the vaccines. If DOH did not understand the differences between aged care and disability residential settings, the only explanation seems to be that it failed to consider the evidence presented at Public hearing 5 or the contents of the Public hearing 5 Report, specifically Recommendation 9.

### Finding 3

The Australian Government Department of Health had sufficient information available to draft the COVID-19 Vaccine Roll-out Strategy with an appreciation of the significant challenges it would face in rolling out the vaccine to the Priority Disability Group. The Department has not adequately explained the apparent failure to take that information into account.

---

<sup>208</sup> Australian Government, Australian Government response to Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Public Hearing Report - Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic, 27 April 2021, p 6.

<sup>209</sup> See Report, at [161-162].

<sup>210</sup> Transcript, Caroline Edwards, Public hearing 5, 21 August 2020, PP-69-71.

## Disability sector vaccine implementation plan

190. The proposed Disability Sector Vaccine Implementation Plan (Implementation Plan) was being prepared for some time prior to the commencement of the rollout. A meeting of the Advisory Committee on 2 February 2021 referred to the Implementation Plan, indicating that a draft had been circulated to stakeholders for comment and that an updated draft would soon be circulated.<sup>211</sup>
191. Evidently the Implementation Plan was sufficiently advanced for Ms Bridget Carrick of the Vaccine Taskforce at DOH to state at a webinar on 4 March 2021 that 'The final implementation plan is likely to go up on to the Department of Health's website next week.'<sup>212</sup> However the Implementation Plan was neither finalised nor placed on the website. Ms Edwards confirmed in her oral evidence (on 17 May 2021) that the Implementation Plan had still not been finalised.<sup>213</sup>
192. When pressed on the reasons why the Implementation Plan had not been finalised, Ms Edwards cited 'Cabinet-in-Confidence', but added:

The original draft of the plan was shared with the sector on 20 January. There was feedback received. Further drafts have been in train. It is a complex logistical and difficult area. It's also required, since 8 April, considerable change as a result of the new ATAGI advice about the age differentiation application of AstraZeneca, and that work is underway. Exactly when it will be finalised is not fully a decision of the Department, and so I couldn't give an exact date.<sup>214</sup>

## The trial rollout to residents with disability

193. Mr Moody explained his experience during consultations with service providers prior to the rollout in February 2021:

... we were consulted initially in regards to the strategy plan, but I think everyone entering into those discussions was working on the assumption that there would be sufficient vaccines for people within --- to be covered by Phase 1a to get those

---

<sup>211</sup> Exhibit 12-12.5, DRC.9999.0035.0498, p 2.

<sup>212</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 5.

<sup>213</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-79 [25].

<sup>214</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021 P-80 [1-7].

vaccines and that in fact --- we certainly didn't get into the detail nor were we asked about the detail in terms of the logistics of the rollout, other than to confirm that our members were on notice to expect that a vaccinator would be coming to our premises and the circumstances in which that would occur. So, we always entered into those discussions on the basis there was going to be enough vaccines to meet the expectations of those in Phase 1a.<sup>215</sup>

194. By 18 February 2021, and certainly by 3 March 2021, it must at least have been apparent to DOH that many disability residential settings were not large scale residences but catered for small numbers of people with disability. As we have noted, DOH estimated that 2,943 aged care facilities were in Phase 1a, but people in about 6,000 disability residential settings were also in Phase 1a.
195. People with disability and service providers were aware that a 'trial' rollout of in-reach vaccinations had been scheduled to commence on 24 February 2021.<sup>216</sup> The 'initial rollout' of Phase 1a contemplated administration of the vaccine to a limited number of disability residential settings.<sup>217</sup>
196. As we have recorded, Ms Edwards said that the trial rollout of in-reach vaccinations extended to 23 or 24 sites over four weeks.<sup>218</sup> <sup>219</sup> Ms Edwards explained the purpose of the 'initial rollout':

I would characterise it differently [from a 'trial']. I know it's been described as a trial. What I understand to have happened is that we had some initial delivery of vaccine in-reach to disability sites. That initial rollout was very modest in nature, and because of the small number of sites and because we knew that it would be complex and that we had a lot of learning to do to make sure it was effective, we used those initial sites and a core learning and we actually engaged those providers to provide the vaccines but also to provide feedback and understanding and some planning, working with the

---

<sup>215</sup> Transcript, David Moody, Public hearing 12, 17 May 2021, P-35 [1-9]. See also, Exhibit 12-5.1, 'Statement of David Moody', 11 May 2021, at [25].

<sup>216</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [9]; Exhibit 12-5.1, 'Statement of David Moody', 11 May 2021, at [27]-[28].

<sup>217</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-79 [6-7].

<sup>218</sup> See Submission of Counsel Assisting, Public hearing 12, 12 July 2021, DRC.9999.0035.0361, at [33]; Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-79 [11-14].

<sup>219</sup> See Report, at [67].

providers with which they were engaged on how we could develop the further rollout for later in the year.<sup>220</sup>

197. Ms Edwards' evidence establishes that:

- The trial (or initial) rollout reached people with disability in a small number of disability residential settings.
- Although DOH had framed the COVID-19 Vaccine Roll-out Strategy without appreciating the challenges facing the rollout to the Disability Priority Group, by the time of the trial. DOH understood that the process would be complex and that there were 'lessons' to be learned.
- DOH's understanding that the process would be complex was the major reason for the limited nature of the rollout.
- DOH asked vaccine providers for advice on planning and collaboration to develop the rollout for people with disability later in the year.

198. There was no evidence that vaccine providers gave advice or, if they did, whether the trial rollout resulted in DOH gaining 'core learnings' from the experience of the vaccine procedures.

199. During the initial rollout of Phase 1a (the four weeks from 22 February to 22 March 2021) only vaccines administered under the trial rollout reached disability residential settings. By the time Phase 1b of the rollout commenced on 22 March 2021, DOH had not begun a more extensive in-reach rollout of the vaccine to disability residential settings.

---

<sup>220</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-76 [19-27].

#### **Finding 4**

The Australian Government Department of Health used the critical first four weeks of the vaccine rollout to acquire 'core learning' to understand the challenges facing the rollout to the Priority Disability Group. Since the rollout of vaccines during this period was exclusively directed to people in Phase 1a, the Department lost an opportunity to make significant progress on vaccinating people in the Priority Disability Group who were most at risk of serious consequences from contracting COVID-19.

#### **Finding 5**

If the Australian Government Department of Health genuinely consulted with and sought advice from key stakeholders, including the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability and, Disability Representative Organisations:

- The COVID-19 Vaccine Roll-out Strategy could have been drafted with an appreciation of the challenges facing the rollout of the vaccine to the Priority Disability Group.
- The rollout could have taken into account the need to identify the people with disability in Phase 1a most at risk of serious consequences from contracting COVID-19 and to formulate a plan to reach them as soon as practicable.
- During the crucial first four weeks, the Department could have achieved greater progress in vaccinating people in disability residential settings most at risk, and reassured people with disability that they were not being ignored.

## The prioritisation decision

200. A key theme emerging from the hearing was the lack of transparency in decision-making by the Australian Government in the development and implementation of the COVID-19 Vaccine Roll-out Strategy.
201. In the first week of March 2021, Ms Edwards as the officer in charge of the rollout decided to prioritise aged care residents over people with disability living in residential settings in Phase 1a of the vaccine rollout. Ms Edwards explained that ‘it could have been the second week of March by the time we moved all the resources across’ to rolling out the vaccine to aged care.<sup>221</sup>
202. There is no contemporaneous record of Ms Edwards’ decision. The Australian Government did not produce to the Royal Commission any record of the advice relied on or the reasons for the decision. The effect of the decision was that the in-reach vaccination teams that were supposed to be deployed to disability residential settings during the rollout were instead re-deployed to aged care. In other words, from the second week of March 2021, DOH diverted resources from people with disability included in Phase 1a to people in aged care who were also included in Phase 1a.
203. Counsel Assisting has submitted the decision deprioritised people with disability in Phase 1a. The Australian Government disputes this characterisation and submits that the Royal Commission should not make such a finding.
204. Ms Edwards initially objected to the description of the decision as being to ‘prioritise’ aged care residents over residents with disability. She described it as ‘a decision to focus the resources of the Australian Government in-reach providers to Aged Care residents first’<sup>222</sup> and ‘a decision that the in-reach resources should focus on aged care first’.<sup>223</sup>
205. Later in her evidence, Ms Edwards accepted that she ‘made a decision to prioritise’<sup>224</sup> the population group that she considered the more vulnerable, namely aged care

---

<sup>221</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-94 [31-34].

<sup>222</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-90 [31-32].

<sup>223</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-90 [20-30].

<sup>224</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-90 [35-45].

residents. She nonetheless insisted that it was not a decision to deprioritise residents with disability.<sup>225</sup>

206. The Australian Government disputes that people with disability living in shared residential settings were deprioritised in the rollout of Phase 1a of the Strategy.<sup>226</sup> It argues that DOH officials had ‘refocussed the resources of in reach providers to aged care residents in March 2021’,<sup>227</sup> but that this did not amount to a decision to prioritise aged care facilities over disability residential settings.
207. The Australian Government further contends that there was ‘no evidence’ to support a finding that people with disability living in shared residential settings had been ‘de-prioritised’ under Phase 1a. It relies on Ms Edwards’ evidence that there had not been any decision to prioritise aged care over disability residential settings,<sup>228</sup> and submits that people with disability (including those living in shared residential settings) and disability support workers were prioritised ahead of the balance of the general population.<sup>229</sup> The Australian Government argues that ‘[the] only groups that have received comparable or greater priority are individuals living or working in residential aged care facilities, critical workers and border/quarantine personnel’.<sup>230</sup>
208. The Australian Government acknowledges Ms Edwards’ later evidence that she ‘made a decision to prioritise’ aged care residents over people with disability in residential settings, but points out that she continued to dispute that this meant that disability settings were correspondingly deprioritised.<sup>231</sup> The Australian Government acknowledges that the effect of DOH’s decision was to divert the ‘in-reach’ resources away from residential disability settings and towards aged care facilities in Phase 1a.

---

<sup>225</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-95 [40].

<sup>226</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [58], [62].

<sup>227</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [50].

<sup>228</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [62].

<sup>229</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [5-6], [25-26], [46], [65], [72-73].

<sup>230</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [26].

<sup>231</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-90 [35-45].

Accordingly, ‘resources were focussed, at first, on delivering the vaccine to residential care settings in aged care rather than for people with disability.’<sup>232</sup>

209. Regardless of how Ms Edwards characterised the decision, it prevented in-reach resources going to disability residential settings and diverted those resources to aged care instead. DOH was aware that the decision would necessarily have this consequence. The decision can only be described as one to prioritise aged care residents over people in residential disability accommodation. It follows that the decision also deprioritised (that is, lowered the priority of) people with disability included in Phase 1a of the rollout. The consequences of the decision can be seen from the data referred to earlier. The data shows that over the period of 22 February to 21 April 2021 (the first eight weeks of the rollout), fewer than one per cent of doses of vaccine administered to people in Phase 1a were administered to people with disability.<sup>233</sup>
210. We are satisfied that this evidence, combined with the data on vaccinations administered to people in Phase 1a, establishes that in the first week of March 2021 DOH decided to ‘prioritise’<sup>234</sup> aged care facilities over disability residential settings in the rollout of the vaccine. DOH deprioritised disability residential settings relative to aged care, which was contrary to the COVID-19 Vaccine Roll-out Strategy.
211. The Australian Government also contends that the diversion of ‘in-reach’ resources from disability residential settings to aged care settings did not involve any departure from the priorities of the publicly announced Strategy. The Government says this is because ‘the phasing of the Strategy’ was necessarily separate from ‘the implementation and planning within each phase’. The Australian Government’s position is that:

Decisions concerning the commitment of resources between aged care facilities and disability residential settings reflected the imperatives faced by the DOH in designing

---

<sup>232</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [66].

<sup>233</sup> See Report, at [84].

<sup>234</sup> Ms Edwards stated that ‘there was a decision to focus the resources of the Commonwealth in-reach providers to Aged Care residents first’. See Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-90 [37-38].

the Strategy to achieve maximum benefit from the early roll-out of the available supply. Such decisions do not contradict the import of the Strategy, which was to communicate the sequencing of the roll-out phases, rather than the sequencing within any given phase.<sup>235</sup>

In other words, the Australian Government argues that there was no reduction in priority accorded to disability residential settings, because the Strategy never implied that disability residential settings held equal operational priority with aged care facilities.

212. We do not accept that the Strategy should be, or indeed was interpreted in this way. The Strategy did not draw any distinction in priorities between the three population groups eligible for vaccination under Phase 1a. Far from admitting the possibility of sub-priority groups in Phase 1a, it presented ‘aged care and disability care residents’ as part of a single group.<sup>236</sup> The ordinary meaning of the language and the presentation of the Strategy meant that DOH should have made no distinction in priority between aged care and disability settings. It is beside the point to argue that it may have been appropriate for disability settings to be reduced in priority relative to aged care facilities (that separate issue is addressed below).<sup>237</sup>
213. The Australian Government also submits that the concept of ‘prioritisation’ in the Strategy meant only that there was ‘an entitlement for those in earlier phases to be first accorded access at an earlier time than those in later phases’.<sup>238</sup> On that argument, there was no departure from the official prioritisation under the Strategy because ‘the first vaccinations were administered to eligible individuals in Phase 1a’ while ‘the balance of the population was not eligible to receive a vaccination at that time’.<sup>239</sup> We do not accept that the administration of the first vaccines to eligible individuals is all that was contemplated by the Strategy. In our view, the Strategy conveyed and created

---

<sup>235</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [74].

<sup>236</sup> Exhibit 12-12.3, DRC.9999.0036.0001, p 2.

<sup>237</sup> See Report, at [219-222].

<sup>238</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [70].

<sup>239</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [72].

the expectation that the **majority** (at the very least) of individuals eligible under Phase 1a would be vaccinated in the time period set aside exclusively for vaccinating Phase 1a.

214. We accept that the Australian Government faced difficult challenges in rolling out vaccines to people most at risk. The supply of vaccines was limited and DOH had to address the logistical difficulties in administering the vaccines to people most at risk.<sup>240</sup> But that did not mean that the health and safety of all people living in disability residential settings should have been subordinated entirely to the health and safety of people in aged care accommodation.
215. Ms Edwards said that she made the decision based on scientific advice, ‘in close consultation with the Chief Medical Officer’ and ‘clearly in consultation with our Ministers’.<sup>241</sup> The advice identified age as the single most important risk factor for severe disease or death resulting from contracting COVID-19.<sup>242</sup>
216. We accept that Ms Edwards was fully entitled to take into account the large numbers of deaths that occurred in 2020 among people in residential aged care.<sup>243</sup> We do not suggest that her concern to protect people in residential aged care was misplaced. But that concern was consistent with DOH’s decision-making process being conducted in a transparent manner. Moreover, attention still could have been given to the need to protect people in disability residential centres most at risk of serious consequences from contracting COVID-19.
217. There was another important factor at play in the decision to prioritise aged care residents. From the outset, the commercial in-reach service providers were unable to meet their targets in the rollout of the vaccine.
218. The Australian Government initially engaged three commercial in-reach vaccination providers. Later it engaged a fourth provider and allocated a medical team from the Australian Defence Force to carry out in-reach vaccinations. According to the COVID-

---

<sup>240</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [97].

<sup>241</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-90 [45].

<sup>242</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-91 [5-10].

<sup>243</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-93 [15].

19 Vaccine Roll-out Strategy, the vaccination service providers were required to attend the aged care facilities and disability residential settings and administer the injections to residents and staff.<sup>244</sup> Ms Edwards said:

I recall in the first week of March, when it was clear that the in-reach rollout was slower and more difficult than we had anticipated and we had a particular issue with one provider, which caused the suspension of delivery by that provider, that we had a real issue with our capacity to move ahead with the program as we had hoped and we needed to refocus the program to ensure that we could provide vaccinations to the most at-risk group as quickly as possible.<sup>245</sup>

219. It was entirely reasonable for Ms Edwards to give weight to the advice that age was the single most important indicator of serious consequences flowing from contracting COVID-19 and to take into account the inability of contracted vaccination providers to meet targets. However, in determining the approach to the rollout, DOH should also have taken into account the publicly announced position of the Australian Government, which was that aged care residents and people in residential disability accommodation had equal priority under Phase 1a of the rollout. The decision to prioritise aged care residents created an obvious inconsistency with publicly available information. The change should have been brought to public attention, and specifically to the attention of people with disability in Phase 1a.

220. The decision to prioritise aged care residents over people in residential disability accommodation was made without consultation with the disability community. Ms Edwards gave the following evidence:

CHAIR: Have you had consultations with people with disability in relation to the rollout?

MS EDWARDS: The Advisory Committee we talked about before is the primary mechanism for us to consult with people with disability and their representatives in relation to the pandemic generally and including in relation to the vaccine.

CHAIR: But the Advisory Committee didn't know what was going on, did they?

---

<sup>244</sup> The Hon. Greg Hunt MP, *Mobilising Australia's COVID-19 vaccine workforce*, media release, 21 January 2021.

<sup>245</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-94 [21-26].

MS EDWARDS: We didn't talk to them about how we were focusing on protecting people in aged care, no.

CHAIR: It is fair to say, isn't it, that as far as you, a decision maker, was concerned, you did not consult with people with disability?

MS EDWARDS: Did not consult with people with disability in relation to the decision to allocate aged care facilities to our providers, no, I didn't, because that wasn't about that.<sup>246</sup>

[Emphasis added].

221. Ms Edwards' evidence suggests that DOH acted without transparency. Furthermore, DOH's decision-making process was not consistent with reasonable expectations of an Australian Government agency making a decision affecting the health and wellbeing of the community, specifically the health and wellbeing of people with disability. DOH:

- did not seek any advice from any person with relevant expertise in the health of people with disability, and specifically intellectual disability<sup>247</sup>
- did not review the scientific literature available since November 2020<sup>248</sup>
- did not consult with or seek any advice from the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability<sup>249</sup>
- did not seek advice about the impact of changing priorities for people with disability living in disability residential settings<sup>250</sup>
- did not consider whether some people in disability residential accommodation were exposed to a similar level of risk as aged care residents<sup>251</sup>
- took no advice as to whether the decision was consistent with the Australian Government's obligations under the *Disability Discrimination Act 1992* (Cth).<sup>252</sup>

---

<sup>246</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-101 [20-37].

<sup>247</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, PP-66 [30-45], 91 [32-34].

<sup>248</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, PP-66 [19-28], 91 [42-44].

<sup>249</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-95 [6-12].

<sup>250</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-92 [34-46].

<sup>251</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, PP-93 [24-47] – 94 [1-16].

<sup>252</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-96 [1-31].

222. As discussed earlier, the lack of adequate preparation and planning for the rollout contributed to the immediate failure of the rollout to meet its intended schedules. Having made the decision to prioritise the vaccination of aged care residents over people in residential disability accommodation, DOH did not consider that some people with disability in residential settings were at particularly high risk of adverse outcomes from COVID-19 – for example, people with serious respiratory conditions or who were severely immuno-compromised. In short, there were undoubtedly people with disability living in residential settings who were at least as vulnerable to adverse outcomes as residents in aged care facilities. DOH did not make any attempt to devise an alternative route for facilitating the urgent vaccination of these people.

### **Finding 6**

The Australian Government Department of Health's decision in the first week of March 2021 to prioritise aged care residents in the rollout of the vaccine had the effect, as the Department appreciated, of halting the administration of vaccines to people in residential disability accommodation even though they were in Phase 1a of the COVID19 Vaccine Roll-out Strategy. It is accurate to describe the decision as one that deprioritised the vaccination of people in residential disability accommodation.

### **Finding 7**

The Australian Government Department of Health decided to deprioritise the vaccination of people in residential disability accommodation without consulting or notifying the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability or Disability Representative Organisations. The decision was not made public until Ms Edwards gave evidence before the Senate Select Standing Committee on COVID-19 on 20 April 2021.

## Finding 8

In determining priorities it was entirely reasonable for the Australian Government Department of Health to take into account advice that aged care residents were particularly at risk of serious illness or death if they contracted COVID-19. But the Department should have also considered the position of people in residential disability settings facing similar risks of serious illness or death from contracting the virus. This would have enabled the Department to determine if it could identify these people and to reach them to offer the vaccine.

### Phased rollout and merging of Phase 1a and 1b

223. At some stage a decision was made for the Phase 1a and Phase 1b rollout to be conducted concurrently. Ms Edwards disagreed that there had been a formal merger of Phases 1a and 1b and maintained that Phase 1b was always intended to run concurrently with Phase 1a. Ms Edwards also denied any intention for Phase 1a to be largely complete by the time Phase 1b commenced.<sup>253</sup> In her view, the purpose of the phased rollout described in the COVID-19 Vaccine Roll-out Strategy was not to complete the vaccination of those most at risk of serious illness or death before moving onto others at less risk.<sup>254</sup>
224. When asked how a reader might have discerned DOH's intention that the phases would run concurrently from the Strategy, Ms Edwards pointed to the graphic design on the Strategy document as indicating that Phase 1a and Phase 1b were intended to run concurrently. She said that the critical element was that 'the chevrons overlap one another in the document'.<sup>255</sup> She also pointed to the positioning of the word 'ongoing' on the infographic, which tended to indicate that each Phase would not be closed off upon the commencement of the next phase but would continue concurrently. Accepting that the graphic design may have carried significance to public servants familiar with such matters, in our view Ms Edwards and DOH overestimated its significance in

---

<sup>253</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-73 [35-39].

<sup>254</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-73 [41-44].

<sup>255</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-83 [6].

explaining developments to the general public and to people in the disability sector. Few people unaccustomed to the nuances of the graphic design incorporated in the Strategy would have understood that Phase 1a was to run concurrently with Phase 1b.

225. The Strategy in the form presented to the public conveyed, at the very least, that substantial progress would be made with Phase 1a of the rollout before Phase 1b would get underway. This understanding would have been reinforced during the four-week period when vaccinations appeared to be directed exclusively towards those entering aged care facilities.
226. It is true, as Ms Edwards pointed out, that there could be a 'long tail' or a continuing trickle of people seeking vaccination under Phase 1a after Phase 1b commenced. But that cannot detract from the proposition that the Strategy envisaged delivery of the vaccine to the great majority of those eligible under Phase 1a before Phase 1b commenced.

## Transparency

227. As we have explained, DOH made the decision to deprioritise the vaccination of people in residential disability accommodation in the first week of March 2021.<sup>256</sup> No attempt was made at that time to update the COVID-19 Vaccine Roll-out Strategy or advise the disability community of the decision notwithstanding its serious implication for many people with disability. As we have also explained, this inconsistency between the public information and DOH's actions continued from the first week of March until about 20 April 2021.<sup>257</sup>
228. It is not surprising that during this period many people believed that the rollout was proceeding in accordance with the Strategy. For example, Mr Moody gave evidence that the possibility of a change in Phase 1a to prioritise aged care over the disability sector was never raised with him during any of the consultations in which he participated, nor was it raised with providers as far as he knew.<sup>258</sup> While he suspected that the rollout was going slowly, the revelations at the Senate Committee were the first

---

<sup>256</sup> See Report, at [210].

<sup>257</sup> See Report, at [219].

<sup>258</sup> Exhibit 12-5.1, 'Statement of David Moody', 11 May 2021, at [27-28], [36].

he heard that a decision had been made to deprioritise people with disability and disability support workers in Phase 1a.<sup>259</sup>

229. Ms McAlpine also said that she did not hear of the decision until the Senate Committee hearing despite regular engagement with DOH.<sup>260</sup> She agreed with other advocates' description of the decision as 'gobsmacking'.<sup>261</sup>

... we had been having regular meetings with the Health Department and we understood that people in group homes were equally a priority as people in residence aged care and we were not aware that such little progress had been made and we were not aware that in fact there had been an internal decision to prioritise people in residential aged care over people with disability...<sup>262</sup>

230. We have pointed out that the decision to give priority to aged care residents should not mean that the risks facing people in residential disability settings should have been ignored. However, there is no evidence that any work was done in the period immediately after 4 March 2021 to minimise the consequences of the decision. It appears that no attempt was made to find ways to identify and administer vaccines to people in disability residential settings particularly at risk. People with disability and disability residential service providers waited to be contacted by the vaccine rollout teams. They accepted the Australian Government's messaging at face value and believed that the vaccines were coming to them as a priority. As time wore on, at least some people began to suspect that something had happened and some resorted to self-help. But no official information was provided.
231. DOH convened meetings of the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability on 4 March 2021 and on 7 April 2021. These meetings were permitted to go ahead on the assumption that the COVID-19 Vaccine Roll-out Strategy was being implemented. The Advisory Committee received no notice of the decision to draw a distinction between aged care and

---

<sup>259</sup> Exhibit 12-5.1, 'Statement of David Moody', 11 May 2021, at [27-28], [36].

<sup>260</sup> Exhibit 12-4.1, 'Statement of Catherine McAlpine', 14 May 2021, at [25].

<sup>261</sup> Transcript, Catherine McAlpine, Public hearing 12, 17 May 2021, P-35 [25].<sup>262</sup> Transcript, Catherine McAlpine, Public hearing 12, 17 May 2021, P-35 [25-30].

<sup>262</sup> Transcript, Catherine McAlpine, Public hearing 12, 17 May 2021, P-35 [25-30].

disability care.<sup>263</sup> People in the disability sector observed that official communications simply dropped off in early March.<sup>264</sup> Ms Edwards accepted that ‘communication could have been better about these issue[s]’<sup>265</sup> and that ‘[i]n retrospect, we probably should have talked to the Advisory Committee about it.’<sup>266</sup>

## Submissions

232. The Australian Government submits that Phase 1a of the Strategy, properly interpreted, did not convey that people living in disability residential settings were accorded equal priority with aged care residents.<sup>267</sup> It follows, so it is argued, that the failures to disclose the decision to deprioritise the vaccination of people in residential disability accommodation at or soon after it was made did not involve any lack of transparency. For reasons we have already given, we do not accept this submission.
233. Contrary to the Australian Government’s interpretation of the COVID-19 Vaccine Roll-out Strategy, it cannot be fairly read as conveying only that the priority groups in Phase 1a ‘were to be first accorded access to the vaccines at an earlier time than those included in later phases’.<sup>268</sup> On this interpretation, the Strategy was implemented consistently with its terms because a small number of people with disability received vaccines during the trial rollout.
234. The Strategy conveyed that at least a majority of people in Phase 1a, including people with disability would receive at least one dose of vaccine before the rollout to people accorded a lower priority by the Strategy. This was also understood by people with disability and their supporters. We contend that the unexplained failure to communicate publicly the decision to deprioritise the vaccination of people in residential disability

---

<sup>263</sup> Transcript, David Moody, Public hearing 12, 17 May 2021, P-35 [26-31].

<sup>264</sup> Exhibit 12-10.1, ‘Statement of Julia Squire’, 12 May 2021, at [16]; Exhibit 12-5.1, ‘Statement of David Moody’, 11 May 2021, at [27-28].

<sup>265</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-94 [1-5].

<sup>266</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-94 [1-5].

<sup>267</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [68-[71], [74].

<sup>268</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [77].

accommodation was a serious departure from the standards of transparency on health issues reasonably to be expected of the Australian Government.

235. We add that, even if the Australian Government's interpretation of the Strategy is reasonable (which we do not accept), the decision to deprioritise the vaccination of people in residential disability accommodation should have been publicly disclosed. It was a decision that directly affected the health and wellbeing of people with disability. They were entitled to know.

### **Finding 9**

The Australian Government Department of Health's failure to make public the decision to deprioritise the vaccination of people in residential disability accommodation meant that people with disability and Disability Representative Organisations were unaware of the Government's change of course until the decision was revealed to the Senate Select Standing Committee on COVID-19 on 20 April 2021. During this six-week period they were misled into continuing to believe that the Priority Disability Group would receive priority for vaccination in accordance with Phase 1a of the COVID-19 Vaccine Roll-out Strategy.

### **Finding 10**

The failure to communicate to people with disability the decision to deprioritise the vaccination of people in residential disability accommodation was a serious departure from the standards of transparency to which the Australian Government, through its departments and agencies, should adhere when making critical decisions affecting the health and safety of the community or specific groups within the community.

### **Finding 11:**

Many people in the Priority Disability Group and in the wider disability community generally were surprised, and indeed shocked, when they finally learned of the decision to deprioritise the vaccination of people in residential disability accommodation. Not surprisingly, the failure to communicate the decision in a timely manner caused many people with disability to lose trust and confidence in the Australian Government's handling of the vaccine rollout.



## Accessible and timely information

236. A key theme at the hearing was the importance of appropriate and timely information for people with disability about the COVID-19 Vaccine Roll-out Strategy and the arrangements for vaccination.

## Communication of key matters relating to the rollout

237. People with disability said the information available publicly about operational matters and eligibility criteria for the vaccine rollout was not clear. Examples include uncertainty as to whether Phase 1a would apply to all people with disability in disability residential settings and how those settings were defined;<sup>269</sup> uncertainty whether disability support workers would be vaccinated on the same day as residents;<sup>270</sup> and the suggestion that only people with 'complex needs' would receive in-reach services.<sup>271</sup> Most service providers and residents with disability expected to be informed when they would receive the in-reach vaccination (even if that were some time in the future), but that did not happen.
238. Mr Kaplan, a 25 year old man who lives in a group home in Victoria, gave evidence that he was confused about which vaccine he was eligible for and the risks associated with the AstraZeneca vaccine.<sup>272</sup> When asked about which vaccine was for people under the age of 50 years, he said:

Like, I'm 25 and I think I'm meant to get the AstraZeneca one but I don't know --- like, yes, I can refuse to get AstraZeneca. I would rather get Pfizer, but will they let me get Pfizer? Like, I understand, I think it's less effective but I would feel more comfortable to get that one. So it's just like with the information out there, it's very --- we've got information but, like, am I allowed to wriggle room? Am I allowed to, like, feel safe with

---

<sup>269</sup> Exhibit 12-12.5, DRC.9999.0035.0498. See also, Nas Campanella and Celina Edmonds, 'COVID-19 vaccine rollout for Australians living with disability needs clarity, experts say', *ABC News online*, 22 January 2021.

<sup>270</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [14-15].

<sup>271</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 6.

<sup>272</sup> Exhibit 12-3.1, 'Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan', 12 May 2021; Exhibit 12-3.2, TRA.3000.0001.0141, p 8.

my choice? Like, I want to get it, like everyone else in the room, but, yeah, like, AstraZeneca might be a little bit better but it makes me concerned.<sup>273</sup>

239. There was confusion about which vaccine would be administered to people living in disability residential settings during the period before and after the updated AstraZeneca advice. Ms McAlpine said:

When we were first told that both people in Residential Aged Care and people in disability care would receive, would be Phase 1a, we were told that all of those people would receive the Pfizer vaccination, and we had been operating on that assumption until 20 April, when we heard the stuff from the Senate Estimates, where they were unclear whether or not they would continue with that plan. So the Residential Aged Care have all received Pfizer, even though they are over 70, but for disability care they describe the logistics of going into group homes and giving some people the Pfizer and some people the AstraZeneca, as complex, so that led us to understand, did that mean the people in disability care would be given the AstraZeneca vaccine.<sup>274</sup>

240. Ms Edwards said that no decision had been made to allocate different vaccines to people in various Phases of the Strategy. However, it appears that Ms Bridget Carrick informed the participants attending a DOH Webinar on 23 March 2021 that 'Residential disability accommodation will be receiving AstraZeneca'.<sup>275</sup> Ms Edwards accepted that there was a lot of misunderstanding among the public and that the Australian Government needed to communicate carefully.<sup>276</sup>

241. People with 'Severe intellectual disability' were in Phase 1b of the Strategy. The Australian Government provided no guidance on the meaning of this eligibility criterion. Ms Edwards said she did not know the source of the distinction between 'Severe intellectual disability' and other intellectual disability and she took the question on notice.<sup>277</sup>

---

<sup>273</sup> Exhibit 12-3.1, 'Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan, 12 May 2021', IND.0092.0002.0001; Exhibit 12-3.2, P-8 [1-10].

<sup>274</sup> Transcript, Catherine McAlpine, Public hearing 12, 17 May 2021, P-23 [14-24].

<sup>275</sup> Exhibit 12-12.10, DRC.9999.0045.0001, p 6.

<sup>276</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-73 [29-34].

<sup>277</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-85 [6] – 86 [17].

242. The response stated as follows:

The eligibility tracker does not make a distinction between severe intellectual disability and intellectual disability. The tracker asks respondents if they are people with **significant disability**. The additional information provided to assist people instructs them to answer ‘**Yes**’:

If you are living with significant disability frequent assistance with daily living. This includes:

Down Syndrome;

Muscular dystrophy;

Traumatic brain or spinal cord injury;

Severe intellectual disability.

You should also answer **Yes**:

If you have a disability or age-related condition (such as dementia) and attend centre-based services such as day programs, respite care or supported employment.<sup>278</sup>

[Emphasis added].

243. While the eligibility tracker provided guidance to certain categories of people with disability, it merely repeated the reference to ‘Severe intellectual disability’.

## Appropriate language

244. Effective communication requires attention to language. The use of ‘disability care’ in the Preliminary Advice to denote people with disability living in residential settings was inappropriate. Ms Edwards accepted that the expression ‘care’ in this context had paternalistic connotations and could be associated with institutional care and the medical model of disability.<sup>279</sup> This language was carried through to successive documents, including later ATAGI clinical guidance, and the vaccine rollout Vaccine Roll-out Strategy.

245. The Royal Commission has been told repeatedly that official agencies should take care to use appropriate language when communicating with people with disability. The

---

<sup>278</sup> Exhibit 12-14.1, IND.0099.0001.0001, p 2.

<sup>279</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-68.

language used in connection with the rollout of vaccines points to a lack of familiarity with standards that should be followed in providing information to people with disability on subjects affecting their health.

## Easy Read

246. 'Easy Read' materials are designed to make information accessible and easy to understand for an audience who may not readily comprehend complex or technical language. Easy Read materials are an important means of providing information in accessible form to people with intellectual disability.
247. Inclusion Australia and its members prepare Easy Read materials for people with intellectual disability. They are designed to be read with support, rather than alone. While there are 'formal' or technical criteria for the preparation of Easy Read,<sup>280</sup> conformity with those rules alone does not make material accessible to people with disability<sup>281</sup>. Ms McAlpine gave evidence that considerable care and expertise is required to convey the information in accessible form. In her opinion, Easy Ready material should be reviewed by people with intellectual disability. Based on these factors, Ms McAlpine gave evidence that the process of preparing Easy Read materials usually takes 'about two weeks'.<sup>282</sup>
248. Ms McAlpine expressed the view that the Australian Government's Easy Read materials on COVID-19 and the vaccination were not user friendly or understandable by people with intellectual disability. Ms Elliffe and Ms McAlpine undertook a supported reading exercise of the AstraZeneca Vaccine on a pre-recorded video that is in evidence before the Royal Commission.<sup>283</sup> Ms McAlpine observed that there was too much unnecessary information and that the material was too complex.<sup>284</sup> The online navigation required to access this information was also too complicated.<sup>285</sup>

---

<sup>280</sup> Exhibit 12-4.1, 'Statement of Catherine McAlpine', 14 May 2021, at [11].

<sup>281</sup> Exhibit 12-4.1, 'Statement of Catherine McAlpine', 14 May 2021, at [12].

<sup>282</sup> Exhibit 12-4.1, 'Statement of Catherine McAlpine', 14 May 2021, at [24].

<sup>283</sup> Exhibit 12-11.1, 'Pre-record of Tara Elliffe and Catherine McAlpine No. 2', 12 May 2021; Exhibit 12-11.3, TRA.3000.0001.0119, pp 7-20.

<sup>284</sup> Exhibit 12-4.1, 'Statement of Catherine McAlpine', 14 May 2021, at [23].

<sup>285</sup> Exhibit 12-4.1, 'Statement of Catherine McAlpine', 14 May 2021, at [22].

249. This illustrates the importance of consultation with people with disability and DROs in designing programs intended to reach people with disability, including people with intellectual disability. Had people with intellectual disability been consulted during the preparation of Easy Read material about COVID-19 and the vaccination program, information would have been conveyed more effectively to them.

### **Finding 12**

The Australian Government Department of Health did not provide information to people with disability in a form that ensured, so far as practicable, that the information would reach and be understood by people with disability, especially people in residential disability settings and people with intellectual disability. The lack of clarity in the flow of information contributed to confusion among people with disability.

## **Vaccine hesitancy and fear**

250. Many of the lived experience witnesses expressed fear and worry, not only about contracting COVID-19, but also about the safety and efficacy of vaccines. The concerns resulted from a lack of information about the risks associated with the different vaccines, including risks associated with interactions with other medications. The rare clotting issue reported with the AstraZeneca vaccine was a significant concern, just as it has become a major concern for the general community.<sup>286</sup>
251. Ms MacNamara was undecided about having the COVID-19 vaccine due to fears about the health risks. When asked whether she had sufficient information to decide whether to have the vaccine, she said:

Yeah. I'm not sure that I want to take it because I'm really scared of taking it as well.

... Because I'm a bit nervous that I might --- could die at a young age and I don't know if I would actually take it or not, so I'm really scared of having it.<sup>287</sup>

---

<sup>286</sup> Exhibit 12-3.1, 'Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan', 12 May 2021; Transcript of pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan, 12 May 2021, IND.0092.0002.0001, PP-6 [34-51], -7 [1-2].

<sup>287</sup> Transcript, Suzannah MacNamara, Public hearing 12, 17 May 2021, P-17 [17-28].

252. While Mr Tucker and Mr Kaplan decided to have the vaccine, they too expressed concern about the risk of blood clots from the vaccine.<sup>288</sup> At the time they gave evidence, they were under 50 years old and Pfizer was the preferred vaccine for them, yet they still had these concerns.<sup>289</sup>
253. Faith, a disability support worker, was hesitant because of the lack of information:
- ... there hasn't been enough information available for me to feel like I'm making an informed decision, so I've kind of put it on hold, I would like to think, perhaps in the future that we get information that makes me feel, oh, okay, safer with making the decision, yes, because ultimately I want to be part of beating this COVID-19 and keeping participants safe, because they are so vulnerable.<sup>290</sup>
254. Ms McAlpine observed that the delay in the rollout contributed to increased fear about the vaccine and to speculation.<sup>291</sup>

## Disability support workers

255. Isobel, a disability support worker, gave evidence of the severe impact of COVID-19 on people with disability in group homes. There was considerable fear and uncertainty, anger, frustration and distress among the residents where she worked. Residents who were non-verbal, sometimes manifested their fears and distress in forms of self-harm. Isobel was initially optimistic that she would receive the vaccine promptly because disability support workers were in Phase 1a. But the vaccine did not arrive, and she received no information when she could expect it. Isobel eventually made her own private arrangements to receive the Pfizer vaccine through the hub operated by the

---

<sup>288</sup> Transcript, Greg Tucker, Public hearing 12, 17 May 2021, PP-17 [46-47] – 18 [1-3]; Transcript of pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan, 12 May 2021, IND.0092.0002.0001, PP-6 [34-42], 7 [35-39].

<sup>289</sup> Department of Health, 'ATAGI statement on AstraZeneca vaccine in response to new vaccine safety concerns', *Coronavirus (COVID-19) health alert*, web page, 8 April 2021.<[www.health.gov.au/sites/default/files/documents/2021/04/COVID-19-vaccine-rollout-update-30-april-2021.pdf](http://www.health.gov.au/sites/default/files/documents/2021/04/COVID-19-vaccine-rollout-update-30-april-2021.pdf)>; Exhibit 12-11.4, DRC.9999.0038.0001, p 5.

<sup>290</sup>Exhibit 12-2.1, 'Pre-record of 'Faith'', 6 May 2021; Exhibit 12-2.2, Transcript of pre-record of 'Faith', TRA.3000.0001.0151, P-3 [5-12].

<sup>291</sup> Transcript, Catherine McAlpine, Public hearing 12, 17 May 2021, PP-22 [46] – 23 [2].

New South Wales Government. When she gave evidence, the vaccine had not yet been delivered to residents at the group home where she worked.<sup>292</sup>

256. Professor Kavanagh noted that vaccine hesitancy among disability support workers could potentially have a significant impact on people with disability. For people living in residential disability settings, their main sources of information are disability support workers, their families and other residents of their homes.<sup>293</sup>
257. Professor Kavanagh's recent research on vaccine hesitancy among disability support workers revealed significant issues of concern.<sup>294</sup> Professor Kavanagh and her co-authors carried out a survey of disability support workers. About half of those surveyed had done residential support work within the previous month. The survey involved 368 disability support workers, a small number of participants compared to the estimated workforce of around 270,000 workers employed by NDIS providers in 2020.<sup>295</sup>
258. Although the small sample size of disability support workers surveyed imposes limitations on the utility of the research, the research suggested that there was a lack of effective communication to disability support workers and a lack of community engagement in messaging. The researchers recommended that:
- ... a strategy to improve uptake of vaccination among [disability support workers] [be] developed urgently. However rather than a strategy that just covers [disability support workers], we recommend that a COVID-19 disability vaccination strategy that is co-designed with the whole sector including people with disability, [disability support workers] and service providers.<sup>296</sup>

---

<sup>292</sup> Exhibit 12-7.1, 'Pre-record of 'Isobel'', 12 May 2021; Exhibit 12-7.2, Transcript of pre-record of 'Isobel', TRA.3000.0001.0107, P-5 [46-49].

<sup>293</sup> Transcript, Professor Anne Kavanagh, Public hearing 12, 17 May 2021, P-53 [14-28].

<sup>294</sup> Exhibit 12-6.1, EXP.0031.0002.0001, p 7; Exhibit 12-12.10, DRC.9999.0045.0001, p 8.

<sup>295</sup> Department of Social Services, NDIS National Workforce Plan: 2021-2025, June 2021, p 8.

<sup>296</sup> Exhibit 12-6.1, EXP.0031.0002.0001, p 11.

## Opportunities for improvements in communications

259. Several witnesses suggested ways to improve the strategies for communicating with people with disability, their families and supporters. Ms McAlpine made the following suggestions:
- Doctors and pharmacies, group home providers and support workers should all receive good quality, plain information that they can share with people with intellectual disability they support.
  - Information should be provided to people with disability in a way that makes sense to them, for instance, TV ads, short online videos and animation.
  - Brochures should be prepared in Easy Read that can be re-read and re-read.
  - Clear information should be provided to families and other supporters which can be shared by peer support and advocacy networks, as well as by social media.
  - When there is insufficient time to compile fully developed Easy Read resources, essential messages should be provided in plain English and shared widely.
260. Mr Moody of NDS proposed that the vaccine rollout should be accompanied by comprehensive and accessible community education programs. These should be targeted at service providers, disability support workers, people with disability, carers and family members, as well as to suppliers and contractors. The programs should be developed in consultation with NDS and other industry partners and peak bodies.<sup>297</sup>
261. Several lived experience witnesses also explained that they preferred to receive information about the vaccine rollout from health professionals and services with whom they have exiting relationships:
- Mr Tucker and Mr Kaplan gave evidence that they wanted to receive information from doctors and health professionals.<sup>298</sup>

---

<sup>297</sup> Transcript, David Moody, Public hearing 12, 17 May 2021, P-33 [20-34].

<sup>298</sup> Exhibit 12-3.1, 'Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan', 12 May 2021; Transcript, Uli Kaplan, Public hearing 12, 17 May 2021, P-16 [14-17]; Transcript, Uli Kaplan, Public hearing 12, 17 May 2021, P-16 [14-15], [21].

- Ms Elliffe said that the most helpful person to assist her to know whether the vaccine was safe was her 'doctor and the health clinics'.<sup>299</sup>
- Ms Sappl recommended that cystic fibrosis clinics at hospitals should be given information on the vaccine rollout strategy as they can share it with their patients.<sup>300</sup>

### **Finding 13**

At the time of Public hearing 12, many people with disability including people in residential disability accommodation, and disability support workers were fearful and anxious about contracting COVID-19. The lack of clarity in communicating with the disability sector about the rollout also created uncertainty and confusion among many people with disability and disability support workers. While there were numerous factors leading to vaccine hesitancy in mid-2021, the uncertainty and confusion may have contributed to vaccine hesitancy among some people with disability, including people at greatest risk of serious consequences from COVID-19, and among some disability support workers.

### **Finding 14**

The lack of transparency and the failure of the Australian Government to provide clear and easily comprehensible information about the rollout of vaccines to people with disability damaged the credibility and perceived trustworthiness of the Australian Government among many people with disability.

---

<sup>299</sup> Exhibit 12-11.2, 'Pre-record of Tara Elliffe and Catherine McAlpine No. 2', 12 May 2021,; Exhibit 12-11.3, Transcript of pre-record of Tara Elliffe and Catherine McAlpine no.1 and 2, TRA.3000.0001.0119, P-21 [48-49], P-22[1].

<sup>300</sup> Exhibit 12-8.1, 'Pre-record of Pia Sappl', 12 May 2021; Exhibit 12-8.2, Transcript of pre-record of Pia Sappl, 12 May 2021, TRA.3000.0001.0114, P-4 [35-38].

## The ongoing rollout

262. The Australian Government's Submissions refer to the significant logistical complexities for the delivery of vaccines through an in-reach model for people with disability living in residential settings.<sup>301</sup> The Australian Government submits that 'The in-reach program must necessarily occur in parallel with the roll-out through other means, such as high volume vaccinations through state and territory run hubs and the existing widespread infrastructure available through GP clinics.'<sup>302</sup> We understand this to be an acknowledgement that delivery models alternative to in-reach services are needed to ensure the successful rollout of vaccines to people with disability living in residential settings. In-reach services alone will not suffice.
263. The Australian Government's COVID-19 Vaccine Roll-out Strategy assumed that the in-reach model would be capable of rolling out the vaccine to disability residential settings.<sup>303</sup> The Australian Government diverted the in-reach service providers to aged care ahead of disability settings in the first week of March. The consequence of that decision was that (apart from the 'trial' rollout discussed earlier) there was no material progress in the rollout of the vaccine to people with disability living in residential settings for a considerable period.
264. This left a gap in the rollout. While the in-reach program was underway for aged care residents, vaccination hubs were operating for particular groups under Phase 1a, notably health workers and quarantine staff.<sup>304</sup> As the decision to divert in-reach resources away from disability settings was not public, people with disability living in residential settings, their supporters and service providers, would not have realised that there may have been alternative means of obtaining vaccines.
265. This was the position during the exclusive period of Phase 1a, that is, at least until 22 March 2021. Phase 1b commenced on 22 March 2021. Once Phase 1b opened, some people with disability and some disability support workers attempted to access

---

<sup>301</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [8].

<sup>302</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [9].

<sup>303</sup> Exhibit 12-4.2, DRC.9999.0045.0001, p 2; Exhibit 12-12.3, DRC.9999.0035.0376.

<sup>304</sup> Exhibit 12-12.3, DRC.9999.0036.0001, p 2.

vaccination via GP clinics (in view of concerns beginning to emerge about what was happening with the in-reach services). Some people with disability and support workers were turned away by GP clinics on the basis that they were covered by Phase 1a and not Phase 1b.<sup>305</sup>

266. There continued to be no official advice that the in-reach services to disability residents had been delayed. There was still no coordinated push for people with disability and support workers to access the vaccine via the GP network under Phase 1b or in any other way. No other vaccination pathways for people with disability living in residential settings had been devised at that time.<sup>306</sup>

267. Ms Edwards' evidence indicated that DOH had been intending to plan a 'further rollout ... later in the year'<sup>307</sup> via in-reach to disability residential settings. It appears that 'until 8 April 2021 [the Astra Zeneca vaccine] was looking to be [DOH's] preferred mode of in-reach into disability facilities'<sup>308</sup> rather than the Pfizer vaccine, but this was put aside once ATAGI provided its updated advice. The Australian Government rightly accepted that the vaccine rollout to people with disability 'must necessarily occur in parallel with the rollout through other means.'<sup>309</sup>

268. The Australian Government submits that there are now five different channels for people with disability to access a vaccine, including the original 'in-reach' program, disability specific hubs, State and Territory operated clinics, primary care sites, and GP in-reach.<sup>310</sup>

---

<sup>305</sup> Exhibit 12-5.1, 'Statement of David Moody', 11 May 2021, at [33]; Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [23].

<sup>306</sup> Advice about the different settings in which people with disability and disability support workers could receive vaccinations was provided to the Advisory Committee on 7 April. At that meeting, DOH agreed to provide 'clearer, accessible communications on: where and how people with disability, disability support workers and allied health professionals can access the vaccine, including in-reach options where applicable.' Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability, 'Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability – 7 April 2021 Key Outcomes', communique, 7 April 2021.

<sup>307</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, P-76 [27].

<sup>308</sup> Transcript, Caroline Edwards, Public hearing 12, 17 May 2021, PP-80-81.

<sup>309</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [9].

<sup>310</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [122].

269. The Royal Commission welcomes the expansion of the vaccine rollout to people with disability and disability support workers from the initial standalone in-reach program to a program that allows greater flexibility, choice and control to those people seeking their COVID-19 vaccine.

## Data collection

270. As noted in Parts 4 and 5 of this Report, DOH continues to publish daily updates about the number of vaccine doses delivered through the Australian Government's vaccination program.<sup>311</sup> In every update up to 6 September 2021, DOH published the number of 'Commonwealth vaccine doses in aged and disability facilities' (or similarly described settings) as a combined figure.<sup>312</sup> DOH's weekly updates do not disaggregate the number of vaccine doses given to either cohort as a separate figure.

271. In the Public hearing 5 Report, the Royal Commission discussed the importance of disaggregated data collection, both within the context of Australia's obligations under the CRPD and more generally as a measure to understand the risks of COVID-19 to people with disability.<sup>313</sup> The collection and publication of disaggregated data is an important mechanism to ensure transparency and accountability of a public health campaign such as the rollout of COVID-19 vaccines.

272. The Public hearing 5 Report found that DOH's failure to collect and publish statistics about the rates of COVID-19 infection and death amongst people with disability was inconsistent with Australia's obligations under article 31 of the CRPD.<sup>314</sup> It made the following recommendation:

14. The Australian Government should immediately introduce measures to ensure that it complies with its obligations under article 31 of the United Nations Convention on the Rights of Persons with Disabilities. For this purpose:

---

<sup>311</sup> See Report, at [91].

<sup>312</sup> See Report, at [91], [131-132].

<sup>313</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic*, November 2020, pp 86-91.

<sup>314</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic*, November 2020, p 92 [160.4].

14.1 The Australian Government should ensure that the proposed COVID-19 registry disaggregates data by disability status and by reference to people in 'residential disability care facilities'.

14.2 The Australian Government Department of Health should publish statistics at least weekly on the number of confirmed active COVID-19 cases, deaths and recovered cases in Australia for each state and territory for people living in 'residential disability care facilities'.

14.3 The Australian Government Department of Health in co-ordination with the NDIS Quality and Safeguards Commission should publish statistics at least weekly on the number of confirmed active COVID-19 cases, deaths and recovered cases among National Disability Insurance Scheme participants in Australia and in each state and territory.

273. In its response to the Public hearing 5 Report, the Australian Government supported this recommendation and recorded that:

To improve the ability of governments to identify the number of people with a disability testing positive to COVID-19, the Department of Health is working with other Commonwealth agencies and state and territory governments to be able to identify people with a disability in the COVID-19 statistics, and to identify those in residential disability care facilities.<sup>315</sup>

274. Notwithstanding the Australian Government's support of Recommendation 14, DOH did not publish disaggregated statistics about the number of people with disability who have been vaccinated in Phase 1a until 6 September 2021, almost six months after the vaccine rollout began.<sup>316</sup> The recently published data is still limited because it only refers to 'NDIS participants living in shared accommodation'. This group is defined to mean 'two or more people with disability living in share residential accommodation and

---

<sup>315</sup> Australian Government, Australian Government response to Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Public Hearing Report - Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic, 27 April 2021, DRC.9999.0035.0131, p 9.

<sup>316</sup> 'COVID-19 Vaccination Roll-out – 6 September 2021', *Australian Government Operation COVID Shield*, web page, 6 September 2021, p 10. <[www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccine-rollout-update-6-september-2021.pdf](https://www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccine-rollout-update-6-september-2021.pdf)>. This shows the number of 'NDIS participants living in shared accommodation' as at 2 September 2021.

NDIS participants living in Aged Care accommodation as per the eligibility criteria of Phase 1a'.<sup>317</sup>

275. The statistics do not include people with disability who are not NDIS participants who were eligible for vaccination under Phase 1a. But the data does include NDIS participants who live in aged care accommodation (and so were unaffected by DOH's decision to divert in-reach resources to aged care). Disaggregated statistics showing the number of 'NDIS screened workers' who had received at least one dose or have been fully vaccinated were first published by DOH on 7 September 2021.<sup>318</sup>
276. As noted in Part 5, the Australian Government's Submissions record that as of midnight on 18 August 2021, of the 27,293 NDIS participants aged 16 and over living in a 'residential setting (disability and aged care)', 67 per cent had received at least one dose of the vaccine.<sup>319</sup> However, this figure still does not distinguish between people who live in aged care settings (who were prioritised under the roll out) from people who live in disability residential settings. It is also based only on NDIS participants, despite this being a minority of people with disability in Australia.

## Finding 15

From the commencement of the rollout in March 2021 until 6 September 2021, the Australian Government Department of Health did not publish data recording the number of doses of vaccine administered to people living in residential disability accommodation or to NDIS participants.

---

<sup>317</sup> Australian Government, *COVID-19 Vaccination Roll-out*, 6 September 2021, p 10. <[www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccine-rollout-update-6-september-2021.pdf](http://www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccine-rollout-update-6-september-2021.pdf)>.

<sup>318</sup> Australian Government, *COVID-19 Vaccination Roll-out*, 7 September 2021, p 11. <[www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccine-rollout-update-7-september-2021.pdf](http://www.health.gov.au/sites/default/files/documents/2021/09/covid-19-vaccine-rollout-update-7-september-2021.pdf)>.

<sup>319</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [11].

## Overall assessment

### Finding 16

The Australian Government did not conduct the vaccine rollout in accordance with the COVID-19 Vaccine Roll-out Strategy released on 7 January 2021. As of the date of the hearing (17 May 2021), the Australian Government had not met the objectives stated in the Strategy for the Priority Disability Group.

277. Counsel Assisting invited the Commissioners to find that the framing of the Strategy and the rollout of vaccines to people with disability had been an ‘abject failure’. We acknowledge that DOH confronted significant challenges in framing the COVID-19 Vaccine Roll-out Strategy and conducting the rollout. Nonetheless, the evidence establishes that DOH failed to meet those challenges in important respects. We prefer to describe DOH’s framing of the Strategy and the conduct of the rollout as seriously deficient.

### Finding 17

The Royal Commission acknowledges that the rollout of the vaccine to the Priority Disability Group presented significant logistical challenges. We also acknowledge that the Australian Government Department of Health was entitled to take into account that people in aged care residential accommodation, as a group, were at risk of serious consequences if they contracted COVID-19. However, even allowing for these matters, we consider that the framing of the COVID-19 Vaccine Roll-out Strategy and the conduct of the rollout by the Department were seriously deficient for the following reasons:

- The Strategy was framed without adequate consultation with the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability or Disability Representative Organisations.
- The Strategy was framed without the Australian Government Department of Health appreciating the challenges with administering the vaccine to the Priority Disability Group.
- The critical first four weeks of the rollout was a lost opportunity to make progress with the vaccination of the Priority Disability Group.

- At no stage did the Australian Government Department of Health consider identifying people within the Priority Disability Group most at risk of serious consequences from contracting COVID-19 or formulating a plan to reach these people and offer the vaccines.
- The Australian Government Department of Health failed to make public the decision to deprioritise the vaccination of people in residential disability accommodation or to inform the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability or Disability Representative Organisations of the decision.
- People within the Priority Disability Group did not know of the decision to deprioritise the vaccination of people in residential disability accommodation for a period of six weeks. During that time they proceeded on the misapprehension that the Strategy would be implemented according to its terms until Ms Edwards gave evidence to the Senate Select Standing Committee on COVID-19 on 20 April 2021.
- The failure to communicate was a serious departure from the transparency reasonably to be expected of the Australian Government on issues of public health.
- The failures in framing and implementing the Strategy contributed to confusion and uncertainty among people in the Priority Disability Group and people with disability generally.

# Part 7: Where to from here?

## Developments post-17 May 2021

278. Events have moved very quickly since the hearing on 17 May 2021. The major developments since that date are set out in Part 5 of this Report.
279. The most significant development has been the emergence and rapid spread through communities of the Delta strain of the virus. The Delta strain has proved much more contagious than the Alpha strain which emerged during the first phase of the pandemic. Since the Delta strain is more difficult to keep under control even with strict lock-down measures in place, people who are not fully vaccinated, especially those who have not received even one dose, are at greater risk of contracting the virus. While some otherwise healthy people may become seriously ill if they contract the Delta strain, many people with disability are particularly at risk of serious consequences if they contract the virus.
280. A concerted effort is now underway by all governments in Australia to vaccinate the entire Australia population aged twelve and over (although children aged between twelve and sixteen have only recently become eligible to receive vaccines). As the vaccination program proceeds and a higher proportion of the population receives one or both doses of the vaccine, announcements are being made about the link between the success of the program and the easing of restrictions that have been in place to curb the spread of the Delta strain.
281. On 2 July 2021, National Cabinet announced the *National Plan to transition Australia's National COVID-19 Response*.<sup>320</sup> The National Plan provided that Australia would move between four phases of decreasing levels of public health restrictions 'triggered by the achievement of vaccination thresholds expressed as a percentage of eligible population'. The National Plan was updated on 30 July 2021 to include specific percentage thresholds. The 'Vaccination Transition Phase' (the second of four phases) is to begin when 70 per cent of the population is fully vaccinated and contemplates that

---

<sup>320</sup> See Report, at [107].

restrictions in place during the 'Current Phase' will be eased, particularly for fully vaccinated people.

282. Since July 2021 some Australian jurisdictions have announced more specific plans for releasing of restrictions. For example, New South Wales' 'Roadmap to freedom for the fully vaccinated', indicates that fully vaccinated people will have many restrictions on movements and gatherings lifted as from the Monday after the state passes the 70 per cent double vaccinated target.<sup>321</sup> Victoria has stated that some restrictions will be lifted when 80 per cent of Victorians aged 16 and over receive at least one dose of the vaccine, and there will be more significant lifting of restrictions once the state reaches the threshold of 70 per cent and 80 per cent of people double dose vaccinated.<sup>322</sup> It is important to note, as explained earlier, that the updated National Plan incorporated a dual test: the threshold must be met both nationally and in the particular jurisdiction.<sup>323</sup>
283. Following these announcements, disability advocates expressed concerns that if the states and territories 'open up' too quickly, people with disability at particular risk of serious consequences from COVID-19 will be exposed to the virus. They point out epidemiologists accept that even fully vaccinated people can spread the virus.<sup>324</sup>

## Access to vaccines

284. The first three recommendations proposed by Counsel Assisting address access to vaccines by people with disability and disability support workers. They are:
1. The Australian Government should prioritise access to the vaccination for people with disability living in residential settings through a coordinated response, in consultation with people with disability, their representative organisations, peak bodies, the NDIA and disability support workers.
  2. The Australian Government should prioritise access to the vaccination for all disability support workers working in residential and other settings through a coordinated

---

<sup>321</sup> New South Wales Premier and Deputy Premier, *Roadmap to freedom unveiled for the fully vaccinated*, media release, 9 September 2021.

<sup>322</sup> 'Victoria's Roadmap: Delivering the National Plan', *Coronavirus vic.gov.au*, web page, last updated 20 September 2021. <[www.coronavirus.vic.gov.au/node/18728/](http://www.coronavirus.vic.gov.au/node/18728/)>.

<sup>323</sup> See Report, at [131].

<sup>324</sup> See Report, at [132-134].

response in consultation with people with disability, their representative organisations, peak bodies, the NDIA and disability support workers.

3. The Australian Government should include all people with intellectual disability in the vaccine rollout in Phases 1a and 1b, and provide urgent access to COVID-19 vaccinations, with appropriate support and communications and ensure information is provided through formal supports.<sup>325</sup>

285. The Australian Government supported proposed recommendations 1 and 2 but noted that much work consistent with these recommendations had already been undertaken or had progressed since the hearing on 17 May 2021.

286. The Australian Government supported Recommendation 3, but suggested the following reformulation:

287. The Australian Government should ensure all people with intellectual disability at increased risk are eligible for a COVID-19 vaccine, as well as support access to vaccination settings through appropriate communications, so that those individuals are able to obtain the necessary information to enable this access.<sup>326</sup>

288. We make the following Recommendations on access to vaccines for people with disability and disability support workers:

### **Recommendation 1**

The Australian Government should continue to prioritise access to vaccination for people with disability in residential settings through a strategy developed in consultation and co-ordination with: people with disability; Disability Representative Organisations; peak advisory bodies; the National Disability Insurance Agency; the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability; and representatives of disability support workers. The objective should be to ensure that all people with disability – but particularly all NDIS participants, people living in residential disability settings and all people with intellectual disability – have a genuine

---

<sup>325</sup> Submission of Counsel Assisting, Public hearing 12, 12 July 2021, SUBM.9999.0035.0361, at [175].

<sup>326</sup> Submission of the Australian Government, Public hearing 12, 20 August 2021, SUBM.9999.0035.0131, at [116].

opportunity to be fully vaccinated before the 70 per cent threshold is reached for significantly easing restrictions in any state or territory.

## Recommendation 2

The Australian Government should continue to prioritise access to vaccination for COVID-19 for all disability support workers working in residential and other settings through a strategy developed in consultation and co-ordination with: people with disability; Disability Representative Organisations; peak advisory bodies; the National Disability Insurance Agency; the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability; and representatives of disability support workers. The objective should be to ensure that all such disability support workers are fully vaccinated before the 70 per cent threshold is reached in a particular state or territory.

289. The Australian Government's amendment to Counsel Assisting's proposed Recommendation 3 incorporates the expression 'all people with intellectual disability **at increased risk**'. In our view a qualification in those terms would be difficult to apply and in any event is not appropriate. The Australian Government should ensure the eligibility of all people with intellectual disability and provide them with appropriate supports.
290. On 17 September 2021, New South Wales' Deputy Health Officer, Dr Marianne Gale, announced:
- A woman in her twenties died at Gosford Hospital [from COVID-19]. She was not vaccinated and was a resident of [a] group home ... which is where she acquired her infection.<sup>327</sup>
291. The circumstances of this tragic death are not clear, and some reports suggest that the person actually lived by herself but received disability support in her home.<sup>328</sup> If, however, she was unvaccinated otherwise than by choice, her death illustrates the

---

<sup>327</sup> NSW Health, 'COVID-19 Update 17 Sep 2021.mp4', Vimeo, 17 September 2021, 0:07:36-0:07:50.

<sup>328</sup> Catie McLeod, 'Advocates 'terrified' one group will be left behind when NSW reopens', *news.com.au*, 18 September 2021.

potential danger to people with high support needs if restrictions are eased before those people have a genuine opportunity to be fully vaccinated.

292. On 21 September 2021, the Senate Select Committee on COVID-19 heard evidence from Dr Greg Kelly, a paediatrician and ICU specialist. Dr Kelly's evidence included this passage:

... I will explain why a figure of 'only' two per cent of children, on average, going to hospital and one in a few thousand dying [as a result of COVID-19] is a problem.

The first important thing to understand is that risk is not even. So, for a child who's, say, nine and otherwise completely healthy, the risk of death may be one in many, many thousand, but we know that some relatively common conditions can put a child at greatly increased risk. For example there is some emerging data that Down syndrome can increase the risk of dying from COVID by a factor of 10, or even 30 in some publications. So that risk of one in a thousand suddenly becomes one in a few hundred, which becomes really important.<sup>329</sup>

### **Recommendation 3**

The Australian Government should ensure all people with intellectual disability are eligible for a COVID-19 vaccine and support them gaining urgent access to the vaccine in all settings. The Australian Government should also ensure that appropriate supports are provided to enable people with intellectual disability to understand information about the vaccine, make informed decisions about the vaccine and plan to access the vaccine through a range of informal and formal supports.

## **Easing of restrictions**

293. We accept that all Australian Governments are currently making strenuous efforts, within the limits of resources and vaccine availability, to offer the vaccines to everyone in the community aged sixteen and over (children aged twelve to fifteen have also

---

<sup>329</sup> Transcript, Dr Greg Kelly, Commonwealth Parliament, Senate Select Committee on COVID-19, Canberra, 21 September 2021, p 19.

recently become eligible to be vaccinated). These efforts include endeavouring to offer people within the Disability Priority Group the opportunity to be vaccinated.

294. It is unclear whether the vaccination strategy will give all people with disability, particularly those in disability residential accommodation or living alone (with or without support), the opportunity to be fully vaccinated before the vaccination target of 70 per cent is reached. Some Australian jurisdictions are well on the way to the threshold of 70 per cent fully vaccinated and are likely to reach the threshold earlier than other states and territories. This means that a particular state may reach the 70 per cent threshold some time before Australia as a whole reaches that threshold.
295. In our view, it would be grossly unfair, indeed unconscionable, if any people with disability who have not been given the opportunity to be fully vaccinated by the time the 70 per cent threshold is reached are denied the freedoms available to people who have been fully vaccinated.
296. The unfairness is magnified once it is accepted – as it must be – that increased freedoms for the fully vaccinated increase the risk of contracting COVID-19 for people who are not fully vaccinated. It is one thing for people who choose not to be vaccinated to be denied these freedoms; it is quite another for people who have been denied the opportunity to be fully vaccinated also to be denied those freedoms.
297. It is also unacceptable for people who have not had a genuine opportunity to be vaccinated to be exposed to an increased risk of contracting COVID-19. This is particularly so in the case of people with disability who are at risk of serious consequences if they contract the virus, such as people in disability residential settings.
298. We are not in a position to make a recommendation to states that they should not significantly ease restrictions by moving to Phase B of the National Plan unless and until the dual test adopted in the National Plan is satisfied. However, this is a matter that the Australian Government should consider in its approach to Recommendation 4 below.

#### **Recommendation 4**

The Australian Government should use its best endeavours to ensure that no state or territory significantly eases restrictions when the threshold of 70 per cent of the population 16 years of age and older being fully vaccinated is met

(however the threshold requirement is interpreted), unless and until the Government is satisfied that:

- all people with disability, particularly NDIS participants, people living in residential disability accommodation and people with intellectual disability have, and appreciate that they have, the opportunity to be fully vaccinated; and
- all active disability support workers have been fully vaccinated.

## Consultations

299. Counsel Assisting's Submissions proposed a recommendation that the Australian Government should prioritise consultations with people with disability, DROs and others to co-design a vaccination strategy and produce Easy Read materials. The Australian Government supported the proposed recommendation in principle but suggested amendments to take account of developments in the rollout since 17 May 2021. Recommendation 5 adopts the Australian Government's formulation with minor amendments.

### Recommendation 5

The Australian Government should prioritise consultations with people with disability (including people with intellectual disability), Disability Representative Organisations, peak advocacy bodies and the Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability to ensure that:

- current pathways for vaccination are appropriate for all people with disability and disability support workers, including the pathways for people living in residential disability settings; and
- appropriate Easy Read materials are produced in time to assist to people with intellectual disability.

## Language and communications

300. The Australian Government supported recommendations proposed by Counsel Assisting about the use of appropriate language and the need for clear and accessible information. We therefore adopt the proposed recommendations subject to minor changes in the language.

### Recommendation 6

The Australian Government should review the language it uses in all publications to describe or refer to people with disability and their circumstances. The Australian Government should consult widely to ensure that the language is appropriate and is used consistently across all its departments and agencies.

## Recommendation 7

The Australian Government should prioritise clear and accessible communications for people with disability and the disability sector generally concerning the vaccine rollout and the importance of vaccination for people with disability by:

- improving access to Easy Read materials provided through formal support networks such as doctors and disability support workers;
- developing targeted communication strategies for people with intellectual disability, their families and supporters through advertisements, printed information and on social media;
- conducting public education campaigns on social media and other platforms including dedicated campaigns directed to people with disability, their families and supports and disability support workers;
- improving messaging on the importance of getting a vaccination targeted to disability support workers; and
- considering introducing Disability Vaccine Champions to promote the virtues of vaccination against COVID-19 (unless it has already done so).

## Further inquiries

### Data

301. We have referred to the deficiencies in the collection and publication of data relating to the number of people with disability who have been vaccinated. The evidence also addressed gaps in data concerning the disability support workforce. Counsel Assisting's Submissions proposed that the Australian Government should establish a national registration body to compile data on the number of disability support workers in the workforce.
302. The Australian Government supported improvement of data collection and tracking of disability support workers to enhance policy and operational responses to support the workforce. However, the Australian Government did not support Counsel Assisting's proposal on the ground that current platforms are being enhanced and the improvements will provide a foundation for a more comprehensive review of workforce

data. In particular, the Australian Government contends that significant enhancements to the myGov platform and other digital reforms are preferable to establishing a new national registration body.

303. Counsel Assisting and the Australian Government share a common objective. However, we are not able to evaluate the competing merits of a new national registration body and enhancements to existing platforms to achieve that objective. Therefore, we propose to investigate further whether the Royal Commission should recommend the establishment of a national registration body to compile data on disability support workers.

## Follow up

304. As Australian states and territories come closer to the announced goal of easing restrictions, it is essential to ensure that people with disability have not been left behind or exposed to risks due to delays or complication in the rollout of the vaccine. Accordingly, the Royal Commission will review progress of the vaccine rollout for people with disability and for disability support workers. This may take the form of a one day hearing in November 2021. Depending on the feasibility of conducting a further hearing, the review may be conducted by way of a roundtable.

# Appendices

## Appendix A: Parties with leave to appear and legal representatives

Party	Legal representatives
Australian Government	Counsel – Ms Kylie Downes QC and Mr Benjamin Deighton Gilbert + Tobin – Mr Andrew Floro
State of New South Wales	Counsel – Ms Gail Furness SC Crown Solicitor’s Office – Ms Kathleen Hainsworth
State of Victoria	Minter Ellison – Mr Scott Chesterman

## Appendix B: Acronyms and abbreviations

Acronym/Abbreviation	Definition
ACOSS	Australian Council of Social Service
Advisory Committee	The Advisory Committee on Health Emergency Response to Coronavirus (COVID-19) for People with Disability
ATAGI	Australian Technical Advisory Group on Immunisation
CDNA	Communicable Disease Network of Australia
CEO	Chief Executive Officer
Chair	The Honourable Ronald Sackville AO QC
CRPD	Convention on the Rights of Persons with Disabilities
Commissioners	The Honourable Ronald Sackville AO QC, the Honourable Roslyn Atkinson AO, Ms Barbara Bennett PSM, Dr Rhonda Galbally AC
Disability care residents	Language occasionally used in Australian Government documents to describe people with disability living in residential settings
Disability residential settings	Residential settings in which people with disability live
DOH	Australian Government Department of Health
DSS	Australian Government Department of Social Services
DRO	Disability Representative Organisation
GP	General Practitioner
Implementation Plan	Disability Sector Vaccine Implementation Plan
In-reach	The delivery by vaccination providers of COVID-19 vaccines to people at their location. For people with disability living in residential disability settings, it is the delivery of the vaccine by the providers to their disability residential setting.
National Plan	National Plan to transition Australia's National COVID Response
NDIA	National Disability Insurance Agency

Acronym/Abbreviation	Definition
NDIS	National Disability Insurance Scheme
NDS	National Disability Services
Preliminary Advice	Preliminary advice on general principles to guide the prioritisation of target populations in a COVID-19 vaccination program in Australia published by ATAGI
Priority Disability Group	Those people with disability and disability support workers eligible for vaccination under Phases 1a and 1b of Australia's COVID-19 vaccine national rollout strategy released on 7 January 2021
Public hearing 5 Report	Report on Public hearing 5: Experiences of people with disability during the ongoing COVID-19 pandemic
Residential Care Facilities Guidelines	<i>CDNA national guidelines for the prevention, control and public health management of COVID-19 outbreaks in residential care facilities in Australia</i>
Royal Commission	Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
Strategy	Australia's COVID-19 vaccine national rollout strategy, released on 7 January 2021
TGA	Therapeutic Goods Administration
VALID	Victorian Advocacy League for Individuals with Disability
Vaccine Taskforce	DOH COVID-19 Vaccine Taskforce
Working Group	ATAGI COVID-19 Working Group convened by ATAGI in September 2020

# Appendix C: Lived experience witnesses

## Clifford Stephens

1. Mr Stephens participated in pre-recorded evidence with his son Christian.<sup>330</sup> Christian has an acquired physical disability and lives in a four unit, disability residential setting in Victoria. He is in Phase 1a of the vaccine rollout and has decided to have the Pfizer vaccination.
2. In his evidence, Mr Stephens discussed the lack of information provided by the Australian and state governments to him and Christian about the process for Christian to receive the vaccine. He said:

But basically we have been sort of left on our own. There's been no information except for the 1A priority from the Federal Government, there's been absolutely nothing from the State Government and there's been nothing from the service provider. So we've basically said, well, we better get on with it and do it ourselves.<sup>331</sup>

3. While he was able to secure a vaccination booking for Christian, Mr Stephens expressed concern for other 'people with disability who don't have family support and sometimes they can't even give consent'. He added 'people with disability have been left to their own devices and very often they don't have any devices.'<sup>332</sup>

## Faith (a pseudonym)

4. Faith, a disability support worker, gave evidence about being unable to make an informed decision as to whether to be vaccinated due to insufficient information about the vaccines and their risks.<sup>333</sup> She said that she felt 'unsafe with the information

---

<sup>330</sup> Exhibit 12-1.1, 'Pre-record of Clifford Stephens', 6 May 2021.

<sup>331</sup> Exhibit 12-1.1, 'Pre-record of Clifford Stephens', 6 May 2021; Exhibit 12-1.1, Transcript of pre-record of Clifford Stephens, 6 May 2021, TRA.3000.0001.0101, P-4 [6-10].

<sup>332</sup> Exhibit 12-1.1, 'Pre-record of Clifford Stephens', 6 May 2021; Exhibit 12-1.1, Transcript of pre-record of Clifford Stephens, 6 May 2021, TRA.3000.0001.0101, P-4 [36-39].

<sup>333</sup> Exhibit 12-2.1, 'Pre-record of 'Faith'', 6 May 2021.

provided' to her and that she wanted to understand the risks and effects of taking the vaccine to make an informed decision about whether to have it.<sup>334</sup>

5. Faith also read a letter from her family member who has a disability and who contracted COVID-19 in 2020. In the letter, the family member discussed their fears when they contracted COVID-19 and their desire to have more information to decide whether to have the vaccine.<sup>335</sup>

## Suzannah MacNamara, Greg Tucker, Anthony Reid and Uli Kaplan

6. Ms MacNamara, Mr Tucker, Mr Reid and Mr Kaplan are self-advocates who gave pre-recorded evidence together. Ms MacNamara, Mr Reid and Mr Kaplan live in group homes in Victoria. Mr Tucker lives with his family in Victoria.
7. The self-advocates gave evidence about the information they had received about the vaccines. They had mostly heard about it on the news on the television, as well as on the radio and over the internet.<sup>336</sup> Although Mr Kaplan observed that this information could be confusing. He said:

Yeah, I --- I heard it from the news and I --- you know, I hear three or four different stories per day; depends what's going on and it's just --- there's 45 a lot of opinions and it's not just facts and information and --- because I have a disability, I like things to be simple and stuff, so it would have been better if it was, 'Is it safe?', 'Is it not?', but, yeah, I heard it from the news.<sup>337</sup>

---

<sup>334</sup> Exhibit 12-2.1, 'Pre-record of 'Faith'', 6 May 2021; Exhibit 12.2.2, Transcript of pre-record of 'Faith', 6 May 2021, TRA.3000.0001.0151, P-3 [18-35].

<sup>335</sup> Exhibit 12-2.1, 'Pre-record of 'Faith'', 6 May 2021; Exhibit 12.2.2, Transcript of pre-record of 'Faith', 6 May 2021, TRA.3000.0001.0151, P-3 [51], P-4.

<sup>336</sup> Exhibit 12-3.1, 'Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan', 13 May 2021; Exhibit 12-3.2, Transcript of Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan, 12 May 2021, IND.0092.0002.0001, PP-4-5.

<sup>337</sup> Exhibit 12-3.1, 'Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan', 13 May 2021; Exhibit 12-3.2, Transcript of Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan, 12 May 2021, IND.0092.0002.0001, P-4 [40-47].

8. It was his and Mr Tucker's preference to hear about the vaccine and any associated risks from doctors and health professionals.<sup>338</sup>
9. At the time of giving their evidence, Mr Reid, Mr Kaplan and Mr Tucker had some concerns about the vaccine, in particular the risk of blood clots, but had decided to have the vaccine.<sup>339</sup> Ms MacNamara was still deciding whether to be vaccinated.<sup>340</sup>

## Pia Sappl

10. Ms Sappl has cystic fibrosis and is the founder and coordinator of a community group called Australian CF Hub, which is an online community group for adults with cystic fibrosis in Australia.
11. In her pre-recorded evidence, Ms Sappl shared her understanding that there is a very strong desire to be vaccinated in the community of people with cystic fibrosis. She also spoke about how she too would like the vaccine, however, has received inadequate information on how and when she will be able to receive it.<sup>341</sup>

## Isobel

12. Isobel is a disability support worker who works in a group home of four residents. She discussed the significant impact COVID-19 had on her work with residents and how the virus has made her work environment challenging.<sup>342</sup>
13. Isobel also spoke about her frustration about the lack of information she received to arrange to have the vaccine. She had spent hours attempting to obtain information from various sources about accessing the vaccine, including Health Direct, doctors and

---

<sup>338</sup> Exhibit 12-3.1, 'Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan', 13 May 2021; Exhibit 12-3.2, Transcript of Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan, 12 May 2021, IND.0092.0002.0001, P-6 [12-14].

<sup>339</sup> Exhibit 12-3.1, 'Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan', 13 May 2021; Exhibit 12-3.2, Transcript of Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan, 12 May 2021, IND.0092.0002.0001, P-6 [22], [34-42], P-7 [35-40],

<sup>340</sup> Exhibit 12-3.1, 'Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan', 13 May 2021; Exhibit 12-3.2, Transcript of Pre-record of Greg Tucker, Suzannah MacNamara, Anthony Reid, Uli Kaplan, 12 May 2021, IND.0092.0002.0001, P-7.

<sup>341</sup> Exhibit 12-8.1, 'Pre-record of Pia Sappl', 12 May 2021.

<sup>342</sup> Exhibit 12-7.1, 'Pre-record of 'Isobel'', 12 May 2021; Transcript of pre-record of 'Isobel', 12 May 2021, TRA.3000.0001.0107, P-6 [36-40].

her local Member of Parliament, but was unsuccessful in getting answers.<sup>343</sup>

Ultimately, she arranged to have the Pfizer vaccine independently.

14. As a disability support worker, Isobel outlined the planning and preparation that would need to take place at her group home for residents to be vaccinated. She said:
15. [S]o we'd need to make sure that they were either at a programme or had been rescheduled, they were going to be at home at the right place, at the right time, and also because they follow routines and can be upset if those routines are broken, we would need to make sure that we did as much prep time beforehand to make sure it was a calm environment before that happens.<sup>344</sup>
16. At the time of giving her evidence, she was unaware of any plans to vaccinate the residents at her group home.<sup>345</sup>

## Tara Elliffe and Catherine McAlpine

17. Ms Elliffe is a woman with Down syndrome who has worked with Inclusion Australia to deliver webinars that provide information on the COVID-19 vaccine. Ms McAlpine is the CEO of Inclusion Australia.
18. Ms Elliffe and Ms McAlpine gave evidence together, which had been prepared in two videos.
19. In the first video, Ms Elliffe told the Royal Commission about her experience having the Pfizer vaccine in Sydney. She said 'it didn't hurt a bit'.<sup>346</sup> She recommended that although some people can be scared of a needle, 'I just wanted to tell them to make

---

<sup>343</sup> Exhibit 12-7.1, 'Pre-record of 'Isobel'', 12 May 2021; Transcript of pre-record of 'Isobel', 12 May 2021, TRA.3000.0001.0107, P-5 [11-25].

<sup>344</sup> Exhibit 12-7.1, 'Pre-record of 'Isobel'', 12 May 2021; Transcript of pre-record of 'Isobel', 12 May 2021, TRA.3000.0001.0107, P-6 [9-14].

<sup>345</sup> Exhibit 12-7.1, 'Pre-record of 'Isobel'', 12 May 2021; Transcript of pre-record of 'Isobel', 12 May 2021, TRA.3000.0001.0107, P-5 [46].

<sup>346</sup> Exhibit 12-11.1, 'Pre-record of Tara Elliffe and Catherine McAlpine No. 1', 12 May 2021,; Exhibit 12-11.3, Transcript of pre-record of Tara Elliffe and Catherine McAlpine No.1 and 2, TRA.3000.0001.0119, P-5 [30].

sure they are brave and not to think about it'<sup>347</sup>, in her experience, 'it's okay to have it. Just do it.'<sup>348</sup>

20. In the second video, Ms Elliffe and Ms McAlpine provide a demonstration on how an Easy Read document published by Australian Government Department of Health, entitled '*COVID-19 vaccination: The AstraZeneca vaccine: Easy Read fact sheet*' was used by Ms Elliffe, as a person with an intellectual disability.<sup>349</sup> Ms Elliffe observed that she thought the Easy Read had a lot of information and that it should be shorter.<sup>350</sup>

---

<sup>347</sup> Exhibit 12-11.1, 'Pre-record of Tara Elliffe and Catherine McAlpine No. 1', 12 May 2021; Exhibit 12-11.3, Transcript of pre-record of Tara Elliffe and Catherine McAlpine No.1 and 2, TRA.3000.0001.0119, P-22 [16]-[22].

<sup>348</sup> Exhibit 12-11.1, Pre-record of Tara Elliffe and Catherine McAlpine No. 1, 12 May 2021; Exhibit 12-11.3, Transcript of pre-record of Tara Elliffe and Catherine McAlpine No.1 and 2, TRA.3000.0001.0119, P-6[9].

<sup>349</sup> Exhibit 12-11.2, 'Pre-record of Tara Elliffe and Catherine McAlpine No. 2', 12 May 2021; Exhibit 12-11.4, DRC.9999.0038.0001.

<sup>350</sup> Exhibit 12-11.2, 'Pre-record of Tara Elliffe and Catherine McAlpine No. 2', 12 May 2021; Exhibit 12-11.3, Transcript of pre-record of Tara Elliffe and Catherine McAlpine No.1 and 2, TRA.3000.0001.0119, PP-20 [41-50] – 21[1-5].

# Appendix D: Evidence of Kevin Stone and Julia Squire

## Kevin Stone

21. Mr Stone is the CEO of VALID, an organisation that provides advocacy support to people with intellectual disability and their families. VALID is a member of Inclusion Australia and receives funding from the Victorian Government. VALID provides advocacy services, support for self-advocates, and a range of personal development programs and workshops including training for self-advocates to conduct quality audits of group homes.<sup>351</sup> VALID has worked during the COVID-19 pandemic to keep people well informed of matters relating to the pandemic, including by giving regular social media updates, publishing Easy Read materials, and assisting self-advocates and advocacy clients to access devices and online services.<sup>352</sup>
22. Mr Stone has direct experience of the COVID-19 vaccine rollout both through his work and as the parent of a person with disability who lives in a residential setting.<sup>353</sup>
23. Mr Stone reported that, based on his own observations and feedback from others, the communication from the Australian Government about the vaccine rollout has generally been poor. There is a lot of confusion about the requirements of Phase 1a and 1b, about which vaccine people may receive, and how to go about getting the vaccine (if eligible). He also reported that there is a lot of anxiety about the AstraZeneca vaccine, partly because of sensationalism in media reporting and the lack of clear factual information to counteract and allay anxiety. This has affected not only people with intellectual disability, but also the wider population.<sup>354</sup>
24. Conversely, Mr Stone gave evidence that confusion and fear have been compounded by the slow rollout of vaccines and uncertainty about when they may be available. VALID is regularly contacted by families and disability support workers who are deeply concerned and frustrated about the lack of a clear timeline. Concerns are heightened

---

<sup>351</sup> Exhibit 12-9.1, 'Statement of Kevin Stone AM', 11 May 2021, at [1-5].

<sup>352</sup> Exhibit 12-9.1, 'Statement of Kevin Stone AM', 11 May 2021, at [6].

<sup>353</sup> Exhibit 12-9.1, 'Statement of Kevin Stone AM', 11 May 2021, at [7].

<sup>354</sup> Exhibit 12-9.1, 'Statement of Kevin Stone AM', 11 May 2021, at [9].

by the fact that their clients and loved ones have complex medical conditions that make them particularly vulnerable to the dangers of COVID-19.<sup>355</sup>

25. Mr Stone's own son is a person who is particularly at risk to the dangers of COVID-19. He lives in a residential setting and is eligible under Phase 1a but has not received the vaccine under Phase 1a measures. Instead, Mr Stone and the disability residential setting supervisor arranged to take him to the GP to receive the AstraZeneca vaccine on 5 May 2021.<sup>356</sup>
26. Mr Stone identified ways in which the shortcomings in the Australian Government's communications can be addressed with an understanding of disability residential settings. This included by engaging with existing community networks and providing appropriate information via education campaigns addressed to people with intellectual disability. This must be complemented by broader community focused campaigns to combat fear-mongering and misinformation throughout the community, because family members and disability support workers are a significant source of information for many people with disability.<sup>357</sup>
27. As a long-standing independent advocacy organisation in Victoria, VALID has established networks in group homes in Victoria in partnership with service providers, the Victorian Government, and self-advocates with intellectual disability. The networks can identify and explain the information they need, and how they can be supported to access the vaccine. VALID is currently working to develop and conduct specifically designed workshops and Easy Read materials on COVID-19 for residents of group homes. Some of VALID's self-advocates have participated in webinars on COVID-19 run by Inclusion Australia.<sup>358</sup>
28. In Mr Stone's opinion, the Victorian and Australian Government must urgently invest in information resources. They should work with organisations like VALID to determine

---

<sup>355</sup> Exhibit 12-9.1, 'Statement of Kevin Stone AM', 11 May 2021, at [10-11].

<sup>356</sup> Exhibit 12-9.1, 'Statement of Kevin Stone AM', 11 May 2021, at [7], [11].

<sup>357</sup> Exhibit 12-9.1, 'Statement of Kevin Stone AM', 11 May 2021, at [12].

<sup>358</sup> Exhibit 12-9.1, 'Statement of Kevin Stone AM', 11 May 2021, at [13-14]

the best ways to share information with the benefit of the extensive knowledge, experience and networks that such organisations have already developed.<sup>359</sup>

## Julia Squire

29. Julia Squire is the CEO of Ability Options, a disability service provider that operates residential settings for about 200 people with disability, assisted by approximately 500 disability support workers. Ability Options strongly supported the swift rollout of vaccinations to people with disability and disability support workers and actively liaised with the state and Australian governments and agencies.
30. On 18 February 2021, Ability Options was notified by DSS that two of its group homes had been selected for an initial or trial rollout of vaccine.<sup>360</sup> It was to be carried out by private health services contractors engaged by DOH for in-reach vaccinations.
31. On 19 February 2021, Ability Options was notified that the vaccinations at the two group homes would occur on 26 February 2021. This was subsequently confirmed for 8 am on Friday, 26 February 2021, for all 10 residents of the two group homes. The CEO of Ability Options, Ms Squire said about this exercise:
32. At 8.28pm on Thursday 25 February, we were advised by email there had been a 'mix-up' and the vaccinations would be administered later in the day from 1.30pm. This time was confirmed by the vaccine provider and Ability Options on the morning of Friday 26 February. Participant consents, the logistics and rosters were prepared to support the vaccinations.
33. At 12.40pm on Friday 26 February we were advised the vaccines were postponed due to staff sickness.
34. On Wednesday 3 March a new date of 8 March was provided.
35. Before the first date, Ability Options had asked whether excess doses would be provided to rostered staff who consented. We were advised this would not occur.

---

<sup>359</sup> Exhibit 12-9.1, 'Statement of Kevin Stone AM', 11 May 2021, at [15].

<sup>360</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [9].

Rosters therefore did not provide for additional support for employees who received a vaccination in the event of any adverse reaction.

36. On 8 March the vaccines took place uneventfully. However, two employees on site were also offered and accepted the vaccine. Luckily, we had a suitably qualified manager on site to support the teams and she was able to support the roster while the employees had their vaccinations. We subsequently asked for clarification on whether employees could be planned to be included in further vaccine sessions in group homes.<sup>361</sup>
37. Ms Squire gave evidence that the arrangements for the second dose at these disability residential settings were affected by mistakes and communication failures in addition to the postponements of the first dose and the confusion regarding vaccination of workers. These included that:
- Ability Options had to follow up repeatedly to ensure that the second dose was provided to one disability support worker who had received their first vaccination with the Prime Minister at a media event<sup>362</sup>
  - Bookings for the second dose for were cancelled on two occasions without explanation. The CEO of Ability Options escalated the matter to DOH Vaccine Taskforce more than once<sup>363</sup>
  - The visit for the second dose of the vaccine ultimately occurred 5-6 weeks after the first visit, contrary to Australian Government advice that the second dose was to be given 3 weeks after the first dose of that vaccine<sup>364</sup>
  - The vaccine provider had not ordered sufficient doses of the vaccine for the second visit, such that one staff member who had been vaccinated at the first visit did not receive their second dose of the vaccine<sup>365</sup>
  - The vaccination provider did not make timely arrangements for that worker's second dose and then denied responsibility for having to do so. After the

---

<sup>361</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [11-15].

<sup>362</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [16].

<sup>363</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [17-24].

<sup>364</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [16-17], [23].

<sup>365</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [26].

matter was escalated to the Vaccine Taskforce again, the provider made the vaccine available to that worker at an aged care facility some distance away.<sup>366</sup>

38. There were further problems with delivery of services at the time of the second visit, including:
- boxes of syringes and needles were delivered to the residential settings unexpectedly<sup>367</sup>
  - vaccines were delivered without security on the morning of the vaccinations, in breach of previously advised protocols<sup>368</sup>
  - the vaccination provider did not bring a secure sharps container and requested that Ability Options provide one. A provider's employee arrived with a container later<sup>369</sup>
  - residents were not provided with cards evidencing the date of completion of vaccinations. They were told to use their consent forms instead or log on to myGov for an immunisation history.<sup>370</sup>
39. When escalating issues with the Vaccine Taskforce, Ability Options' CEO emailed the Vaccine Taskforce raising concerns about the lack of transparency and lack of organisation in the rollout. She urged the Australian Government that the time had come to be transparent with the public, and queried if there had been a decision to withhold vaccines from the disability sector due to lack of Pfizer stock. She drew attention to the fact that disability support workers were being refused GP vaccinations because they were in Phase 1a rather than 1b, resulting in the inability to access either phase. She expressed concern about the damage this was doing and the distress of people with disability and their families and support staff who felt pushed down the Australian Government's agreed priority list.<sup>371</sup>

---

<sup>366</sup> Exhibit 12-10.1, 'Statement of Julia Squire, 12 May 2021, at [27-29].

<sup>367</sup> Exhibit 12-10.1, 'Statement of Julia Squire, 12 May 2021, at [25].

<sup>368</sup> Exhibit 12-10.1, 'Statement of Julia Squire, 12 May 2021, at [26].

<sup>369</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [26].

<sup>370</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [26].

<sup>371</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [23].

40. On 21 April 2021, Ms Squire wrote to Greg Hunt MP, Minister for Health and Aged Care, and Senator Linda Reynolds, Minister for the NDIS and Minister for Government Services. The letter voiced frustrations regarding the rollout to the disability sector, and the serious personal toll on people with disability and disability support workers resulting from the lack of proper information and communication about the vaccine roll-out. The letter flagged the operational and communication problems they had experienced. They pointed out that only the 13 of Ability Options' residents and workers (who participated in the trial rollout) had actually received a vaccine under Phase 1a. The letter urged the Ministers to tell people if there had been a change in priorities and urged them to put in place coherent and realistic plans.
41. On 30 April 2021, two couriers arrived with no forewarning carrying Pfizer vaccines to Ability Options largest disability residential settings of over 50 participants at the Central Coast, NSW. No vaccinations had been scheduled with Ability Options and there was no contracted vaccination provider team on site. The couriers departed again with the vaccines, stating that 'this has happened for the past 3 days.'<sup>372</sup> In response to an email from Ability Options requesting advice, the Vaccine Taskforce officer advised 'That is very odd. I can confirm that no Ability Options sites are scheduled for vaccination at this time. I will follow up to find out what caused this incorrect delivery.'<sup>373</sup>
42. As of 12 May 2021, Ability Options had received no explanation for the incorrect delivery.<sup>374</sup> Also as of 12 May 2021, no other group homes operated by Ability Options had received vaccinations or been informed when they might be reached for vaccination.<sup>375</sup>

---

<sup>372</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [36].

<sup>373</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [36].

<sup>374</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [37].

<sup>375</sup> Exhibit 12-10.1, 'Statement of Julia Squire', 12 May 2021, at [30].



**Royal Commission**  
into Violence, Abuse, Neglect and  
Exploitation of People with Disability