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To: **ACT Legislative Assembly Standing Committee of the on Health, Ageing and Community Services**

By email [LACommitteeHACS@parliament.act.gov.au](mailto:LACommitteeHACS@parliament.act.gov.au)

**Inquiry into the implementation, performance and  
governance of the National Disability Insurance Scheme in  
the ACT**

**People With Disabilities ACT Submission**

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*People With Disabilities ACT acknowledges the traditional owners of the land on which we work.*

**About PWD ACT**

People With Disabilities ACT Inc. (PWD ACT Inc.) is a consumer run systemic advocacy organisation which represents the interests of people with disabilities. PWD ACT advocates from a human rights framework for the removal of barriers to our participation and inclusion in the community and works to inform the discussion of issues affecting people with disabilities and to promote access, especially in the areas of housing, transport, education, employment and the environment. For more information visit our website <http://www.pwdact.org.au>

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PWD ACT provides the following information in response to the inquiry terms of reference.

### ***Government Relationships***

*The Committee seeks comments on the relationship between the ACT Government and Australian Government in regard to the NDIS and the National Disability Insurance Agency (NDIA) as it affects the ACT; particularly gaps or duplicate roles and responsibilities.*

Under the intergovernmental agreement the ACT effectively handed over responsibility for its specialist Disability Services Programs and the money in those programs to the Commonwealth. The ACT was the first jurisdiction in which this has occurred. The intention was that the Commonwealth would take over responsibility for specialist disability services and the ACT would retain responsibility for ensuring that its generic services such as health, education, housing, transport and justice included appropriate provision for people with disabilities in accordance with the National Disability Strategy (NDS). The ACT Government was fairly quick to hand over services and programs to the Commonwealth and to relinquish direct service provision and program administration.

In some cases such as the provision of therapy services to young children, the transition resulted in service gaps which were well publicised in the media at the time. One consequence of this transfer of program administration from the ACT to the NDIA was that the NDIS took a more remote approach to service provision which was not informed by a local appreciation of the value of some services. As a result, a number of ACT services have either lost funding, ceased to exist or had their funding substantially reduced. Examples are Technical Aid to the Disabled, Transitional Accommodation Services and Radio 1RPH. This situation of services 'lost in transition' is fully explained in the report of the ACTCOSS publication *Stories of Transition*<sup>1</sup> on this subject published in November 2017.

PWD ACT acknowledges that the ACT Government is taking some steps to ensure that its generic services in health, education, housing, transport and justice are accessible for people with disabilities. This includes initiatives such as establishing the Office For Disability, the funding of the Disability Justice Strategy and funding for the community infrastructure support Grants Program. However, PWD ACT notes with concern that unless the ACT Government moves more rapidly, and makes a greater funding commitment to, accessible generic services, then service gaps will continue to grow. While this might technically have become a federal issue (undermining both the NDIS and the NDS), it is likely to have repercussions at a local political level. There are only so many times that ACT residents can be told that the Assembly has no

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<sup>1</sup> [Stories-of Transition \(tagged.PDF\)](#)

role in these funding decisions before residents reflect a sense of disengagement and betrayal at the ballot box. An example is of an NDIS participant who has funding for community participation in educational activities but who can't participate in the course of study because the transport to the venue, the venue itself or the course materials are inaccessible.

The ACT Government also needs to continue to fund both individual advocacy and systemic advocacy organisations in the ACT. Implementing the NDIS has generated an increased demand for individual advocacy as people with disabilities struggle to deal with the NDIS requirements and the NDIA's officious administration of the Scheme.

PWD ACT does not itself provide individual advocacy services. However, our members, in responding to us in relation to the inquiry, have not wanted to talk about its specific terms of reference. Instead, they wanted to tell us about their experiences in dealing with the NDIA and the administrative and bureaucratic requirements of the NDIS. PWD ACT conducted a forum to gain our members' views for our submission to this inquiry. The 22 people present all wanted to talk about their individual NDIS experiences. In addition PWD ACT has received 31 responses on social media from people wanting to tell us their NDIS stories. Many times, this story was one of delay or inadequate response by the NDIA or its Local Area Coordination Partner Feros Care. The responses to this survey have been de-identified and aggregated and are attached to this submission. PWD ACT asks that this attachment be treated as confidential evidence to the Committee.

This feedback reveals the tip of the iceberg of the need for individual advocacy services to support people in their interactions with the NDIS.

PWD ACT also notes a recent public NDIS Forum held by the Member for Canberra Ms Gai Brodtmann, which was attended by 140 people and at which many people raised NDIS issues requiring individual advocacy. PWD ACT also notes reports in the media on 8 April 2018 of evidence to a Parliamentary inquiry of long delays experienced by Canberrans in having their Plans approved and reviewed, and gaps in respite care services.

PWD ACT notes that the NDIS environment is one in which systemic advocacy is needed to advocate for provision for people with disabilities in generic Government services and in the broader community. Systemic advocacy takes the single experience of individuals and combines them into a body of evidence to make the compelling case for consideration of an issue and action for change. An example might be the combined evidence of 30 people who have difficulty accessing a building compels the owners to seriously consider the issue and to make changes which makes the building accessible for all.

### **Implementation Outcomes: -**

*The Assembly seeks information on the practical outcomes of implementation in relation to disability workforce development strategies; the Human Services Registrar; the availability of services for eligible NDIS participants; the availability of early childhood intervention services; the implementation of local area coordination; and supports for people with psycho-social disabilities.*

#### ➤ **Availability of Services for NDIS Participants**

The NDIS has seen an influx into the ACT of registered NDIS service providers.

PWD ACT understands that the number has increased from approximately 70, immediately prior to the commencement of the NDIS, to more than 600 in February 2018. However, many people with disabilities are telling PWD ACT that they are having difficulty finding services and experiencing long delays in receiving services. Why is it so? PWD ACT believes there are a number of reasons for this. Many registered NDIS providers are interstate organisations or are commercial businesses such as chemist chains which register for the benefit of NDIS payment for consumables purchased by NDIS participants who are their customers. In essence, the apparent number of registered NDIS service providers in the ACT gives an illusory measure of “choice of service provider” available in the ACT. As an illustration, a member has reported that he was given 12 names of potential Plan Managers but when he contacted them only two had an office and staff presence in Canberra.

PWD ACT suggests that the ACT Government recommends to the NDIA that the criteria for service provider registration in a jurisdiction should include mandatory evidence of a staff presence in that jurisdiction.

#### ➤ **Implementation of Local Area Coordination (LAC Services)**

The ACT’s sole provider of LAC Services came to the role with no background in the ACT service system and no office or staff presence in Canberra. Consequently there was an inevitable delay in rolling out the LAC in the ACT which arguably could have been avoided if a provider with a background and presence in the ACT had been appointed.

PWD ACT considers that as there is only one provider of LAC services in Canberra and as this provider has a ‘partnership’ relationship with the NDIA, this is a service provision scenario which highlights the need for continued funding of both individual and systemic advocacy services. Without such advocacy there is a risk the LAC and NDIA, working hand in glove, will dictate service provision rather than respond to individual need.

There is also clearly a case for a second provider of LAC services in Canberra in the interest of competition. A PWD ACT member has reported to us that problems of blame shifting can arise in circumstances when an NDIS participant needs to dispute the content and implementation of their Plan where the NDIA and Feros Care has been involved in preparing the Plan. If the participant complains to Feros Care, Feros Care blames the NDIA. If the participant complains to the NDIA the NDIA blames Feros Care. In this situation, the participant is likely to need advocacy support to resolve the issue. This situation also evidences the need for a greater separation of LAC service providers from the NDIA.

Regarding workforce planning issues, PWD ACT can advise the Committee that our members have told us that service providers are telling them that the shortage of workers, especially in the area of personal care and personal support, is the reason why their services are delayed or services cannot be rescheduled to meet a sudden change in circumstances.

#### ➤ **Support for People With Psychosocial Disabilities**

Our members who have psychosocial disabilities tell us that they are having considerable difficulties in getting information about the NDIS, communicating with the NDIA, establishing their eligibility for NDIS support and understanding and complying with NDIS administrative requirements. The ACT Mental Health Consumer Network is the consumer organisation best placed to advise the Committee on the Terms of Reference of its Inquiry as it relates to people with a psychosocial disability.

#### ➤ **People With Disabilities From Culturally and Linguistically Diverse (CALD) Backgrounds**

PWD ACT held a forum for this population group on Wednesday 4 April 2018. It was observed that while, statistically, people from this population group should comprise 83,000 of the 470,000 NDIS participants, at present, on NDIA statistics, only 3% of participants are from CALD backgrounds. Even if the ACT participation rate is slightly higher, it is still well short of the 18% which it should be.

The under representation of people with disabilities from CALD backgrounds as NDIS participants is evidenced in the NDIA's quarterly reports over the life of the scheme. This indicates that this population group is having considerable difficulties in getting information about the NDIS, communicating with the NDIA, establishing their eligibility for NDIS support and understanding and complying with NDIS administrative requirements. In the ACT, some efforts were made at the implementation stage to create awareness of and engagement with the NDIS for people from CALD communities but since full transition this work appears to have stalled.

The National Ethnic Disability Alliance (NEDA) have been advocating and working for four years for an Engagement Strategy for people from CALD backgrounds but the NDIA has not progressed this Strategy. In the ACT, we are hindered in what we can do because there is no local ACT organisation to advocate for people with disabilities from CALD backgrounds. One outcome of our forum is that PWD ACT will commence work with existing organisations in the CALD community space to advocate for this population cohort.

### ***Factors Unique to the ACT***

The Committee seeks information as to whether there are unique factors relating to providing disability services affected by implementing the NDIS in the ACT.

The ACT was the first jurisdiction to fully implement the NDIS for people with disabilities from all ages and all population groups. Another unique feature in the ACT was the role of the ACT Government as an “honest broker”, being a substantial service provider as well as a regulator. This full transition was well managed in many areas.

In some areas – such as the provision of therapy services for children – some parents considered that the ACT Government withdrew its services too quickly and before there were adequate replacement NDIS services. There are also many areas such as crisis and respite accommodation in which the ACT Government was the service provider and for which the NDIA was too slow to conclude arrangements for the service provider of last resort. The NDIA failure in this area had significant adverse effects on both people with disabilities and service providers.

The ACT is also a small jurisdiction with limited financial and human resources. Its small size means that its people are disproportionately affected by deficiencies in levels of funding for collective services such as those provided under the Information, Linkages and Capacity Building Program (ILC) of the NDIS. The inadequate amount of ILC funding in ILC round one and the awarding of that funding to a number of organisations with limited or no connection with the ACT had a substantial adverse effect on people with disabilities who had longstanding relationships with service providers who lost funding and had to cease their operations. Again this is evidenced in the ‘*Stories of Transition*’ Report prepared by ACTCOSS.