

PEOPLE WITH DISABILITIES (WA) INC.

**SUBMISSION ON THE IMPLEMENTATION OF ARTICLE 9 OF THE
UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES
MARCH 2012**

People with Disabilities (WA) Inc. (PWdWA) would like to thank the Committee on the Rights of Persons with Disabilities for the opportunity to comment on the implementation of Article 9 (Accessibility) of the United Nations Convention on the Rights of Persons with Disabilities (CRPD).

PWdWA strongly supports the Office of the High Commissioner for Human Rights' commitment in seeking feedback on the implementation of the CRPD from people with disabilities, their organisations and other civil society members.

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1. ORGANISATION PROFILE

People with Disabilities (WA) Inc. (PWdWA) is the peak disability consumer organisation representing the rights, needs and equity of all Western Australians with disabilities via individual and systemic advocacy.

PWdWA is a not-for-profit, non-government organisation and provides clients with a non-legal, fee-free service.

PWdWA is run BY and FOR people with disabilities and, as such, strives to be the voice for all people with disabilities in Western Australia.

Vision

A community where all people have a full and valued life with the freedom to make their own choices.

Mission

Empowering the voices of people with disabilities in WA.

Values

We embrace diversity and participation to ensure inclusion for all.

We believe respect is fundamental to all positive relationships.

We seek to enhance opportunity and remove barriers to ensure real choice.

We are committed to every citizen's right to equality.

2. METHODOLOGY

This submission is based on a collation of information from the following sources:

1. [United Nations Convention on the Rights of Persons with Disabilities \(CRPD\)](#)
2. [Australia's Initial Report under the CRPD \(Dec 2010\)](#)
3. [National Human Rights Action Plan - Baseline Study Report \(Jul 2011\)](#)
4. [Australian National Human Rights Action Plan - Exposure Draft \(Dec 2011\)](#)
5. [National Disability Strategy 2010 - 2020 \(NDS\)](#)
6. National Disability Strategy: Laying the Groundwork 2011-14 Implementation Plan (not available for public distribution)
7. [Disability Discrimination Act 1992](#)
8. [Disability Services Act \(WA\) 1993 \(amended 2004\)](#)
9. [Review of the Disability Standards for Accessible Public Transport 2002](#)
10. [Review of the Disability Standards for Education 2005](#)
11. [National Companion Card Program](#)
12. [Western Australian Companion Card Program](#)
13. [Media Release: Air travel tips make flights easier for people with disability](#)
14. ['Prepare for Take Off' - Information Booklet](#)
15. [You're Welcome Access WA Initiative](#)
16. People with Disabilities (WA) Inc. - Individual Advocacy and Disability First Stop Databases

3. BACKGROUND

The Committee on the Rights of Persons with Disabilities calls upon the persons with disabilities, their organisations and other civil society actors, expert associations, educational and scientific institutions, national human rights institutions, State Parties and regional organizations to submit papers on the below mentioned subjects related to the implementation of the Article 9 of the Convention on the Rights of Persons with Disabilities (CRPD).

The Committee would welcome practical and theoretical papers focusing in particular on the following aspects of the implementation of the Article 9 of the Convention:

- 1) The relation between Article 9 and Article 5 (“Non- discrimination and equality”),
- 2) The nature of accessibility as defined in Article 9 and other relevant articles of the Convention- whether it is a principle, a right, a precondition for full and equal participation of persons with disabilities in society and for their liberty of movement, or all of the above,
- 3) The aspects of the progressive realization of the accessibility and the relation between accessibility and reasonable accommodation,
- 4) The input, mandate and competences of various national stakeholders- the public authorities, expert associations (e.g. Chambers of Architects and Engineers), the academia and the civil society (in particular the organizations of persons with disabilities)- in defining the national accessibility standards and monitoring its’ implementation,
- 5) The examples of good practice in promotion of universal design and accessibility, funding and realization of regional, national and local action plans for accessibility and the removal of barriers in physical environment, public transport, information and communication and access to services opened to the public.

This submission will focus on Points 4 and 5, providing an evaluation of Australia's national accessibility standards and the implementation of action plans and initiatives aimed to improve access and inclusion for people with disabilities.

4. CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES - ARTICLE 9

Article 9 - Accessibility

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

- a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
- b) Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures:

- a) To develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
- b) To ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
- c) To provide training for stakeholders on accessibility issues facing persons with disabilities;
- d) To provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;
- e) To provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
- f) To promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
- g) To promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;

h) To promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

5. ACCESSIBILITY - NATIONAL STANDARDS

Section 5 reviews Australia's national standards and implementation plans in assessing the extent to which they comply with Article 9 of the CRPD and uphold and safeguard the rights of people with disabilities. This section is divided into 4 subsections; Section 5.1 reviews Australia's commitment to Article 9 of the CRPD; Section 5.2 considers the Australian Government's National Disability Strategy and draft Implementation Plan. Section 5.3 reviews the draft National Human Rights Action Plan; and Section 5.4 provides information on a national accessibility initiative - the Companion Card Program.

5.1 Australia's Commitment to Article 9 of the CRPD

"Australia ratified the Convention on the Rights of Persons with Disabilities on 17 July 2008. Under the Convention, Australia is required to submit periodically a comprehensive report on measures taken to promote the rights and freedoms of those with disabilities. Australia submitted its initial report to the United Nations on 3 December 2010."

(Source: <http://www.ag.gov.au/Humanrightsandantidiscrimination/Pages/Humanrights.aspx>).

Selected sections of Australia's initial report under the CRPD, relevant to Article 9, are presented in the Appendix. This report emphasises Australia's commitment to improving access for people with disabilities in the following areas:

- Access to Transport
- Access to Education
- Access to Premises

The report also outlines Australia's commitment to the development and implementation of a National Disability Strategy, which will be considered in greater detail in the following section of this submission.

5.2 National Disability Strategy

The Australian National Disability Strategy 2010-2020 (NDS) is a ten year plan that sets out priority areas for action and policy directions to improve the lives of people with disabilities, their families and carers.

"The Strategy will play an important role in protecting, promoting and fulfilling the human rights of people with disability. It will help ensure that the principles underpinning the Convention are incorporated into policies and programs affecting people with disability, their families and carers. It will contribute to Australia's reporting responsibilities under the Convention." (NDS, p. 9)

"The purpose of the National Disability Strategy is to:

- establish a high level policy framework to give coherence to, and guide government activity across mainstream and disability-specific areas of public policy;
- drive improved performance of mainstream services in delivering outcomes for people with disability;
- give visibility to disability issues and ensure they are included in the development and implementation of all public policy that impacts on people with disability; and
- provide national leadership toward greater inclusion of people with disability." (NDS, p. 9).

There are 6 outcome areas in the National Disability Strategy:

1. Inclusive and accessible communities
2. Rights protection, justice and legislation
3. Economic security
4. Personal and community support
5. Learning and skills
6. Health and wellbeing

Of particular relevance to Article 9 of the CRPD is Outcome 1: Inclusive and accessible communities. This outcome applies to the "the physical environment including public

transport; parks, buildings and housing; digital information and communications technologies; civic life including social, sporting, recreational and cultural life." (NDS, p.10)

With reference to the implementation of the NDS, we are disappointed that the Australian Government is already under scrutiny for failing to meet its obligations to people with disabilities, their families and carers. In December 2011, the draft NDS Laying the Groundwork (2011-2014) Implementation Plan was released to 'selected' departments and organisations for feedback. Unfortunately, we are unable to provide the Committee on the Rights of Persons with Disabilities with a link to this document as it has been marked 'draft in confidence'. In response to PWdWA's enquiry as to when the draft Implementation Plan will be released for public comment, The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) reported that "no public consultation on the draft has been planned". We view this response from FaHCSIA as being contrary to the human rights principle that states "persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them" (CRPD, Preamble).

In upholding the human rights of people with disabilities PWdWA, and other advocates, have urged the Australian Government to significantly improve reporting procedures; thereby, providing sufficient opportunity for people with disabilities and their representatives to be involved in the implementation and governance of policies that may affect them - nothing about us without us!

Other concerns relating to the draft NDS Implementation Plan include:

- its capacity in adding little to the policy directions and actions set out in the National Disability Strategy 2010-2020;
- the lack of structure to the plan, which does not come across as an implementation plan but rather a mix of future and current actions; and
- the lack of clarity with regards to timelines and performance indicators.

Furthermore, we believe that for the NDS to be effective in improving accessibility it is necessary for governments to acknowledge their responsibilities under the Federal Disability Discrimination Act 1992 (DDA). In Western Australia, the Disability Services Act (WA) 1993 (amended 2004) includes a definition of disability that does not acknowledge the accessibility rights and needs of people with non-permanent disabilities. In contrast, the Federal Disability Discrimination Act 1992, referred to in the NDS, provides a broad and more inclusive definition that aims to ensure that everyone with a disability is protected, including people with non-permanent disabilities. Inconsistencies in legislation could, in turn, lead to inconsistencies between States in funding services and facilities aimed to improve accessibility for 'all' people with disabilities.

5.3 National Human Rights Action Plan

In December 2011, the Australian Attorney-General's Department released for public comment the National Human Rights Action Plan - Exposure Draft. The Action Plan's focus was guided by a comprehensive Baseline Study. The Baseline Study "draws on the findings of the report of the National Human Rights Consultation, parliamentary inquiries, papers and reports prepared by the Australian Human Rights Commission and various United Nations treaty bodies, the report of Australia's Universal Periodic Review, and data sets maintained by the Australian Bureau of Statistics and other research institutions and non-government organisations" (Baseline Study, p. 1).

Of particular relevance to Article 9 of the CRPD are concerns over the lack of actions cited in the Exposure Draft promoting access to transport and education for people with disabilities (see below for further information).

Access to Transport

Among other actions, the Baseline Study made specific reference to the recommendations for the review of the Disability Standards for Accessible Public Transport 2002, though we were disappointed to find no reference to transport in the Exposure Draft.

"The Disability Standards for Accessible Public Transport 2002 came into effect on 23 October 2002. They specify levels of service and measures and actions that public transport operators must take to meet their obligations under the Disability Discrimination Act. An independent review of the first five years of the standards' operation was finalised in late 2009. The review found the introduction of the standards has significantly changed the way government and public transport operators and providers deliver access to public transport for people with disability. The report contained 15 recommendations designed to improve accessibility and the operation of the standards. Through the Australian Transport Council, the peak ministerial council for transport matters in Australia, the Government is progressing the outcomes of the review with the States and Territories." (Baseline Study, p.119).

In March 2012, PWdWA made a submission to the Attorney-General's Department suggesting that the Action Plan refers to the recommendations made in response to the review of the Disability Standards for Accessible Public Transport; outlining the mechanisms that will be put in place to safeguard the rights of people with disabilities when accessing public transport.

Further information on the Review of the Disability Standards for Accessible Public Transport 2002 is available at:

<http://www.infrastructure.gov.au/transport/disabilities/review/>

Access to Education

In Australia's Initial Report under the CRPD (Dec 2010), paragraph 48 refers to the Disability Standards for Education 2005 (Standards), stating that "The Education Standards set out the right to comparable access, services and facilities, and the right to participate in education and training without discrimination for students with disabilities."

As with the transport standards, we were disappointed that there was no mention of the review of the Disability Standards for Education 2005 in the National Human Rights Action Plan - Exposure Draft. We are aware that the Minister for Education and the Attorney

General were due to release a report in response to submissions on the Standards in 2011. We are still waiting for the release of this report and the implications it may have for access to education for people with disabilities.

We understand the importance of including priority actions in the Human Rights Action Plan, in order to outline governments responsibilities to upholding and safeguarding the rights of people with disabilities. In our response to the Exposure Draft, submitted to the Attorney-General's Department, we recommended that the Human Rights Action Plan includes:

- An evaluation of the outcomes of the review of the Disability Standards for Education 2005 to ensure compliance with the CRPD.
- The inclusion of actions that improve access to education for both adults and children with disabilities, including initiatives to improve access to post-school education and life-long learning.
- A review of policies and legislation that exclude students with disabilities who attend private education from being eligible for government funding that helps facilitate access to education - where access to education should be based on the eligibility of the individual and not the education provider.

5.4 National Companion Card Program

"The Companion Card is a tool to assist organisations that charge an admission or participation fee to comply with existing anti-discrimination legislation. The Companion Card is issued to people with a significant, permanent disability, who can demonstrate that they are unable to access most community activities and venues without attendant care support. The card contains a photograph of the cardholder and can be presented when booking or purchasing a ticket at events and venues, provided the cardholder requires attendant care support in order to participate at that particular activity. Participating organisations will issue the cardholder with a second ticket for their companion at no charge." (Source: <http://www.companioncard.org.au/ccabout.htm>).

The Companion Card Program demonstrates how government departments, non-government organisations and businesses can work together to help improve access. We believe that the Companion Card Program complies with Article 9 of the CRPD - to assist in enabling people with disabilities to "participate fully in all aspects of life... to ensure to persons with disabilities access, on an equal basis with others, to facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility... facilitate accessibility to buildings and other facilities open to the public... [and] promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information".

In Western Australia there are nearly 400 Companion Card affiliates, including local councils, transport authorities and a university. Further information can be found at <http://www.wa.companioncard.org.au/>.

In August 2011, PWdWA conducted a survey on the use of Companion Cards among PWdWA members. A summary of the results of the survey is presented below.

- 43 / 115 PWdWA members completed the survey.
- 40 / 43 respondents knew what a Companion Card was.
- 28 / 43 respondents used a Companion Card.
- 6 respondents had had a Companion Card refused.

PWDWA MEMBERS' EXPERIENCES OF USING COMPANION CARDS

Activities & Venues Accessed: Cinema, swimming, gym, bowling, parks, zoos, theatre, shows, concerts (including booking through Ticketmaster), community events, exhibitions, conventions, and sporting venues.

Transport Accessed: Train and air travel.

Positive comments:

- The Companion Card is wonderful / fantastic / best thing ever!
- It is helpful in pursuing an independent life.
- It gives our daughter some quality to her life.

- It is very easy to use.
- Never been a problem.
- No changes needed.
- People are helpful and friendly, and accepting of the card.
- The card gives me greater access.
- I can now afford to attend venues and take my carer along with me to help me.
- You can use the card interstate.

Negative comments:

- Lack of awareness means I still have to pay for my carer.
- Some venues do not comply with the conditions of the card and charge a discounted rate instead of providing a free ticket.
- Different venues have different rules.
- It depends on the staff at the time.
- Some places have not heard of the card.

Further Comments:

- Need more public / staff awareness.
- Need more participating venues.
- I can't access the Companion Card website without a computer.
- I don't need a Companion Card yet but may need assistance in the future.
- It would be helpful to include people's dates of birth on the card.
- Promotion of the card could assist by way of thanking those who have made it possible.

4 members who had not been permitted to use their Companion Card at a venue explained that:

- The venue didn't accept the Companion Card.
- The staff did not know what a Companion Card was.
- All the seats for people with a disability were booked out.
- My daughter was advised to hold the back of my electric wheelchair as though she was pushing it - I needed her for more than that!

2 members had their applications for a Companion Card refused.

- One member was not sure why her application had been refused but believed that the people who issued the Companion Cards assumed that because she could participate at some venues without assistance then she would be able to participate in most activities without a companion. She appealed the decision and was issued a Companion Card.
- The second member whose application was refused commented that the whole process just became too hard.

The results of the survey show how important the Companion Card program has been for Western Australian's with disabilities in accessing venues. The main concerns were found to

be associated with the application process, raising awareness and access to information. In accordance with Article 9 of the CRPD, we believe that the Companion Card Program could demonstrate greater compliance in the following areas:

1. States Parties shall take appropriate measures to identify and eliminate obstacles and barriers to -
 - b) Information, communications and other services, including electronic services and emergency services.
2. States Parties shall also take appropriate measures:
 - b) To ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
 - c) To provide training for stakeholders on accessibility issues facing persons with disabilities;

For further information on the results of the Companion Card Survey, please visit our website at www.pwdwa.org.

6. ACCESSIBILITY - TWO WESTERN AUSTRALIAN INITIATIVES

PWdWA is a State-based organisation involved in developing initiatives to improve access and inclusion for people with disabilities across Western Australia. Section 6 provides examples of two accessibility-based initiatives - the 'Prepare For Take Off' information booklet (Section 6.1) and the 'You're Welcome (WA) Access' Initiative (Section 6.2).

6.1 'Prepare for Take Off' Information Booklet

The Prepare for Take Off information booklet was produced in Western Australia with the aim to improve access to air flight travel for people with disabilities. For further information, please refer to the following media release from the WA Minister for Disability Services, Hon Helen Morton.

Helen Morton
Minister for Mental Health; Disability Services

Sun 21 August, 2011

Air travel tips make flights easier for people with disability Portfolio: Disability Services

People with disability now have access to important information about air travel to help them have a smoother and more pleasurable flight experience.

Believed to be the first of its kind in Australia, the 16-page '[Prepare for take-off - Air Travel Tips](#) for people with disability' was launched today at Perth Airport's International Terminal by Disability Services Minister Helen Morton.

"The information contained in the booklet was compiled from the real-life experiences of air travellers with disability, their families, friends, travelling companions and carers," Mrs Morton said.

The Minister said the booklet contained information encouraging travellers to do their homework before making bookings; what travellers need to tell the airline; travelling with medication; travelling with mobility aids; security screening; check in; and getting on and off the plane.

"The booklet also assists potential travellers by identifying the various procedures of airports and airline staff that they are likely to encounter," she said.

Mrs Morton said access to good information made a big difference when planning flights and navigating airports and airlines.

"Like everyone else, people with disability want to enjoy their journey by air," she said.

"The new guide provides information and advice that will allow people to be better informed and have more control of their air travel experience."

The booklet was produced jointly by the Ministerial Advisory Council on Disability (MACD), the Disability Services Commission, and People With Disabilities (WA) Inc.

To read the publication go to <http://www.disability.wa.gov.au>

The publication of the 'Prepare for Take Off' booklet, which is available in alternative formats, demonstrates how governments can work together with people with disabilities and their representative organisations to help improve access. We believe that the publication and distribution of the 'Prepare for Take Off' booklet complies with Article 9 of the CRPD - providing "appropriate measures to ensure to persons with disabilities access, on

an equal basis with others, to the physical environment, to transportation, to information... measures, which shall include the identification and elimination of obstacles and barriers to accessibility"

We will be monitoring the use of the information booklet and reviewing outcomes for people with disabilities, their families and carers.

6.2 You're Welcome - AccessWA Initiative

The information below outlines the aims, development, implementation and monitoring of the You're Welcome - AccessWA Initiative.

Aims

You're Welcome - AccessWA aims to assist people with disability to access community life by:

- providing detailed and accurate information about the accessibility of facilities and services; and
- encouraging businesses and community organisations to make their services and facilities more accessible.

The You're Welcome - AccessWA database is available at <http://www.accesswa.com.au>.

Strategies

You're Welcome - AccessWA helps to create accessible communities by:

- gathering detailed accurate access information
- developing and maintaining a website to provide easy-to-obtain access information
- providing practical written information and access awareness training to assist business and community groups to make their services more access friendly.

Development

The Disability Services Commission worked with local government and other key stakeholders to develop You're Welcome - AccessWA.

Representatives included:

- City of Perth and the City of Perth Access Working Group

- Ministerial Advisory Council on Disability
- People With Disabilities (WA) Inc.
- NICAN (WA)
- National Disability Services WA (NDS)
- Tourism Western Australia
- Western Australian Local Government Association (WALGA).

Business and community groups

You're Welcome - AccessWA is implemented through partnerships with the Disability Services Commission. Accurate access information development includes training and support in the use of specifically designed You're Welcome - AccessWA access checklists and reporting templates. More than 2,000 businesses and community groups participate in You're Welcome - AccessWA and have their access information posted on this website. Through partnerships with the Disability Services Commission, businesses and community organisations can use You're Welcome - AccessWA resources to improve access. The Commission encourages business and community groups to welcome customers with disability by providing customer service information, including DVDs.

Local government and other partners

There are currently 45 local government You're Welcome - AccessWA partners. These public authorities gather access information about facilities and services in their local areas. The Department of Environment and Conservation and the Rottnest Island Authority are also You're Welcome - AccessWA partners, and are responsible for areas not covered by a local government.

State Reference Network

The You're Welcome - AccessWA State Reference Network comprises representatives of key stakeholders from the disability, community and tourism sectors. The network guides, supports and promotes the You're Welcome initiative throughout Western Australia.

PWdWA has been involved in the development, implementation and monitoring of the You're Welcome - AccessWA initiative and is a member of the State Reference Network. In August 2011, we conducted a survey on access to libraries and found that out of 38 members who responded to the question 'Is your library part of the You're Welcome

AccessWA initiative?', three respondents said 'yes', one respondent said 'no' and 34 respondents said that they 'didn't know'. This result caused us concern and we have discussed this outcome with the You're Welcome AccessWA coordinator. Another concern we had was that, even though the initiative was intended to be web-based, not everyone has access to a computer or the internet and there may be other means by which people could access the information. Accordingly, we will be further addressing these issues at the next State Reference Network meeting.

For further information on the results of the Public Library Survey, please visit our website at www.pwdwa.org.

PWdWA considers that, with effective marketing and the use of alternative forms of distribution, the You're Welcome AccessWA Initiative could be an example of good practice in the promotion of universal design and accessibility, and the removal of barriers to the physical environment.

We believe that the You're Welcome AccessWA initiative demonstrates compliance with Article 9 of the CRPD, particularly the following sections:

2. States Parties shall also take appropriate measures:

- f) To promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
- g) To promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
- h) To promote the design, development, production and distribution of accessible information.

7. ACCESSIBILITY - PWdWA ADVOCACY

To assist the Committee on the Rights of Persons with Disabilities in understanding the types of accessibility issues being experienced by people with disabilities in Western Australia, we have presented below statistics showing the types of issues reported by

PWdWA clients who accessed our Disability First Stop and Individual Advocacy services in 2011 (see Tables 1 and 2 below).

DISABILITY FIRST STOP

A service that provides assistance to adults with a newly diagnosed disability who need to navigate their way through the disability sector and get the help they need.

INDIVIDUAL ADVOCACY

Advocacy is the process of standing alongside individuals to ensure that people are able to speak out, to express their views and uphold their rights. PWdWA provides advocacy to people with disabilities who have serious or urgent problems; focuses on people who cannot access other services; and uses action plans to ensure that the client's issue is understood and actions agreed by everyone involved with the issue.

Table 1: Disability First Stop - Number of new clients by issue type in 2011

Issue Type	Number of New Clients
Abuse / Neglect	1
Discrimination or Rights	3
Housing / Accommodation	13
Independent Living	7
Education	1
Employment	4
Equipment	2
Health	12
Isolated / Vulnerable	1
Legal	8
Recreational, Social or Family Services	6
Subsidies & Entitlements	15
Other / Undisclosed	12
Total	97

Table 2: Individual Advocacy - Number of new clients by issue type in 2011

Issue Type	Number of New Clients
Abuse / Neglect	10
Discrimination or Rights	26
Housing / Accommodation	75
Independent Living	17
Education	22
Employment	35
Equipment	22
Finances	31
Funding	13
Health	20
Isolated / Vulnerable	4
Legal	53
Physical Access	10
Recreational, Social or Family	19
Services	83
Subsidies & Entitlements	21
Transport	9
Other / Undisclosed	20
Total	490

Of particular relevance to Article 9 of the CRPD are the numbers of clients seeking advocacy related to 'discrimination or rights', 'physical access', 'recreation' and 'transport'. Presented below is a summary of clients issues in these areas.

- accessible parking complaint
- denial of travel insurance
- access to information from the Education Department
- rights for people with disabilities in accessing health services
- access to information on human rights, discrimination and reasonable adjustments
- access to sports and recreation activities
- access to the law court premises
- provision of an accessible ramp at an entertainment complex
- access to school premises
- access to public transport
- access to interstate and overseas travel
- accessible vehicle hire
- transport to medical appointments

- taxi service complaint
- access to driving lessons
- access to bus services to and from school

The results from the database search provide an overview of the access barriers experienced by Western Australian's with disabilities. Note that the issues relating to access to transport, further emphasise the importance of including access to transport initiatives in Australia's human rights action plan. Tables 1 and 2 show many other areas where access may be an issue, including health, housing, education and employment. We are aware that these areas are addressed in separate articles in the CRPD.

8. CONCLUSION

This submission provides the Committee on the Rights of Persons with Disabilities with civil society input on Australia's implementation of Article 9 of the CRPD.

The focus of this submission has been to review the following:

- 4) The input, mandate and competences of various national stakeholders- the public authorities, expert associations (e.g. Chambers of Architects and Engineers), the academia and the civil society (in particular the organizations of persons with disabilities)- in defining the national accessibility standards and monitoring its' implementation,
- 5) The examples of good practice in promotion of universal design and accessibility, funding and realization of regional, national and local action plans for accessibility and the removal of barriers in physical environment, public transport, information and communication and access to services opened to the public.

In response to Point 4, this submission has shown that while there exist accessibility based policies in Australia that comply with Article 9 of the CRPD, these policies and associated recommendations will need to be included in implementation plans for them to take effect and uphold the access rights of people with disabilities. Furthermore, without clear performance indicators in implementation plans, such as the 'National Disability Strategy - Laying the Groundwork 2011-14' and 'National Human Rights Action Plan', it will be difficult

for the Australian Government to report how effective these instruments are in improving outcomes for people with disabilities.

In response to Point 5, this submission has reviewed three examples of initiatives in Australia that promote access and inclusion for people with disabilities. 1) National Companion Card Program, 2) Prepare for Take Off information booklet, and 3) You're Welcome - AccessWA. These initiatives have shown how governments can work with people with disabilities, their representatives, businesses and other organisations in improving access. Feedback shows that these initiatives can greatly improve outcomes in removing barriers and promoting the independence, choice, empowerment and self-determination of people with disabilities. The feedback received also highlights the importance of marketing initiatives while taking into account different methods of communicating information.

This submission shows that even with policies in place, there will still be people seeking advocacy for issues relating to access to the physical environment, public transport, information and public services. This highlights the importance of regular monitoring and updating of implementation plans, and the importance of taking into account the mechanisms that need to be in place when a person's rights to access have not been upheld.

On a final note, we would like to stress the importance of respecting the rights of people with disabilities to be involved at every stage of the implementation of action plans that are likely to affect them. We end this submission with a quote from the Australian Government's Initial Report under the CPRD.

"Persons with disabilities are highly valued members of Australian families, communities and workplaces and make a positive contribution to the diversity of cultural and community life in Australia. While persons with disabilities form an important part of the Australian community, Australia recognises that they face a number of challenges in enjoying their rights on an equal basis with others. Australia is committed to removing barriers faced by persons with disabilities and accommodating the diverse needs of persons with disabilities to enable them to enjoy their rights on an equal basis with all Australians." (Para. 12)

APPENDIX

AUSTRALIA'S INITIAL REPORT UNDER ARTICLE 9 OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (DEC 2010)

1. Australia ratified the Convention on 17 July 2008, and it entered into force for Australia on 16 August 2008.

11. Australia acceded to the Optional Protocol to the Convention on 21 August 2009, and it entered into force for Australia on 20 September 2009. To date Australia has received no communications under the Optional Protocol.

Anti-Discrimination Legislation

15. The Disability Discrimination Act 1992 (Cth) (DDA) renders direct and indirect discrimination on the basis of disability unlawful in work and employment, education, access to premises, the provision of goods, services and facilities, accommodation, disposal of an estate or interest in land, membership of clubs and incorporated associations, sport and the administration of Australian Federal laws and programs. The DDA applies to the Australian Government, States and Territories, and private sector bodies. The Australian Human Rights Commission (AHRC) has the ability to investigate and conciliate complaints of disability discrimination under the DDA.

16. The Australian Government has enacted two sets of standards under the DDA in relation to access to public transport (Disability Standards for Accessible Public Transport (Transport Standards)) and education (Disability Standards for Education (Education Standards)), and has tabled in Parliament a third set of nationally applicable standards on access to premises (Disability (Access to Premises – Buildings) Standards 2010 (Premises Standards)).

17. There is also legislation in each State and Territory which prohibits discrimination on the basis of disability. This legislation is administered by a number of bodies at the State and Territory level who exercise a range of functions in relation to the legislation, including investigating and conciliating complaints. In addition, both Victoria and the Australian Capital Territory (ACT) have human rights legislation in place that require public authorities to give consideration to human rights when making decisions, act in accordance with human rights and promote the rights of persons with disabilities in these jurisdictions.

18. All disability discrimination legislation in Australia also contains the concept of reasonable accommodation, although the terminology differs across jurisdictions. For example, in the DDA, the concept of 'reasonable accommodation' is encompassed by the term 'reasonable adjustment'.

National policy frameworks for persons with disabilities

National Disability Strategy

24. The Australian and State and Territory and Local Governments have developed a draft National Disability Strategy (NDS). The Prime Minister released the draft NDS to the public on 29 July 2010 with the commitment to take it to the Council of Australian Governments at the earliest opportunity. The NDS will help Australia to fulfill its obligations under the Convention by establishing a framework to promote, protect and monitor the implementation of the Convention, as required under article 33(2).

25. The purposes of the NDS are to: set out a high-level policy framework to give coherence and guidance to the activities of Australian governments across mainstream and disability-specific areas of public policy drive improved performance of mainstream services for persons with disabilities, and provide visibility for the needs of persons with disabilities and ensure they are included when developing policy or implementing initiatives that impact upon them.

26. The NDS aims to address the barriers that are faced by Australians with disabilities and promote social inclusion. The NDS will ensure that the principles underpinning the Convention are incorporated into policies and programs affecting persons with disabilities, their families and carers. It is intended to be a living document refreshed over its ten year life span against which Australians can assess progress for persons with disabilities, and will inform Australia's future reporting under the Convention.

27. A 28-member National People with Disabilities and Carer Council has been established to provide expert advice to Government on the development and implementation of the NDS. The Council includes persons with disabilities and their families, carers, industry and union representatives and academics. The Council conducted a national public consultation process as part of the development of the NDS and released a report on the consultations entitled Shut Out: the Experience of People with Disabilities and their Families in Australia. The report identified a number of structural and systemic obstacles to full participation by persons with disabilities, which were taken into account in the development of the NDS.

Disability Action plans

32. All States and Territories have disability action plans, which are designed to ensure disability access and inclusion across the public sector and funded services.

PART B - ACCESSIBILITY (ARTICLE 9)

44. Australia recognises the fundamental importance of enhancing accessibility for persons with disabilities to enable them to participate fully in all aspects of life.

45. Under the DDA, the AHRC has functions of advising on the development of standards and monitoring and reporting on their operation. The AHRC can grant temporary exemptions from the Transport Standards, as well as the parts of the Premises Standards covering public transport buildings. These exemptions are for a specified period not exceeding five years. The AHRC's decisions regarding exemptions are reviewable by the Administrative Appeals Tribunal.

Access to transport

46. The Transport Standards commenced on 23 October 2002, and establish minimum accessibility requirements to be met by providers and operators of public transport conveyances, infrastructure and premises.

47. The Transport Standards set out mandatory requirements in relation to issues such as access paths, manoeuvring areas, ramps and boarding devices, allocated spaces, handrails, doorways, controls, symbols and signs, the payment of fares and the provision of information. New conveyances, premises and infrastructure brought into use for public transport after 23 October 2002 must comply with the Transport Standards. A compliance timetable, incorporating regular milestones, allows between five to 30 years for existing facilities to be made compliant to ensure that increased accessibility is provided in a way that does not create an undue burden for operators and providers. In general, the Transport Standards apply to the full range of public transport conveyances, premises and infrastructure in Australia. A review of the first five years of the operation of the Transport Standards has been completed and will be released shortly.

Access to Education

48. The Education Standards set out the right to comparable access, services and facilities, and the right to participate in education and training without discrimination for students with disabilities. The Government will shortly announce a process for the review of the first five years of the operation of the Education Standards.

Access to Premises

49. The Premises Standards were tabled in the Australian Parliament on 15 March 2010. The Premises Standards provide minimum national standards for accessibility requirements to ensure dignified access to, and use of, buildings for persons with a disabilities. The Premises Standards will commence on 1 May 2011. Development of the Premises Standards involved two major public consultation processes. Numerous disability groups and industry associations have been involved in these consultations.

Other Commonwealth accessibility programs

50. In early 2009, the Australian Government established the Aviation Access Working Group to consider practical measures that can be taken by both industry and government to improve access to air services for persons with a disability. The National Aviation Policy White Paper, released in December 2009, provides a framework for addressing the needs of travellers, airport users and communities affected by aviation activity. The Australian Government will also participate in the International Civil Aviation Working Group to develop guidelines on disability access and encourage airlines and airports to develop and publish Disability Access Facilitation Plans.

51. The Australian Government has been working with States and Territories to implement the Australian Disability Parking Scheme to improve access for people who have difficulty accessing buildings from car parks. The Australian Government has also established a National Companion Card Scheme to improve the social participation of persons with severe or profound life-long disability who require life-long attendant care.