Communication impairment is a prevalent childhood disability. The way nations formally recognise communication impairment effects the provision of services and long-term outcomes of these children. Children with communication impairment are specifically identified in legislation and policy in the USA and UK; however this is not the case in Australia. Current Australian legislation and policy does not adequately address the needs of children with communication impairment, particularly those with communication impairment of unknown origin. Australian allied health, education, and disability service providers are often left to interpret ambiguous policies to make a case for service delivery to such children. In addition, as Australian state and territory criteria for specialist services are becoming increasingly stringent, access for children with mild-moderate communication impairments is severely limited. Recently, the Council of Australian Governments agreed to a partnership between the Commonwealth, state and territory governments to pursue substantial reform in the areas of education, skills and early childhood development. This partnership provides an opportunity to improve the educational, social, and health prospects of children with communication impairment as part of national 'education revolution', and in turn bolster the nation's productivity, economy, social and cultural capital.
The (In)visibility of Children With Communication Impairment in Australian Health, Education, and Disability Legislation and Policies

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Abstract

Communication impairment is a prevalent childhood disability. The way nations formally recognise communication impairment affects the provision of services and long-term outcomes of these children. Children with communication impairment are specifically identified in legislation and policy in the USA and UK; however this is not the case in Australia. Current Australian legislation and policy does not adequately address the needs of children with communication impairment, particularly those with communication impairment of unknown origin. Australian allied health, education, and disability service providers are often left to interpret ambiguous policies to make a case for service delivery to such children. In addition, as Australian state and territory criteria for specialist services are becoming increasingly stringent, access for children with mild-moderate communication impairments is severely limited. Recently, the Council of Australian Governments agreed to a partnership between the Commonwealth, state and territory governments to pursue substantial reform in the areas of education, skills and early childhood development. This partnership provides an opportunity to improve the educational, social, and health prospects of children with communication impairment as part of national ‘education revolution’, and in turn bolster the nation’s productivity, economy, social and cultural capital.

Key words: policy, legislation, service delivery, communication, children
Access to appropriate health care and education is a basic human right for all children. International conventions such as the *United Nations Convention on Rights of the Child* (1989), *United Nations Convention on the Rights of Persons with Disabilities* (2006), the *Salamansa Statement on the Right to Education* (2001), and the *Standard Rules for the Equalization of Opportunities* (1994) state that children with disabilities have the right to extra assistance in order to fully participate in society. Communication is specifically recognised as essential for participating in society (World Health Organization WHO, 2007) and one type of childhood disability that is covered by these international conventions is communication impairment (McLeod, 2009). Children with communication impairment may have difficulty with speech, language, voice, fluency and/or hearing. Their communication impairment may have a known origin such as autism, cerebral palsy, cleft palate, hearing impairment, developmental disability, or traumatic brain injury; however, most children with communication impairment have an impairment of unknown origin (Gillam, Marquardt, & Martin, 2000). Communication impairment is a “high prevalence condition” according to Law, Boyle, Harris, Harkness, & Nye (2000, p. 179), who conducted a systematic review of epidemiological studies of speech and language impairment in childhood. Recent Australian studies have confirmed that parents and teachers are concerned about the communication abilities of over 12 per cent of school-aged children (McLeod & McKinnon, 2007) and approximately one quarter of 4- to 5-year-olds (McLeod & Harrison, 2009).

The social and economic cost of communication impairment is significant both for individuals and society. Childhood communication impairment is a risk factor in relation to long- and short-term outcomes. Compared to the general community, adults who had a communication impairment of unknown origin as a child typically achieve lower levels of education, have greater literacy problems, experience significant social problems and discrimination, and have decreased occupational opportunities (Conti-Ramsden & Durkin,
example, in the UK Clegg and Henderson (1999) measured the cost of education, employment, and health from childhood into adult life by comparing adults diagnosed with a developmental language disorder as children with their typically developing siblings. They found that the cost of education provision and welfare benefits (unemployment, housing, disability benefits and income support) was significantly higher for those with a childhood developmental language disorder. The average cost for health services over 12 months was £500 compared to £100 for the sibling group (Clegg & Henderson, 1999). In the USA, the cost of communication impairment has been estimated to be between 2.5 and 3% of the US Gross National Product (Ruben, 2000).

The way nations acknowledge children with communication impairment in legislation and policy effects the provision of services and long-term outcomes of these children. Legislation and policy regarding access to services for children with communication impairment differs markedly throughout the world. In the USA the following Acts: *Individuals with Disabilities Education Act* (IDEA) and *No Child Left Behind* (NCLB) Act specifically name “speech and language impairment” in the definition of disability (see Appendix). The IDEA explicitly identifies speech-language pathologists (SLPs) as professionals who can assess and provide intervention for children with communication impairment as part of “special education” rather than a related service under State standards (IDEA, 2004, Section 300.39). In the 1999–2000 school year, 1,089,964 students in the USA were identified under the IDEA as having a communication impairment as their primary disability (U.S. Department of Education, 2002) which represented 19.2% of all the children deemed eligible for special education services. The report also included a section titled “Ensuring an adequate supply of high-quality, school-based speech-language pathologists” demonstrating commitment to provision of services for children with communication
impairment. Such a need was identified even though the majority (56%) of ASHA certified SLPs worked in schools, with only 35% working in health care facilities (ASHA 2006).

Similarly in the UK significant government resources have been invested into legislation, policies, and services for children with communication impairment. The overarching policy, Every Child Matters was followed by the Children Act 2004 which established a children's commissioner and gave a legal framework for focussing on the well-being of children. Subsequently, the national government strategy, Every Child A Talker (Department for Children, Schools and Families, 2008) was aimed at supporting the communicative abilities of all UK children and SLPs had a significant role in this initiative. The Bercow Review of Services for Children with Speech Language and Communication Needs (SLCN) was commissioned by the government, jointly by the health and education sectors. In response to the report, the government published Better Communication: An Action Plan to Improve Services for Children and Young People with SLCN whereby plans included the appointment of a communication champion, a national year of communication amongst others.

In Australia, a country similar to the US and the UK in many ways, legislation, policy and service delivery is fragmented with respect to children with communication impairment. According to Speech Pathology Australia (SPA, 2007)

The speech pathology services available to Australian children to remediate speech and language disorders are inadequate and inconsistent. Service availability differs from state to state. Within states, the level of service available may be dependent on the age of the child and/or the school the child attends.

The difficulty of accessing SLP services within the health system is exemplified by a recent NSW Department of Health report, which indicated that 23% of recorded complaints were categorised as “access” and included “access to specialist services, such as speech pathology” (NSW Department of Health, 2008, p. 29). The difficulty of accessing specialist services within the education system, is exemplified by a recent case in which an Australian 16-year-
old with significant language and learning disability won a Civil and Administrative Tribunal Discrimination Case for the failure of her school to provide assistance to enable her to participate and access the curriculum that “diminished her opportunity to obtain successful education outcomes.” SPA responded “While this Victorian case centres on specific SLD funding criteria policies of the Victorian Education Department, it is believed that the case has had a wider benefit in highlighting at a national level the needs of students with language difficulties and raising awareness of the importance of access to appropriate levels of SLP services and integration assistance” (SPA, 2007).

Further to the issue of SLP service delivery is the significant workforce issue of retaining SLPs to meet demand. There is growing evidence to suggest issues concerning workload, lack of professional development, professional isolation and stress are together contributing to SLPs and other allied health professionals leaving their profession. Initial data suggests that allied health professionals, specifically in rural and remote areas, are experiencing difficulty accessing professional development/continued education (Allied Health Professions Australia 2008). SPA (2004) makes similar claims about SLPs working in the education sector feeling professionally isolated, unsupported, overworked with case loads. McLaughlin, Lincoln and Adamson (2008) indicated that SLPs often have to compete (and lose out to) other allied health professions for funding and resources as the services they provide are “not considered an essential” by those that manage budgets. As one participant in the McLaughlin et al. (2008) research highlighted, the lack of understanding and respect for the SLP profession continue to be barriers to the provision of services to clients who need them. This is a cycle that needs to be broken.

Due to the fragmentation of Australian legislation, policy and service delivery with respect to children with communication impairment the aim of this research was to map Australian legislation and policies surrounding services for children with communication
impairment of unknown origin and highlight the need for a nationally coordinated approach by the COAG Ministerial Council on Education, Employment, Training and Youth Affairs to fix this multifaceted problem.

**Method**

An online internet search was conducted of current health, education and disability legislation and policies in each state and territory of Australia. Each act and policy relating to children with disabilities was scoured for mention of or relevance to children with communication impairment.

**Results**

**National legislation**

Two Commonwealth Acts provide legislation for disability and health: *Disability Services Act (DSA) 1986, Disability Discrimination Act (DDA) 1992* (see Appendix). In 2005, the Federal Government formulated the *Disability Standards for Education, 2005* (the Standards) to clarify the obligations of education and training service providers under the *Disability Discrimination Act 1992* (DDA) as well as articulate the educational rights of people with disabilities (Commonwealth of Australia Disability Standards for Education, 2006). The Standards provide a framework for government and non-government providers in all education sectors and authorities by detailing how education and training should be made accessible to students with disabilities. While communication disorders are not specifically identified as a “disability” in the DDA or the Standards, such disorders could be covered by the reference to “a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction” (Commonwealth of Australia, 2006). The National Disability Strategy is currently under development and will impact on state legislation and policies.

**State legislation and policies**
Every Australian state was mandated by the Commonwealth government to create their own disability frameworks to define the service policies and guidelines for health, education and disability. Almost all of the states’ policies relate back to DSA or the DDA (see Appendix). However, as the findings below show, there are significant differences between states when it comes to defining children with communication impairment, and more specifically, communication impairment of unknown origin.

Access to SLP services is not consistent across Australia’s states and territories, due to different interpretations and applications of the relevant federal legislation. At present, in order to identify students with communication impairment to receive individualised funding, the Australian Capital Territory (ACT), Queensland (QLD) and South Australia (SA) governments use inclusionary (language skills at least two standard deviations from the mean) and exclusionary criteria (i.e. the severity and nature of the disability cannot be attributed to an intellectual, physical or sensory impairment or to social/emotional or socio-cultural factors) (ACT Department of Education and Training, 2008; QLD Department of Education, Training and the Arts, 2007; SPA 2006; State of SA Department of Education and Children’s Services, 2008).

In New South Wales (NSW), Northern Territory (NT), and Tasmania students with communication impairment are not specifically included in criteria to receive individualised funding (SPA 2006; NT Government Department of Education and Training 2008; Tasmanian Department of Education 2008). For example, in New South Wales (NSW), the most populated state in Australia, the state Education sector has two policies: People With Disabilities - Statement of Commitment, and Transition to School for Young Children with Special Learning Needs. Yet neither of these specifically mentions children with communication impairment, nor do they mention that support to children with disabilities can be offered by SLPs.
Children with communication impairment of unknown origin are rarely accounted for in Commonwealth or state legislation or policies (barrier of omission) with two notable exceptions: the Victorian and Queensland education sectors. In 2006, the former Victorian Department of Education and Training (now the Department of Education and Early Childhood Development, DEECD), revised the criteria for individualised funding, restricting funding to those students with language skills at least three standard deviations below the mean (DEECD, 2008a; SPA, 2006). Effectively, this meant that only 0.1 per cent of the student population is eligible for individual funding (SPA, 2006).

It appears that service providers are left to interpret mostly ambiguous policies to make cases to deliver services to children with communication impairment. Unfortunately, some Australian children fall between the gaps of service provision, despite being diagnosed with a communication impairment (ABC 2008; McLeod & Harrison, 2009; McLeod & McKinnon, 2007; Skeat et al., 2009). In addition, Australian SLPs are rarely employed by the school education sector in many states of Australia (SPA Labour Force Survey, 2001). While other support programs have been introduced – such as the Language Support Program in Victoria (DEECD 2008b) and Learning Assistance Program in NSW (NSW 2008) – such programs are considered general language enrichment programs and are not designed to meet the needs of children with severe communication impairment nor will these programs necessarily meet the needs of students with mild-moderate communication impairment (SPA, 2006). They do not offer the intensive remedial therapy and intervention available through SLPs. Unless conducted under the Enhanced Primary Care program (Department of Health and Ageing, 2008), SLP is not usually subsidised by Medicare (national government health care system) and can be a significant financial impost on affected families, averaging at about $100 per week (ABC, 2008). Clear policy gaps in the area of communication impairment are causing many children to miss out on appropriate and timely interventions.
In December 2007, the Council of Australian Governments (COAG) agreed to a partnership between the Commonwealth, state and territory governments to pursue substantial reform in the areas of education, skills and early childhood development. It aimed to deliver significant improvements in human capital outcomes for all Australians. This renewed “cooperative federalism” (Carling, 2008, p. 30) provides an opportunity to improve the educational, social, and health prospects of children with communication impairments as part of a genuine ‘education revolution’ across the country, and in turn bolster the nation’s productivity, economy, social and cultural capital.

Discussion

The way nations view children with communication impairment effects the provision of services and the long-term outcomes of these children. Both the USA and the UK specifically include children with communication impairment in their definition of disability, and their description of appropriate service provision. In most Australian legislation and policy, there is no specific inclusion of children with communication impairment, particularly of unknown origin. Further, whether Australian children receive services via education, health, or disability sectors impacts access, type, longevity and holistic application of services. The experience of both service providers and families in trying to negotiate policy and legislation so that children do receive adequate services provides important lessons for the principles and outcomes sought by governments in the area of disability generally. While it is preferred that governments at all levels work together to adopt consistent criteria for assessing communication impairment across the Australia, it is recognised that this requires a significant shift in thinking by governments who too often look for deliverables that they can use to sell to potential voters come election time. However, there is a growing body of evidence that suggests a large-scale review of Australian state and/territory-based programs
that support students with disability is required. Furthermore, investment for recruitment, incentives, and to support of SLPs, teachers, and other professionals to better support students’ learning needs is desperately required. This should be driven by the Council of Australian Government’s Ministerial Council on Education, Employment, Training and Youth Affairs as part of the Federal Government’s Education revolution to improve the educational, social, and health prospects of children with communication impairments across the country, and in turn bolster the nation’s productivity, economy, social and cultural capital.

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**References**


Appendix. Definitions of disability in US versus Australia
Sections relevant to children with communication impairment are highlighted

Definition of disability in USA
“As defined by IDEA, the term "child with a disability" means a child: "with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and who, by reason thereof, needs special education and related services."
“Speech or language impairment: A communication disorder such as stuttering, impaired articulation, language impairment, or a voice impairment that adversely affects a child's educational performance.”

Definition of disability in Australia
*Australian Disability Services Act (DSA) (1986)*
“(1) The target group for the purposes of this Part consists of persons with a disability that: (a) is attributable to an intellectual, psychiatric, sensory or physical impairment or a combination of such impairments; (b) is permanent or likely to be permanent; and (c) results in: (i) a substantially reduced capacity of the person for communication, learning or mobility; and (ii) the need for ongoing support services.”

*Australian Disability Discrimination Act (DDA) (1992)*
“Disability, in relation to a person, means: (a) total or partial loss of the person’s bodily or mental functions; or (b) total or partial loss of a part of the body; or (c) the presence in the body of organisms causing disease or illness; or (d) the presence in the body of organisms capable of causing disease or illness; or (e) the malfunction, malformation or disfigurement of a part of the person’s body; or (f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or (g) a disorder, illness or disease that affects a person’s thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour; and includes a disability that: (h) presently exists; or (i) previously existed but no longer exists; or (h) may exist in the future; or (i) is imputed to a person”

* Note. Since the DSA definition requires fulfilment of parts (a), (b) and (c), children with communication impairment of unknown origin are not included under this definition.