



LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY

**Report on the inquiry into
The Commonwealth/Territory Disability Agreement**

REPORT NUMBER 4
STANDING COMMITTEE ON SOCIAL POLICY

FEBRUARY 1997

Resolution of appointment

The following general purpose standing committees be established to inquire into and report on matters referred to them by the Assembly or matters that are considered by the committee to be of concern to the community ...

... a Standing Committee on Social Policy to examine matters related to health, hospitals, nursing homes, welfare, employment, housing, social security, the ageing, people with a disability, the family, Aboriginal people, youth affairs, the status of women, multicultural affairs, industrial relations, occupational health and safety, education, the arts, sport and recreation.

Minutes of Proceedings, Third Assembly 1995, No. 1, 9 March 1995, p 7.

Terms of reference

On 14 December 1995 the Standing Committee on Social Policy received the following reference from the Assembly.

Inquire into and report on the operation of the Commonwealth/Territory Disability Agreement, with particular reference to:

- 1) gaps which have emerged in service delivery;
- 2) any overlap or duplication of functions by the Commonwealth and the ACT;
- 3) the impact of the agreement on outcomes of ACT people with disabilities in terms of :
 - a) employment;
 - b) support services for both children and adults;
 - c) education and support services for school-age children; and
- 4) funding of services under the agreement.

Minutes of Proceedings, Third Assembly 1995, No 34, 14 December 1995, p 241.

Committee Membership

Ms Kerrie Tucker (Chair)

Ms Marion Reilly (Deputy Chair) (*appointed 26 March 1996*)

Mr Harold Hird

Ms Roberta McRae (*discharged 26 March 1996*)

Secretary: Ms Judith Henderson

Research: Ms Kim Blackburn

Preface

If we are to have a society which is indeed just and fair, the inclusion of people with disabilities within the community must be supported and valued. Eighteen per cent of our community is classified as having one or more disabilities (ABS 1993 Survey of Disability, Ageing and Carers). Thankfully, over the last ten years there have been dramatic changes in how people with a disability are regarded. We have moved from the days when discrimination against people with a disability was the norm - when people were confined to institutions or within private homes and rarely given the opportunity to participate equally in the community. We now have Federal, Territory and State legislation in place, whose objectives are to eliminate discrimination and to “promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community”.

Obviously for such worthy goals to become a reality, there must be appropriate resources, policies, services and support mechanisms in place. The Commonwealth State Disability Agreement (CSDA) attempts to introduce a national approach to disability services and also to co-ordinate the contributions of State, Territory and Federal governments. The CSDA was also instrumental in ensuring all States and Territories passed legislation in accordance with the objectives of the Commonwealth Disability Services Act 1986. The first CSDA was for five years and has recently been reviewed by Professor Anna Yeatman who has produced a report “Getting Real”. The Committee has for the most part agreed with Professor Yeatman’s evaluation of the present CSDA.

Our own inquiry was valuable because it gave the ACT community, a further opportunity to express their views about the local implications and consequences of the CSDA. The experience in the ACT is consistent with the national experience. Under this CSDA there is unmet need in important areas of service provision, particularly in linkages between employment and accommodation support, recreation, respite care, after school care and holiday programs for children under and over 12 years. There are also some serious occupational health and safety concerns for carers. All of these issues should be a top priority for government and it is of great concern to me that they have not been given much greater attention by past and present governments.

The solutions to the problems, which have been continually raised in forums dealing with disability services do not just lie in increasing resources, although this certainly is an issue. The solutions also lie in addressing the fundamental lack of effective quality assurance mechanisms. With an increase in outsourcing of service provision it is becoming even more critical that these

systems are dramatically improved. Lack of accountability and clear systems have led to inconsistent responses and operation of services which in turn have led to poor outcomes for some clients and carers. If the goals of the legislation are to be realised and effective quality assurance mechanisms are to be developed consumer input at all levels is essential.

This inquiry supports what has already been reported in other forums. We have indeed made considerable improvements in the over-all recognition of the rights of people with a disability but the practices are lagging behind not only the rhetoric but also the Commonwealth Standards. Many people with a disability still do not have the same choices as others in the community. They are still discriminated against. Carers of people with a disability are not given adequate support or recognition and governments continue to under-resource the area. There is still much work to be done.

The committee is appreciative of the time and energy that participants gave to this inquiry as we are aware that there have been numerous demands on these same people from other evaluative forums. I would also like to express appreciation on behalf of the Committee to Judith Henderson, Secretary of the Committee who has as always worked with patience and good will.

Kerrie Tucker MLA
Chair
14 February 1997

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Summary of recommendations

EMPLOYMENT AND DAY TIME ACTIVITIES

Recommendation 1

3.18. The Committee recommends that in any future arrangements the ACT Government ensure that the critical issues of effective linkages between accommodation and employment services and adequate day time support for people with disabilities in supported accommodation are addressed and solutions found.

CHILDREN

Recommendation 2

3.26. The Committee recommends that the ACT Government:

- support the inclusion of services to children with disabilities in any future agreement or arrangement between the Commonwealth and the States/Territories; and
- ensure the issue of funding for support for children with disabilities in child care and out of school hour services (including services for those over 12 years) is addressed with the Commonwealth and satisfactorily resolved.

INFORMATION

Recommendation 3

3.46. The Committee recommends that the ACT Government develop a strategy which ensures people with disabilities and their carers are able to access quickly accurate and relevant information to meet their needs.

ADVOCACY

Recommendation 4

5.16. The Committee recommends that the ACT Government strongly support the role of advocacy and ensure adequate funding whether from the Commonwealth or Territory for advocacy services.

SERVICE AGREEMENTS

Recommendation 5

5.47. The Committee recommends that the Department of Health and Community Care:

- make service agreements between providers and clients a condition of all future provider contracts;
- develop guidelines for agreements between providers and clients in consultation with all stakeholders; and
- take over-all responsibility for the ongoing consistency and quality of such agreements.

COMPLAINTS SYSTEMS

Recommendation 6

5.55. The Committee recommends that in future the Department of Health and Community Care require all funded services to develop effective complaints systems and grievance procedures and include information on those procedures in the provider/client service agreement.

Recommendation 7

5.56. The Committee recommends that the Government legislate to broaden the powers of the Commissioner for Health Complaints in relation to services for people with a disability and ensure that this work is appropriately resourced.

QUALITY ASSURANCE

Recommendation 8

5.65. The Committee recommends that in consultation with key stakeholders, the ACT Government immediately develop a systematic and independent standards monitoring process to determine whether services are meeting the Disability Services Standards and the requirements of the ACT legislation and report to the Social Policy Committee on progress in six months.

Recommendation 9

5.66. The Committee recommends that the ACT Government as a matter of priority work with other governments to develop a national model for quality improvement and assurance and if this is not progressing the ACT develop its own model, which incorporates the processes referred to in Recommendation 8.

Recommendation 10

5.67. The Committee recommends that in any future arrangements the ACT Government ensure that consumer participation is clearly structured into all levels of the planning, development, monitoring and evaluation of policies and services for people with disabilities.

EMPLOYMENT

Recommendation 11

5.90. The Committee recommends that the ACT Government

- adopt a position which ensures equitable wages and working conditions for people with disabilities; and
- immediately bring to the attention of the Commonwealth the unjust and inequitable wages paid in some Commonwealth funded employment services for people with disabilities.

Recommendation 12

5.91. The Committee recommends that the ACT Government obtain a commitment from the Commonwealth to fund adequately and support employment opportunities for people with disabilities in line with the spirit of the Disability Services Act 1986.

Recommendation 13

6.11. The Committee recommends that the ACT Government work with the other States and the Northern Territory to obtain a commitment from the Commonwealth to provide growth funding to all States and Territories under the new arrangements.

1. INTRODUCTION

Conduct of the inquiry

1.1. The inquiry was advertised in local newspapers in April 1996 . In addition letters inviting submissions were sent to a total of 58 individuals and organisations known to have an interest in the inquiry.

1.2. In response 30 submissions were received and the Committee held eight public hearings.

1.3. The Committee was briefed by officers of the Department of Health and Community Care, the Community Advocate and the Commissioner for Health Complaints.

Context of the inquiry

1.4. During 1995/96 a national review of the Commonwealth/State/Territory Disability Agreement (CSDA) was commissioned by the Federal Government. Professor Anna Yeatman was engaged to undertake this task. Following several specific studies, an interim report and a round of consultations across the country, the final report of the review *Getting Real* was released in July 1996. Many organisations and individuals in the ACT had input into the initial stages of the review. However the Canberra consultation on the interim report was very poorly attended due largely to publicity problems encountered by the Commonwealth agency responsible for the consultation's organisation.

1.5. Since the commencement of this inquiry there has been a change of government at the federal level. The current Federal Government has indicated that it could be handing many of its responsibilities over to the States/Territories and as a result the future of the CSDA in its current form is uncertain.

1.6. However even if the CSDA as we know it ceases to exist, the issues of the funding and administration of services for people with disabilities will still need to be addressed. This report provides information and recommendations to assist the ACT Government in its negotiations with the Commonwealth on any future agreement or arrangements concerning the administration and funding of services to people with disabilities.

Scope of the inquiry

1.7. The inquiry's terms of reference limited the scope of the inquiry to matters related to the CSDA.

1.8. The CSDA impacts right across the delivery of services to people with a disability and many issues could not be separated into the artificial division of responsibilities between the Commonwealth and the States/Territories. How people with a disability perceive the standard of services available for them in the ACT is critical information for evaluating the CSDA. Many people wanted to speak on behalf of people with disabilities. All wanted to see good outcomes for people with disabilities. The Committee believed that it was important to listen to the many concerns raised about some disability services in the ACT to give it an insight into the difficulties faced by consumers, parents, advocates and service providers and therefore help identify the systemic problems.

1.9. The inquiry touched on issues raised in other inquiries and consultations and some people mentioned that they felt they had been consulted almost to their limit without any perceivable change in outcomes to the quality of life and services. The Committee appreciated the high quality of information presented and thanks all those who participated.

1.10. The inquiry's terms of reference restricted the Committee's examination of some of the issues raised. In many instances people presenting concerns not able to be dealt with by the inquiry were encouraged to take their concerns to the Commissioner for Health Complaints. The Committee also referred some matters to the Auditor General. It is understood that complaints have also been taken to the Ombudsman and the ACT Human Rights Office.

1.11. The Committee is pleased to note that several concerns raised during the inquiry about the Disability Program of ACT Community Care were addressed by the ACT Government. These included the development of policy on infection control in group houses, the availability of a policy and procedures manual in all group houses, a requirement that new disability support workers hold a current First Aid Certificate and a new draft Strategic Directions Plan.

2. THE COMMONWEALTH/STATE/TERRITORY DISABILITY AGREEMENT

2.1. The Commonwealth/State Disability Agreement (CSDA) came into effect on 1 July 1991 and expires on 30 June 1997. The CSDA provides for the clarification of Commonwealth and State/Territory responsibilities in the field of disability support. The CSDA has been described in a Disability Services Program manual as follows:

a national framework for funding arrangements and operations of disability services in order to achieve a more effective, streamlined approach to service provision for people with disabilities.¹

Background to the CSDA

2.2. In order to understand the scope and context of the CSDA the following background information is provided.

Disability Services Act

2.3. At the federal level, the introduction of the *Disability Services Act* (DSA) in 1986 prescribed a whole new approach to services for people with a disability. Under the Act the Government set out principles which asserted the rights of people with a disability and objectives for services to meet in order for the rights to be achieved. The new policy changed the focus from funding segregated facilities for people with a disability to meeting the support needs of people with a disability and achieving positive outcomes for them. The plan was to deinstitutionalise segregated services, increase the range of service options and include people with a disability in wider community life.²

The Disability Services Program

2.4. The Disability Services Program (DSP), a Commonwealth Government program, was established in 1987 to implement Part II of the DSA: 'Funding of services for persons with disabilities'. Services funded by the Commonwealth DSP from 1987 until the introduction of the CSDA included the following: some accommodation support; some employment, training and placement services; some respite services; some recreational services; and some information services. The State/Territory governments also directly funded some of these same service types.

¹ *What is the Commonwealth/State Disability Agreement?*, Part 2, Disability Services Program Manual.

² Baume Peter, Kay Kathleen, *Working Solution*, Report of the Strategic Review of the Commonwealth Disability Services Program, AGPS, Canberra, 1995.

Provisions of the CSDA

2.5. As noted above, prior to the CSDA, Commonwealth Disability Services Program funds were allocated across a range of service types including accommodation, community support, employment, advocacy and research and development. States traditionally funded or provided accommodation and other support and some employment and training services. There was State/Territory-Commonwealth duplication in relation to responsibility for the provision of disability services. With the CSDA each level of government became responsible for different major areas of disability services.

2.6. Under the terms of the CSDA the Commonwealth gained full responsibility for the administration of employment services, consistent with its national responsibilities in this area, and the States and Territories became responsible for administration of accommodation and other support services namely: information, recreation, therapy for children under school age, and respite care. Education was already a State/Territory responsibility and is not addressed in the funding arrangements under the agreement. Advocacy and research and development were designated as shared administrative responsibilities, which could be undertaken either jointly or individually.

Major features of the CSDA

2.7. Specifically, the agreement provided for the following:³

- designation of government responsibilities for contributing funds and for approval, administration and evaluation of services by service type;
- a requirement for enactment of State legislation for the provision of disability services;
- a statement of intent and objectives relating to the achievement of positive outcomes for people with disabilities;
- specification of principles and objectives for the administration of disability services under the CSDA with particular reference to the rights and needs of people with disabilities;
- a requirement for service user participation in the planning, delivery and evaluation of services;
- provision for joint Commonwealth and State consultation on broad program priorities and targets, development of 3 year forward plans in each jurisdiction and the development of a combined State plan in each State approved by Commonwealth and respective State/Territory Ministers;
- provision for a joint advisory body to be established in each State/Territory to advise Commonwealth and State Ministers;

³ Ernst and Young, *The Commonwealth/State Disability Agreement Evaluation - The implementation Study*, AGPS, Canberra, 1996.

- designation of base funding levels (1989/90 year expenditure) and a requirement for these levels to be maintained (including indexation but not necessarily extraordinary wage increases) for the life of the CSDA;
- a Commonwealth commitment to achieving equal per capita distribution of Commonwealth funds made available to disability services in the States (fiscal equalisation);
- provision for the allocation and matching of growth funds with a per capita equalisation formula;
- the ability to carry over uncommitted funds for use in the next financial year;
- a requirement for the maintenance of funds granted to services transferring between governments under the CSDA for a period of 12 months after the transfer took place;
- a requirement for the reinvestment of the proceeds from the sale of any transferred property or equity in CSDA services or payment of same to the transferring government;
- a requirement for exchange of financial and other information between the Commonwealth and the States, including:
 - exchange of annual statements certifying correct application of funding;
 - exchange of annual audited expenditure statements; and
 - separate identification of CSDA expenditure in budget papers;
- the establishment of nationally standardised core arrangements for financial monitoring and acquittal in relation to the provision of disability services;
- a requirement for the implementation of service agreements with all services funded under the CSDA within 3 years from the commencement of the CSDA;
- a requirement for the performance review of each CSDA-funded service at least once every 5 years, particularly in respect of outcomes achieved by consumers;
- a requirement for the Commonwealth and the States to each contribute separately identifiable funds for national research and evaluation and the specification of a minimum contribution of \$200,000 per annum from the Commonwealth and \$200,000 (apportioned on a per capita population pro rata basis) from the States;
- the exchange between the Commonwealth and States of agreed program and non-identifying service user information for the purposes of planning, identification of unmet needs and evaluation; and
- an undertaking that the Commonwealth would provide a national clearing house for research and information about innovative projects and a central point for information sharing.

Service types included in the agreement

2.8. The following service types are covered by the initial agreement:

- accommodation support services;
- advocacy services;
- competitive employment, training and placement services;
- independent living training services;
- information services;
- print disability services;
- recreation services;
- respite care services; and
- supported employment services.

There is provision for the inclusion or removal of services of a similar type to those listed above by agreement between the Commonwealth and State/Territory Ministers.

Service types not included in the agreement

2.9. The following disability services and activities were excluded from the agreement;

- those provided under the Veteran's Entitlement Act (1986) or by the Commonwealth Rehabilitation Service;
- therapy services (which were included in the calculation of base funds) were not to receive growth funds except for the provision of early intervention therapy services for children below school age and components of other service types which are not separately identifiable as therapy; and
- equipment services.

2.10. Other services excluded from the agreement are those which were not funded by the Commonwealth Disability Service Program such as the Home and Community Care (HACC) program (which has a disability component), Commonwealth health programs, children's services, Commonwealth education programs as well as State/Territory funded programs in health and education.

2.11. For example the agreement excluded disability oriented therapy and equipment services with the exception of early intervention therapy services for children under school age. Other therapy services were regarded as the responsibility of the State/Territory 'health' program as distinct from 'disability' program. Similarly equipment services were not seen to be part of the 'disability' program and were provided through other Commonwealth programs such as the Commonwealth Rehabilitation Service.

2.12. The agreement also excluded primary and secondary education programs, which are essentially a State/Territory responsibility as well as Commonwealth funded special programs for primary and secondary education.

Outcomes of the CSDA

Increased funding

2.13. The Department of Health and Community Care reported that as a result of the agreement combined Commonwealth/Territory funding for disability services in real terms has increased from a base of \$2.3m in 1991/92 to \$4.9m in 1995/96⁴ and \$5.5m in 1996/97.⁵ This is broken down as follows:

Disability Services Grants Program	\$3,319,004
Individual Funding Program	<u>\$2,228,048</u>
Total	\$5,547,052

A list of recipients of grants under the Disability Services Grants Program for 1996/97 is at Appendix 5.

2.14. CSDA spending is only part of the Territory spending on disability and the above figures do not include funding provided by the ACT Government for services which were not subject to the agreement such as funds used to purchase services from ACT Community Care which in 1996/97 amount to \$14.6 m. The above figures do include \$160,000 of HACC funds used to purchase services under the Individual Funding Program. Other HACC funding is not included.

2.15. The HACC program is a joint Commonwealth/State program. ACT funding under the HACC program for 1996/97 totals \$9,173,614. Of this amount the ACT contributes 51.12 per cent and the Commonwealth 48.88 per cent.⁶ The Government reported that a substantial proportion of HACC funding is used to provide services for people with a disability.⁷

Funding arrangements

2.16. The Commonwealth/Territory Disability Agreement resulted in a change of funding arrangements for some ACT services where joint funding arrangements had existed. For example the employment and training services provided by Koomarri became the sole funding responsibility of the Commonwealth. Responsibility for funding for other previously jointly funded services was transferred to the Territory. The States and Territories were tied to spending the money on transferred services for one year, after which the money was 'untied' as long as it was spent on disability services.

⁴ Submission 14.

⁵ Minister for Health and Community Care, *Correspondence dated 6 January 1997*.

⁶ Minister for Health and Community Care, Answer to Question on Notice, 1996 Estimates Committee.

⁷ Minister for Health and Community Care, *Correspondence dated 6 January 1997*.

2.17. Previously jointly funded services include accommodation services provided by the ACT Society for the Physically Handicapped, L'Arche Genesaret Community and Focus; respite care services provided by Respite Care Incorporated; community access services provided by Sharing Places; recreational services provided by Pegasus and the ACT Society for the Physically Handicapped; and the living skills program offered by the Woden Community Service. These are now funded by the ACT.

2.18. Funding transfer schedules were negotiated bilaterally between the Commonwealth and each State and Territory using the national framework outlined in the agreement. These schedules were based on the initial 'base' calculations of funding and under the CSDA included a requirement that the base be maintained by both levels of government.

Legislation

2.19. The ACT *Disability Services Act* was enacted in 1991. The passing of the Act established the basic rights of people with disabilities in the Territory and has provided a basis for policy development and purchasing of disability services by the Government. At present two schedules have been incorporated in the Act namely: Schedule 1 'Human Rights to be furthered in relation to people with disabilities', and Schedule 2 'Requirements to be complied with in relation to the design and implementation of programs and services relating to people with disabilities'. These schedules are at Appendix 2. In the absence of specific ACT standards at present contracts for ACT service providers (both government and non government) require them to meet the Disability Services Standards developed by the Commonwealth, which are at Appendix 1.

Disability Services Advisory Committee

2.20. A Disability Services Advisory Committee (DSAC) has been established in the ACT to obtain advice from a consumer perspective on matters relating to people with disabilities. The Department of Health and Community Care advised that the DSAC is a useful forum to canvass new policies and ideas and provides people with disabilities in the ACT with a formal mechanism for input on these matters. The DSAC has a workplan which was developed as a result of consultation with service users and service providers and focuses on significant issues relating to disability.

Service administration and delivery

2.21. Since the implementation of the CSDA, responsibility for disability services administration in the ACT government has been placed in the broader community care area. Disability programs are administered by the ACT Department of Health and Community Care.

2.22. The Government reported that in the ACT an outcomes approach has been developed for the purchasing and delivery of disability services. This approach aims to ensure that consumers receive a service which focuses on their individual needs and assists them to achieve real outcomes. The CSDA supports this approach by identifying ways in which the Commonwealth and States/Territories can achieve positive outcomes for people with disabilities, such as maximisation of cost-effective service administration, simplifying access arrangements, better service planning and integration. *The Disability Services Act 1991* is also an important basis for outcomes-focused service provision.⁸

2.23. Services are delivered by both the government and non-government sector. Services provided by the ACT Government (mainly by the Disability Program of ACT Community Care) include residential services (approximately 142 places plus centre-based respite) for people with intellectual disability, centre-based respite care, therapy services, psychology, social work, recreation, information,⁹ community development and case management. A range of non-government agencies also provide accommodation support as well as home-based respite care, community access, life skills training and employment programs.¹⁰

2.24. Mechanisms and policy for individualised funding are also being progressed. An Individual Support Package (ISP) program has been initiated and has provided a flexible option for some people with disabilities. In 1995/96 an extra \$660 000 was allocated to expand the ISP program. This program is currently being reviewed and the outcomes of this review will be used to improve and extend individualised funding options in the Territory.

⁸ Submission 14.

⁹ ACT Community Care, *Meeting the Challenge - a new program structure for ACT Community Care*, August 1996, p 15.

¹⁰ Transcript, p 264.

3. GAPS WHICH HAVE EMERGED IN SERVICE DELIVERY

3.1. As the final report of the national review of the Commonwealth/State Disability Agreement, *Getting Real*, pointed out 'there is critical and urgent unmet need in virtually all areas of service provision'.¹¹ A number of major gaps have been identified in the ACT, which are outlined in this chapter.

Day time support

3.2. Day time support is a major concern for service providers, parents, guardians, advocacy groups and clients. Many of the problems are directly related to the CSDA arrangements.

3.3. The Department of Health and Community Care reported that there are significant issues around people for whom mainstream employment is not a realistic goal and who therefore require alternative daytime support services. This particularly applies to young people in transition between school and employment.¹²

3.4. Many other organisations such as the Koomarri Association, Focus, the Woden Community Service and ACROD¹³ reported that there are also significant issues around accommodation support for people with disabilities in employment.

3.5. The Koomarri Association pointed out that a few years ago the majority of adults with disabilities receiving services were placed in either sheltered workshops or Activity Therapy Centres. There was a predictability about their daily timetable that made the organisation of accommodation services relatively easy because these activities were conducted during the 'normal' working day times. Almost without exception, residential services ensured that the majority of their support staff were available in the late afternoon through into the evening, and again, from the early morning through until the commencement of the normal working day. Skeleton staff could be made available at night, while during the working day, there would scarcely be a support staff member around, with only administrative personnel being on hand.

3.6. Further, the Koomarri Association stated that the move towards community based employment has resulted in an unpredictability in the working day for people with disabilities as many now work in industries that

¹¹ Yeatman, Anna. *'Getting Real' The Final Report of the Commonwealth/State Disability Agreement*, AGPS, Canberra, July 1996, p xii.

¹² *Submission 14*.

¹³ *Submissions 4, 5, 23 and Transcript of Social Policy Issues raised by Community Groups April-1995* p 145.

operate outside 'normal' working day times such as bakeries and markets that operate at the peak time in the early hours of the morning and are closed down by lunchtime and the hospitality industry, where the peak hours of business are between 5.00 pm and 11.00 pm.

3.7. In recent years there has been a shift in the way the community views disability. People with disabilities are now viewed as individuals with the right to participate in various dimensions of community life. Choice in employment is experienced by other members of the community and the Committee believes that this same choice must be available to people with disabilities. To achieve this choice adequate support needs to be provided.

3.8. Another factor impinging on accommodation services is the diminishing employment and day time activity opportunities for people with a disability. Focus reported that in the last few years over a third of the 90 people it supports have had their day time activities either reduced or taken away completely.¹⁴

3.9. Support to people on work experience placements is also an issue. There are people who need support to enable them to settle in a placement. Supported accommodation services are not funded to provide this support yet sometimes the support is needed.

3.10. The consequence for accommodation services is that they now need to be able to provide residential support at all points through the 24 hour clock, but the fact is that they are not funded to be able to do this. They continue to be funded according to the 'normal working day' time model described above and as a result assistance for residents while 'at home' is often unavailable.¹⁵

3.11. For one organisation, the Woden Community Service, the need to pick up the support responsibility during the hours of non employment as a result of the funding arrangements under the CDSA was a major contributing factor to the debt incurred by their accommodation service 'Choices'.¹⁶ This debt eventually caused the closure of the program. The Woden Community Service reported that the impact on the people with a disability relying on the program, their families and the Woden Community Service itself was devastating and disempowering.

3.12. The problem of the lack of day time support in accommodation services is not confined to the community sector. ACT Community Care advised the Committee that the shortage of Commonwealth funded employment and day

¹⁴ Transcript of *Social Policy Issues raised by Community Groups - April 1995* p 145.

¹⁵ *Submission 5.*

¹⁶ *Submission 23.*

services places great stress on the Disability Program.¹⁷ One of the consequences is that the Disability Program needs to provide extended support for some of its group houses and faces similar resource problems as the community sector.

3.13. When adequate support is not available residents can face significant personal risk. The Committee received reports of injuries which have been attributable to the unavailability of support.

3.14. The Committee was told that the Disability Program is examining ways of providing more day time activities within the resources currently available. The Program has had to start thinking about this because the Commonwealth is taking a much stricter view about people being employable and therefore making it harder for clients to access employment related activities.¹⁸

3.15. In relation to non government accommodation services, Koomarri and Focus have made joint representations regarding a lack of day time support to the Commonwealth and to the ACT Government and reported that while both Governments acknowledge that it is a very real issue each claims that it is for the other level of government to address.

3.16. The split between funding responsibility for community access services, other day time services and employment services under the CSDA has created confusion for consumers and many insurmountable problems for providers of community access and day time services. One solution suggested is that funding should move with a client between employment (Commonwealth funded) and day activities.¹⁹

3.17. The matter of the unavailability of support for residents in supported accommodation at some times during the day is of great concern to the Committee. The Committee believes that effective interaction between accommodation and employment services is crucial in ensuring consumer needs are met in terms of activities, safety and security. Clearly many of these problems have arisen as a direct consequence of the division of responsibility determined by the CSDA and need to be addressed in the new Agreement.

Recommendation 1

3.18. The Committee recommends that in any future arrangements the ACT Government ensure that the critical issues of effective linkages between accommodation and employment services and adequate day time

¹⁷ Transcript, p 385.

¹⁸ Transcript, p 302.

¹⁹ Submission 4.

support for people with disabilities in supported accommodation are addressed and solutions found.

Services for children with disabilities

3.19. Services for children with disabilities are not a focus of the current CSDA and the ACT Government along with many service providers and community organisations has indicated this issue needs to be addressed in the new agreement.

3.20. The lack of sufficient out of school hours care places for children with disabilities is a serious gap. Over the last few years this matter has been raised in several reports such as the Dell Report, the Social Policy Committee's report *Social Policy Issues Raised by Community Groups - April 1995* as well as in the EPAC Task Force Interim Report *Future Child Care Provision in Australia* of June 1996. Despite numerous reports of the problem nothing has changed. The ACT Down's Syndrome Association Inc, ACT Council on Intellectual Disability, Koomarri School, Northside Community Service, Respite Care ACT Inc, Quality Care for Children with Disabilities Inc and the Government raised this issue in submissions to the inquiry. Specifically there is a need for before and after school care and vacation care for school age children with disabilities. At present there are very limited places for children under 12 years and practically no places for children over 12. There is also a need for funding of additional staff to assist existing services to care appropriately for children with disabilities.

3.21. The lack of after school care and holiday programs for students with a disability over 12 years of age has been recognised as a gap in services for some time. Koomarri School reported that the availability of after school care for students with a disability over 12 years of age is minimal. The programs do not operate every week day and only cater for the more able students who require lower staffing levels. None of the holiday programs cater for students over 12 with aggressive/challenging behaviours and there are practically no places for students with severe disabilities.²⁰

3.22. Adequate support for children with disabilities with high support needs in long day care, occasional care and family day care was reported to be grossly inadequate.²¹ Northside Community Service which operates 31 separate programs for children under 12 advised the Committee that it is only funded for one worker to support children with disabilities in these programs. The main mechanism of facilitating inclusion of children with special needs in child care services is the Commonwealth Supplementary Services (SUPS)

²⁰ Submission 9, p 3.

²¹ Submission 10.

program. Under recently changed Commonwealth guidelines the role of the support worker is to train and support staff in the centres and no longer to provide 'hands on' support to the children with disabilities.²² As Northside Community Service pointed out, this situation places them as a service provider in a serious dilemma. On the one hand they want to provide a service for children with disabilities and on the other they must consider their duty of care to both the children with disabilities and the other children in the program.²³ The ACT Government also acknowledges this dilemma.²⁴

3.23. Therapy Services for children were not included in the first Commonwealth/Territory Disability Agreement except as early intervention services for children under school age. Therapy services for children under and of school age are essentially a Territory responsibility although for several years up until 1996 the Woden Community Service received a grant under the National Equity Program for Schools to provide speech therapy in schools. This grant has now been discontinued.

3.24. Several submissions including the ACT Government submission stated that more therapy services for both groups of children are needed.²⁵

3.25. Submissions to the inquiry including that from the ACT Government identified a number of other areas of need for children with disabilities and their families. These include respite care, availability of equipment such as wheelchairs and splints, access to family support services, support in the management of behavioural issues²⁶ and recognition of attention deficit and hyperactivity disorder as a disability and provision of adequate support for children and young people with this disorder.²⁷

Recommendation 2

3.26. The Committee recommends that the ACT Government:

- **support the inclusion of services to children with disabilities in any future agreement or arrangement between the Commonwealth and the States/Territories; and**
- **ensure the issue of funding for support for children with disabilities in child care and out of school hour services (including services for those over 12 years) is addressed with the Commonwealth and satisfactorily resolved.**

²² Submission 14.

²³ Transcript, p 97.

²⁴ Submission 14.

²⁵ Submissions 8, 9, 14, 21.

²⁶ Submission 14.

²⁷ Submission 22.

Behaviour management

3.27. Support and programs for people with a disability who also exhibit challenging or aggressive behaviours was reported as a gap in services by many organisations and individuals.

3.28. Effective professional support in behaviour management was reported to be difficult to obtain. The Committee was told of instances in group houses where professional support was not available to assist staff in the management of aggressive and violent behaviour.²⁸ In some instances the management practice employed by staff was quite inappropriate

3.29. Koomarri School reported that there is an urgent need for a suitable safe place to provide respite care for young people with a disability whose behaviour threatens the safety of others. At present when this occurs the young person is sent home, to a parent who may also be having difficulties coping with the behaviour. In other instances parents will not use respite care because the security and safety of their child cannot be guaranteed.²⁹ These examples raise the issue of the vulnerability of clients and carers who since deinstitutionalisation are now more likely to be in isolated situations.

3.30. The Committee was also told of severe difficulties encountered by parents seeking suitable accommodation support for adolescents with disabilities and extremely challenging behaviours.³⁰ The unavailability of suitable long term accommodation and behaviour management programs placed the families concerned under severe stress for a period of over twelve months. Suitable arrangements have subsequently been made. However the problem will arise again.

3.31. In the past the ACT Government established a special facility and behaviour management program for two young people with disabilities and extremely challenging behaviours. The Committee is aware that at least one of these young people benefited greatly from the program and now lives happily in a group home.³¹

3.32. The Health Services Union of Australia ACT No 1 Branch³² provided the Committee with information on the incidence of injury to Disability

²⁸ Transcript, p 344.

²⁹ *Submission 9.*

³⁰ *Submission 19*, Correspondence from Mrs Saengmany dated 11 November 1996 and copies of correspondence to the Chair from the Minister for Health and Community Care dated 21 November 1996, 18 December 1996 and 31 December 1996.

³¹ Transcript, p 257.

³² *Submission 30.*

Program carers over a three month period in 1996. During this period there were 30 occurrences of injury to staff due to aggressive client behaviour. Of the incidences 24 occurred in eight of the group houses and six were either at shops or while the client was travelling in a car. Injuries included bruising from hitting, bites and scratches. In addition to these incidences there were 26 dangerous occurrences reported during the period. These included throwing objects including stools, lunging and attempting to hit, breaking a window and attempting to slap, kick and bite.

3.33. Many of the difficulties experienced are related to issues of incompatibility of residents, insufficient day time activities, the nature of support and the training of staff. The Committee was concerned to see inconsistencies in the level of expertise in behaviour management that various services offered. The Committee questions the adequacy of training in behaviour management and the effectiveness of the systems within management to deal with emerging behaviour problems in a timely and appropriate manner.

3.34. The Committee accepts that not all challenging behaviours can be modified, however it believes that it is a responsibility of the ACT Government to provide a service which can deal with people with disabilities who have challenging behaviours in both respite and long term care situations.

Information

3.35. On a national level in relation to unmet demand for information services, Yeatman reported that 'there is sufficient evidence ... that many people with severe or profound handicaps (in ABS terms) and principal carers do not know the formal services that are available'.³³

3.36. Evidence received by the Committee indicates that access to information is a serious problem in the ACT for people with disabilities and their carers.

3.37. By far the most pressing issue concerning information is the lack of a coordinated approach to information provision in the disability area. Under the CSDA information is a Territory responsibility. It was claimed that the current disability services system is too fragmented and consumers in the ACT are unaware of services and the eligibility requirements to access services.

3.38. The views of many organisations submitting to the inquiry are summed up by ACROD which noted:

³³ Yeatman, Anna. *'Getting Real' The Final Report of the Commonwealth/State Disability Agreement*, AGPS, Canberra, July 1996, p 46.

*There is a major problem arising out the lack of an umbrella and centrally located, accessible disability information service in the ACT.*³⁴

3.39. It has been recognised over many years that one of the major gaps in service for people with disabilities and their carers in the ACT is the lack of a comprehensive information service designed to meet their specific needs. This gap in service provision has been identified in the following recent reports: *A Review of Intellectual Disability Services provided by ACT Housing and Community Services Bureau; The Rehabilitation Review; The Review of Services for People with Acquired Brain Injury; A Brush with Stroke; ABI - The Invisible Disability; and Social Policy Issues Raised by Community Groups -April 1995.*

3.40. In addition towards the end of 1995 the Disability Services Advisory Committee conducted two consultative forums to determine ways to improve the provision of support for people with disabilities. The lack of access to information to assist people with disabilities and their carers to make informed choices on disability matters was high on the list of problems identified.

3.41. The Committee was told that the unsatisfactory nature of the current situation has resulted in the proliferation of small and very specialised incomplete databases, the majority of which are unable to be maintained due to lack of resources.³⁵ This situation leads to some information being out of date or incomplete. In addition to the possibility of information being out of date, people with disabilities do not know where these information services are or how to access them.

3.42. In March 1996 a submission was presented to the ACT Government requesting funding to establish under the auspice of an existing mainstream service, a comprehensive and accessible information service for people with disabilities and their carers in the ACT similar to models operating in other states. No funding was identified in the 1996/97 budget for such a service. Funding was provided under the HACC program for the establishment of a new information service 'Infolink', however the Committee is not convinced that this will overcome the problems outlined in the previous paragraph as this service is limited to providing 'information about available services for the frail aged and younger people with a disability'.³⁶

3.43. People with disabilities require much of the same information as every other person in the community about community services such as buses, schools, housing, rates and taxes. As the Disability Services Advisory Committee stated, generic services should produce information in accessible

³⁴ *Submission 5.*

³⁵ *Submission 16.*

³⁶ Respite Care ACT Inc., *Information Brokerage Service "Infolink" Brochure.*

formats such as audio tapes and braille.³⁷ The Committee understands that the Department of Health and Community Care has been working towards ensuring information services are responsive to the needs of people with disabilities. The Department is of the view that the requirements be strengthened to ensure those organisations which have a community responsibility to provide information are making the information available to people with disabilities.³⁸ The Committee strongly supports this approach and considers it should be included in performance agreements.

3.44. However this approach only partly addresses the issue. Some people with disabilities have very specific requirements and need information on how to access services to meet their needs. Some specialised databases have been developed by non government organisations, however the Committee has been told that there are no resources to keep them up to date and do further development work. The Department of Health and Community Care advised the Committee that it sees difficulties with allocating resources to an information service in a no growth environment which would effectively mean that resources would need to be taken away from direct service provision.³⁹ The Committee sees this as shortsighted view.

3.45. While there are obvious resource implications for filling this gap it is a concern that there seems to be little recognition of the importance of the availability of comprehensive information services. Informed decision making and an understanding of individual rights and responsibilities is dependent on high quality information. There is substantial evidence that something is seriously wrong with the current information system for people with disabilities.

Recommendation 3

3.46. The Committee recommends that the ACT Government develop a strategy which ensures people with disabilities and their carers are able to access quickly accurate and relevant information to meet their needs.

Recreation

3.47. The Disability Services Advisory Committee reported that there are major gaps in recreational opportunities for special needs schools, holiday programs, under 10 year olds, mature aged sport and recreation within the general community and for people with a psychiatric disability.⁴⁰ There is also

³⁷ Submission 3.

³⁸ Transcript, p 273.

³⁹ Transcript, p 273.

⁴⁰ Submission , p 5.

a major gap in recreation opportunities for young people with a severe disability over 12 years, which is discussed later in this report.

3.48. Individualised recreation opportunities for people in Disability Program group houses were reported to be limited due to insufficient staffing and resources. There are situations when it is necessary for all residents to go out together to the same activity for example shopping, or for no one to go out at all.⁴¹ Recreation activities take on greater importance with the decrease in employment opportunities.

3.49. To date a large proportion of recreation funds for the Disability Program has been spent on annual camps for clients. This has entailed the two recreation staff devoting a significant amount of their time to planning and attending camps with clients, largely to the exclusion of other recreational pursuits.⁴² Holiday camps were reported to be only available to people with mild/moderate disabilities who are able to afford them.⁴³ ACT Community Care indicated that it was examining the matter and would be consulting with clients and parents/guardians about ways to provide a greater variety of recreational activities.

3.50. In 1995, Respite Care ACT, FaBRIC and the ACT Office of Sport, Recreation and Racing prepared a joint report entitled *Recreation Support for the Disabled*. This report supports the view that there are gaps in recreational opportunities for people with disabilities. The report found that recreational patterns for people with disabilities differ significantly from the general population. Overall people with disabilities have lower usage of community recreation facilities and a greater proportion of people with disabilities experience barriers to participation than other members of the community. Participants in the study expressed a strong desire for additional special interest groups.

Equipment and therapy services

3.51. Other gaps in the current CSDA arrangements are in the areas of equipment and therapy services for people with disabilities. These service types are not allocated as the responsibility of either level of government and have overlap with health services.

3.52. Equipment services were reported to be limited and difficult to access.⁴⁴ There is uncertainty about who is responsible for the supply and maintenance of specialised equipment such as communication devices and computers to

⁴¹ Submission 30.

⁴² Transcript, p 302.

⁴³ Submission 30.

⁴⁴ Submission 1, 3, 5, 9.

assist students with a disability to participate in class. Problems with obtaining suitable wheelchairs were reported by individuals and Koomarri School. The Committee was told that there are huge delays in repairs and supply of wheelchairs and sometimes a wheelchair designed for a particular growing client is too small by the time it arrives.

3.53. There are now difficulties in accessing funding for specialised equipment for people requiring non standard artificial limbs. One family⁴⁵ told the Committee of their disappointment in trying to seek funding for a hydraulic knee for their son who had his leg amputated as a result of cancer. A hydraulic knee provides much greater mobility than the mechanical artificial leg which reportedly does not give sufficient mobility for even the most basic of activities. The family cited cases of funding being available for hydraulic knees through the Commonwealth scheme until the funding arrangements were changed in mid 1993 and the with the exception of New South Wales responsibility was transferred to the States/Territories. New South Wales is still operating under the Commonwealth scheme and when special circumstances exist non-standard components are made available through application by the prescribing clinician and when approved extra funds are provided by the Commonwealth.

3.54. Under the new arrangements States/Territories now determine their own policies on funding for non standard limbs. The Committee was advised that there is no provision in the transfer agreement to allow the ACT Government to apply for extra funding for special cases.⁴⁶ The family has been told that 'the provision of such specialised devices as hydraulic, pneumatic and myoelectric limbs is beyond the capacity of the current health budget'.⁴⁷

3.55. Issues surrounding therapy services for people with disabilities were raised in several submissions. The Stroke Association of the ACT expressed concern about the lack of rehabilitation services within the community to provide ongoing supervised support to assist people with a disability acquired through stroke.⁴⁸

3.56. The Speech Pathology Association of the ACT⁴⁹ and Koomarri School⁵⁰ pointed to the serious shortage of therapy services for people over 12 years of age. Koomarri School stated that one third of its student population of approximately 90 requires the services of a speech and/or occupational therapist. However the school receives only six hours per week of

⁴⁵ *Submission 2.*

⁴⁶ Correspondence from the Prosthetic Orthotic Department, Canberra Hospital, dated 15 October 1996.

⁴⁷ Correspondence from Minister for Health and Community Care dated 1 May 1995.

⁴⁸ *Submission 18.*

⁴⁹ *Submission 8.*

⁵⁰ *Submission 9.*

physiotherapy and five hours of occupational therapy. The situation for speech pathology is even worse with the school estimating 80 per cent of students requiring speech pathology to assist them with their communication programs and mealtime procedure. Speech pathology is only provided for six hours per week.

3.57. The Speech Pathology Association of the ACT and the Health Services Union of Australia ACT No 1 Branch also drew the Committee's attention to shortages in therapy services for adults.

3.58. The inclusion of both equipment and therapy services in the CSDA is desirable in further developing an integrated disability service.

Services for people with a psychiatric disability

3.59. While only one submission addressed the matter of services for people with a psychiatric disability, the Committee is aware that the issue is of concern to a number of organisations. This submission pointed out that people with psychiatric disability have been largely excluded from benefits of the Commonwealth Disability Services Act receiving only about 3 per cent of Commonwealth disability services.⁵¹

3.60. Psychiatric disability is included in the target group of the CSDA, however access to disability services for people with a psychiatric disability appears to be problematic and the Committee will pursue this matter in its inquiry into 'The Adequacy of Mental Health Services'.

Carers and unmet demand for carer support

3.61. Similarly the Committee is very conscious of the gaps in services for carer support. Many people who participated in this inquiry are carers. The contribution that carers make in long hours of unpaid work is a great saving to the community. Many of the issues identified in this report relate to carers, for example, the need for information, respite care, community access and employment. Carers also have personal needs and the recognition of these needs through the provision of support to carers is a huge gap.

Planning to meet needs

3.62. Having identified the many gaps in services the Committee was interested to obtain information on the planning processes in place in the ACT to ensure that services are available both now and in the future to meet the needs of the community and that resources are used judiciously.

⁵¹ Submission 17.

3.63. As Yeatman found determining unmet demand has been a national problem. As part of the national review of the CSDA a study on demand entitled *The Demand Study* was undertaken. This was the first time that there had been an attempt to use reliable survey data, in relation to other data sets, to generate some national figures on unmet demand for disability services.⁵²

3.64. As the ACT Department of Health and Community Care pointed out identifying demand is not simply a matter of adding up various waiting lists; it is a complex process and the systems in place at present are not very sophisticated. The Department claimed the level of resources required to develop systems to measure demand in the ACT is currently not available.⁵³ Work is being done in some other States which the Department hopes to tap into.

3.65. The Committee is concerned that this fundamental aspect of planning, namely, ascertaining present and future need is not within the means of the Department. This could result in difficulties for the ACT in justifying applications for increased Commonwealth funding and will certainly make efficient and effective long term management of disability services very difficult to achieve. Reactive responses are often not cost effective.

⁵² Yeatman, Anna. *'Getting Real' The Final Report of the Commonwealth/State Disability Agreement*, AGPS, Canberra, July 1996, p 33.

⁵³ Transcript, p 276.

4. OVERLAP OR DUPLICATION OF FUNCTIONS BY THE COMMONWEALTH AND THE ACT

4.1. The issues of overlap and duplication of functions was raised by a small number of participants in the inquiry.

4.2. Respite Care ACT Incorporated reported that duplication occurs between State/Territory and the Commonwealth in the funding of respite care. Under the CSDA funding for respite care for people with disabilities, previously a joint responsibility, is now the responsibility of the States/Territories. Funding for respite care services for some people with disabilities can also be obtained through other programs such as the HACC program or the Commonwealth Respite Care program.

4.3. Similarly there is overlap in funding for some information services for some people with disabilities for example again through the HACC program.

4.4. The Koomarri Association⁵⁴ advised the Committee that an unintended outcome of the CSDA has been the overlapping or duplication of services as agencies 'look out for their own'. According to the Association, because ACT funded agencies know they are unlikely to get assistance from the Commonwealth and Commonwealth funded services know they are unlikely to get assistance from the Territory, each has been forced to provide services to address operational gaps, which has created replication in certain areas. For example the Koomarri Association has felt the need to fund and provide community access services.

4.5. The major area of duplication of concern to participants in the inquiry is in assessments. ACROD,⁵⁵ the ACT Council for Intellectual Disability,⁵⁶ consumers and carers reported that program specific assessment processes often require clients to undertake multiple assessments. The ACT Government's submission also noted the need for greater clarity and consistency concerning eligibility criteria, outcome measurement and service allocation. Several submissions advocated rationalisation of assessments through the development of a common assessment procedure with specialist services only then requiring a brief additional assessment.

4.6. The Committee notes that both the review of the Federal Government's Disability Program conducted by Professor Baume and the review of the CSDA conducted by Professor Yeatman recommend changes to assessments by the development of a national system. Yeatman recommends that an

⁵⁴ *Submission 4.*

⁵⁵ *Submission 5.*

⁵⁶ *Submission 13.*

integrated gateway assessment system be developed across all CSDA programs and HACC disability programs.⁵⁷

⁵⁷ Yeatman, Anna. *'Getting Real' The Final Report of the Commonwealth/State Disability Agreement*, AGPS, Canberra, July 1996, p 92.

5. THE IMPACT OF THE AGREEMENT ON OUTCOMES FOR PEOPLE WITH DISABILITIES

5.1. The agreement has resulted in some significant improvements in outcomes for people with disabilities. Since the signing of the CSDA there have been several significant changes to the legislation and to service delivery in the Territory.

5.2. As mentioned in Chapter 2 one of the outcomes of the Commonwealth/Territory Disability Agreement was the introduction of Territory legislation similar to the Commonwealth Disability Services Act. In the ACT the relevant legislation is the *Disability Services Act 1991*. There are two schedules to this act which set out principles and requirements namely Schedule 1 - 'Human Rights Principles to be furthered in relation to people with disabilities' and Schedule 2 - 'Requirements to be complied with in relation to the design and implementation of programs and services relating to people with disabilities'. In addition, in the absence of ACT Standards, compliance with the Disability Services Standards developed by the Commonwealth is required.

5.3. The Government submission reported that the passing of the ACT *Disability Services Act 1991* has established the basic rights of people with disabilities in the Territory and has provided a basis for policy development and purchasing of disability services by the ACT government.⁵⁸ There is however concern that the passing of the Act has not resulted in a commitment to the true intention of the legislation and the appropriate resources to implement it successfully,⁵⁹ for example quality assurance processes are lacking, and therefore outcomes for some people with disabilities have not changed.

5.4. Service delivery changes include: the closure of hostels; expansion in the range of service options through the provision of all CSDA growth and transition funds allocated to the ACT for utilisation in alternative accommodation, respite care and community access services in the non government sector; and the introduction of individual funding arrangements.⁶⁰

5.5. Major changes to accommodation arrangements have been put in place as a result of the deinstitutionalisation program. People with disabilities who were formerly in hostels are now accommodated in supported group houses in the community where they have input into making decisions about their daily

⁵⁸ Submission 14.

⁵⁹ Submission 23.

⁶⁰ Transcript, p 263.

lives, have the opportunity to participate in community activities and there is greater capacity to provide individual support. This institutional reform was not driven as a cost saving measure. On the contrary, the Department of Health and Community Care stated it resulted in increased expenditure in service delivery.⁶¹ The Committee was unable to obtain any real details of these costs.

5.6. The CSDA aims to provide a wide range of options for people with disabilities across all areas of their lives such as in accommodation, community access and employment. In some instances services have not offered sufficient choice. For example, as an accommodation service provider ACT Community Care has only provided a group house model rather than a variety of models as recommended in the Dell Report. The Committee urges the ACT Government to facilitate innovative models of service delivery.

5.7. The role of the government is to intervene in the market to the extent necessary to ensure that the distributional, access and participation outcomes are commensurate with public expectation. It is the Committee's assessment that to ensure that outcomes for people with disabilities in the ACT meet the expectation of the community and the intention of the CSDA and related legislation, the Government at this time must maintain a level of direct service provision.

Support Services for children and adults

Advocacy

5.8. As Conroy (1996) states 'the need for advocacy is predicated on the vulnerability of its clients'.⁶² The primary function of advocacy services is achieving justice for people. Advocacy includes individual and systemic advocacy. Individual advocacy provides support to individuals with a disability (and where appropriate their families or carers) in their pursuit of human rights and social justice. Systemic advocacy is action taken to influence or produce systemic change to ensure fair treatment and social justice for people with disabilities.⁶³ Most advocacy services believe that individual and systemic advocacy are inseparable and interdependent.

5.9. Advocacy services play an important role in driving the change in systems and service delivery for people with disabilities. Advocacy services in the ACT reported that there is still an enormous amount to be done to achieve real change in the lives of people with disabilities. In their view there is a mis match between service delivery which is still displaying rigidity and

⁶¹ Transcript, p 263.

⁶² Conroy Catherine, *Report on the South Eastern NSW Mental Health Consumer Advocacy Project*, October 1996, p2.

⁶³ *Submission 29*, p 4.

outdated mindsets in its actions, while their policies and documentation which appear progressive.⁶⁴

5.10. People First ACT⁶⁵ pointed out that advocacy is often confused with other concepts and organisations such as peak bodies and government advisory committees, complaints handling processes, guardianship, service quality safeguards such as licensing and mediation, conciliation and arbitration.

5.11. People First ACT, maintains that there are intrinsic differences between advocacy and complaints mechanisms and that effective advocacy adopts a partisan stand on behalf of the disadvantaged party rather than an investigative and assessing role.

5.12. Yeatman took a different view in *Getting Real* the Final Report of the Commonwealth/State Disability Agreement. The report states 'advocacy services make no sense except as they are linked with complaints mechanisms'. Yeatman recommends a combined advocacy/complaints agency.⁶⁶

5.13. The Committee has considered the views of both Yeatman and the Advocacy Services and is of the view that there may be dangers in combining the two essential roles of advocacy and complaints investigation. The Committee believes that before any such change is initiated there must be further consideration given to the issues.

5.14. At present funding for advocacy services is a shared responsibility between the Commonwealth and the States/Territories. Advocacy agencies in the ACT expressed a strong desire for the current funding arrangements to continue under any new CSDA. They believe that it is important to the credibility and jurisdiction of the work that advocacy agencies can do that they are not vulnerable to one single funding source. If funding were to be from only one source or too unevenly balanced between sources they pointed out that there is the possibility that the agency may be compromised in terms of the jurisdiction within which it is seen to have credence.⁶⁷ However if all funding and administrative responsibility for services to people with disabilities is transferred to the States/Territories there will be no choice.

5.15. There is still much to be done to implement the reforms required by the legislation and advocacy services have a major role in this process. It is important that under any new arrangements advocacy services continue to be funded as a separate entity.

⁶⁴ Submission 15, p 2.

⁶⁵ Submission 29, p 5.

⁶⁶ Yeatman, Anna. *'Getting Real' The Final Report of the Commonwealth/State Disability Agreement*, AGPS, Canberra, July 1996, p 122.

⁶⁷ Submission 15.

Recommendation 4

5.16. The Committee recommends that the ACT Government strongly support the role of advocacy and ensure adequate funding whether from the Commonwealth or Territory for advocacy services.

Individual Support Packages

5.17. Following the signing of the Commonwealth/Territory Disability Agreement and the transfer of the Attendant Care Scheme from the Commonwealth the ACT Government initiated an Individual Support Package (ISP) program to provide a flexible option for some people with disabilities. This has changed the focus of funding models from service inputs and service providers to individuals, service outputs and outcomes. The ACT has significantly expanded the scope of individual funding arrangements through the ISPs.⁶⁸ The Government indicated that in 1995/96 an extra \$600,000 was allocated to expand the program.⁶⁹ Department of Health and Community Care officials advised the Committee that ISPs are based on an independent assessment of need and are negotiated with the person themselves with the involvement of their significant people such as family or advocates. The ISP enables the person to buy the support needed from an auspicing agency up to a limit. The maximum hours available to an individual from an ISP are 35 per week. There are insufficient funds to provide 24 hour support under an ISP.⁷⁰

5.18. Overall there is strong support for the concept of the ISP in the ACT community. As with most services in the disability area the allocation of funds to ISPs is seen by the community to be insufficient. Other problems raised with the Committee by parents, guardians and advocacy groups include assessment procedures; lack of understanding about how the funding arrangements work; uncertainty about the contractual arrangements; their unavailability for under 16 year olds; and the 35 hour per week limit, which is seen to particularly disadvantage people with high support needs.⁷¹

5.19. The Committee is aware that the matter of the auspicing of ISPs is under discussion at present. The Committee believes that there are many issues surrounding auspicing of the ISPs which need careful consideration. The Committee will watch with interest how this discussion proceeds.

5.20. While very supportive of the concept of flexible, individual service plans, service providers are grappling with the resultant uncertainty in funding levels and the possible implications for service provision. The introduction of ISPs has the potential to result in a more transient client base, and may create

⁶⁸ Transcript, p 263.

⁶⁹ *Submission*, 14.

⁷⁰ Transcript, p 69.

⁷¹ *Submission* 1, 3, 5, 21, 23, Transcript, p 112, p 177.

difficulties for service providers in planning for staff and maintaining an infrastructure. The Woden Community Service⁷² noted the tendency for governments to develop 'fads' in service types which often become exclusive and inflexible and cautioned against this happening with ISPs. It stated that ISPs do not meet everybody's needs and flexibility in funding arrangements for service providers and service users is needed. Woden Community Service stressed that along with portability, consistency must be considered.

5.21. Consistency in support staff is very important for people with disabilities particularly people who have high support requirements. However if ISPs become the only funding model service providers will only be able to employ casual staff because they will have no certainty of funding and consistency will be lost. This consistency may not be necessary for everybody or in every situation however it is a major requirement for many people who require services.

5.22. The Department of Health and Community Care commissioned a review of the ISPs in 1996. This review conducted by Michael Kendrick also noted the issues raised by carers and consumers in this inquiry. The review is limited in its comments from a provider perspective. The Department conducted a series of consultations on the review and is currently considering the report and the outcomes of these consultations.

Respite Care

5.23. Under the CSDA, funding for respite care is a State/Territory responsibility. Several organisations advised the Committee that the availability of respite care services for both children and adults continues to be inadequate. For example DSAC, the ADD Support Group and ACROD ACT stated that there continues to be an insufficient supply of affordable, flexible and appropriate respite care services. DSAC reflected the concerns of many members of the community that without increased resources in this area, responsibility will continue to fall on the unpaid carer. DSAC would like to see improved access to emergency respite as well as to planned part-time, casual and regular respite services.

Accommodation Services

5.24. Inappropriate accommodation for young people with disabilities and high support needs such as acquired brain injury has been a concern for several years and was raised in many submissions to the inquiry.⁷³ Currently most of these young people are accommodated in aged persons nursing homes. The Government has indicated that it is working towards providing more

⁷² *Submission 23* and subsequent discussions with staff.

⁷³ *Submissions 9, 16, Transcript*, p 206, p 317, p 240.

appropriate accommodation for this group of people. The Canberra's Own Option of Living (COOOL) project announced in the 1996/97 budget will accommodate some of them and other joint projects are being negotiated between the Government and non-government organisations.

5.25. During the course of the inquiry the Committee received complaints from a number of family members about the accommodation service provided by the government provider, namely the Disability Program of ACT Community Care. This program was formerly known as Intellectual Disability Services and most of its clients have an intellectual disability, however the program certainly does not discriminate on the basis of disability and would accommodate people with an acquired brain injury.⁷⁴ The Committee also received some positive feedback on the operation of the service. While it received no direct complaints about non government accommodation services, it is by no means assumed that there is no dissatisfaction. The Committee is simply not in a position to comment.

5.26. The terms of reference of the inquiry confine discussion on these complaints to issues relating to Schedules 1 and 2 of the *Disability Services Act 1991* and the Commonwealth Disability Services Standards with which services are required to comply at present. The Commonwealth Standards are at Appendix 1 and the Schedules to the ACT *Disability Services Act 1991* at Appendix 2.

5.27. ACT Community Care Disability Program operates 32 group houses for people with a disability. These houses are leased by the Disability Program from ACT Housing under a head lease arrangement and are located in various suburban settings. Under these arrangements the Disability Program is responsible for the management of both housing and support. It is becoming clear that there can be problems related to one agency taking responsibility for both housing and support. There is a view that the roles should be strictly separated. The Committee has not received enough evidence to enable it to take a strong position on this matter. Some of the possible problems related to this dual role may be addressed through the proposed provider/client service agreements.

5.28. Several complaints were received about incompatibility of residents at some group houses. It was reported that some residents are at risk of frequent personal injury as a result of violent and aggressive behaviours displayed by a co-resident.⁷⁵ A number of witnesses told the Committee that available information about the incompatibility of people is not always used in making decisions about who would live together.⁷⁶ In addition the number of times the

⁷⁴ Transcript, p 319.

⁷⁵ For example Transcript, p 216, p 241, p 258.

⁷⁶ For example Transcript, p 241, p 258.

composition of residents changed as clients were moved between group houses within 12 months of the closure of John Knight Hostel is a concern to the Committee. High standard systems should include careful and consistent assessment procedures to avoid moves due to incompatibility. It is unsatisfactory that these systems were not established.

5.29. The Committee noted that currently residents of Disability Program group houses have no agreement or contract (including any agreement on tenure) with their provider ACT Community Care.

5.30. Quality of care issues were raised by several witnesses at public hearings. These issues included inadequate hygiene in some group houses, lack of programs in personal care, failure to administer medication, a lack of individual care plans, poor or non-existent case management, no recreation activities and failure to ensure one resident's food intake was adequate resulting in dangerous weight loss.

5.31. One family expressed serious concerns about the safety of a family member suffering from frequent severe seizures who was not placed in a group house staffed 24 hours a day. Responsibility for monitoring this resident when the house was unstaffed was given to the other residents.

5.32. The Committee was also told of staff not identifying that a resident was in a coma. That resident subsequently required surgery to remove a clot from the brain.⁷⁷

5.33. The Committee raised the matter of first aid training for Disability Program group house staff and was concerned to hear that not all staff have a current first aid certificate.⁷⁸ The Committee was advised that as a new initiative ACT Community Care now requires a current first aid certificate as a condition of recruitment. However there is still a proportion of employees in the system who do not have first aid certificates. The Committee finds this totally unsatisfactory and considers that urgent steps need to be taken to provide training for all group house support staff who do not have current first aid certificates.

5.34. Inappropriate placement of staff especially casual staff was also raised by parents. Many complained of the high turnover in staff at group houses and a lack of information and training provided to casual staff on the specific needs of residents.

5.35. Other family members expressed concerns about the perceived dominance and inflexibility of the Disability Program in decision making about

⁷⁷ Transcript, p 417.

⁷⁸ Transcript, p 284.

the activities of consumers. For example staffing rosters were said not always to take into account the community based activities of the residents.⁷⁹

5.36. Many parents who gave evidence complained about the lack of clearly documented and accessible policies and procedures to guide the work of staff in group houses. While the Committee has noted that since this inquiry began much more detailed policy and procedures manuals have been produced, there is still concern that neither some staff nor some parents are familiar with the contents. ACT Community Care provided the Committee with a copy of its policies and procedures manual *Practice Instructions, (Procedures)* in October 1996.

5.37. Some parents with sons or daughters in Disability Program group houses advised the Committee that they were involved in the development of policies and procedures in 1994 and 1995, but that their work was largely overlooked in the policies and procedures manual produced in 1996.⁸⁰ The views of ACT Community Care and parents differed as to the level of parent involvement in the 1996 document. Whatever the case the Committee believes that parents and advocacy agencies have an extremely important role to play and along with clients need to be involved in all policy development and evaluation.

5.38. The Committee examined the content of the manual and believes that it is inadequate in many areas. Many of the policies are in early draft form, contain out of date information and are not clearly written. More importantly there are significant omissions from the manual. For example there is no reference to the current Commonwealth standards with which all services are required to comply nor is there reference to Schedules 1 and 2 of the ACT *Discrimination Act 1991*, with which all ACT services are required to comply. Furthermore, as noted by Elizabeth Morgan in her *Report to the ACT Disability Advocacy Services regarding Issues of Mutual Concern and the Disability Programs in the ACT*, the manual fails to incorporate a framework of values or philosophy which ensures consumer needs drive the service and consumers are actively respected and involved in service development and evaluation.⁸¹

5.39. These are all issues which can adversely affect the quality of life of residents and are of serious concern to family members, guardians and advocacy groups. The Committee observed that an element of mistrust had developed between some parents and the Disability Program management staff.

⁷⁹ Transcript, p 175.

⁸⁰ Transcript, p 339.

⁸¹ Morgan, Elizabeth, *Report to the ACT Disability Advocacy Services regarding Issues of Mutual Concern and the Disability Programs in the ACT*, 1996, p 4.

Community Access

5.40. A number of agencies provide community access with varying degrees of effectiveness. This is another area where the need for quality assurance mechanisms becomes obvious.

5.41. The Committee received reports commissioned by the Government on the evaluation⁸² and organisational review⁸³ of one of the ACT's community access programs.

5.42. The reports raised many concerns with the operation of the service particularly in relation to focusing on outcomes for individuals and the embodiment in practice of the human rights and service provision principles contained in the Schedules 1 and 2 of the ACT *Disability Services Act 1991* and the National Disability Services Standards.

Systemic issues

5.43. The provision of services to people with disabilities is a complex issue and it is acknowledged that all service providers will have difficulties in balancing the competing needs of their clients, parents, families, staff and the community. Some services and families have experienced difficulties in adapting in a practical sense to the changes in thinking about people with disabilities. The emphasis is now on social inclusion, participation in community life including non segregated employment, meeting individual rather than group or service needs and enhancing the image of people with disabilities. Obviously such significant changes require time for adjustment and acceptance.

5.44. As mentioned earlier in this report one of the outcomes of the CSDA was the enactment of the ACT *Disability Services Act 1991*. All services are required to meet the human rights and service provision principles set out in Schedules 1 and 2 of the Act and the Disability Services Standards developed by the Commonwealth. The problems outlined above highlight a number of systemic issues which need to be addressed to ensure that all the requirements of the Act and the Disability Services Standards are met to benefit all people with a disability who are consumers of services in the ACT. These systemic issues are outlined below.

⁸² Kendrick, M J, *A Report on the Evaluation of Sharing Places of the ACT*, June 1996.

⁸³ Pasco, Hall and Associates, *Sharing Places Organisation Review*, June 1996.

Service agreements

5.45. At present between residents of Disability Program group houses and ACT Community Care there are no service agreements, which spell out rights and responsibilities of residents and the service provider as well as the nature of the service to be delivered. The Committee did not receive information about the existence of agreements between each party for non government providers. The lack of a service agreement clearly confuses the issues and leads to uncertainty about expectations such as tenure in accommodation, responsibilities and rights for all involved such as residents, parents, guardians, advocacy groups, staff and management. ACT Community Care indicated that it was planning to introduce service agreements which will state the rights and responsibilities of clients, the Disability Program, families and guardians. The Committee awaits with interest an opportunity to see the detail of these agreements.

5.46. The Committee considers service agreements as an essential part of sound management practices which maximise outcomes for consumers as set out in Standard 8 of the Commonwealth Disability Services Standards.

Recommendation 5

5.47. The Committee recommends that the Department of Health and Community Care:

- **make service agreements between providers and clients a condition of all future provider contracts;**
- **develop guidelines for agreements between providers and clients in consultation with all stakeholders; and**
- **take over-all responsibility for the ongoing consistency and quality of such agreements.**

Complaints procedures

5.48. Standard 7 of the Commonwealth Disability Services Standards and Requirement 12 of Schedule 2 of the ACT *Disability Services Act 1991* refer to consumer's rights in relation to complaints and dispute resolution.

5.49. The Committee heard evidence from a number of individuals and organisations about inadequacies in complaints systems. The Committee found inconsistencies in the way serious allegations were dealt with, which resulted in a lack of confidence in the system from parents and advocacy groups.

5.50. ACT Community Care outlined to the Committee the current avenues for lodging a complaint in its residential services. It stated that complaints

mechanisms are in place and each of the Disability Program group houses has information on this process. That information comprises an out of date notice⁸⁴ inviting complaints or compliments to be addressed to the General Manager Community Division (now a non existent position) or the Commissioner for Health Complaints. ACT Community Care acknowledged a need to clarify these procedures and to improve client, staff and family knowledge and understanding of appropriate processes and available avenues.⁸⁵

5.51. The Department of Health and Community Care reported that as the purchaser, it is has been encouraging providers to work with individuals and their families to resolve at the service level most issues relating to service provision that might escalate into complaints. The Department indicated that some agencies are better than others at handling complaints at the service level. The Committee is extremely concerned that systems are not in place to ensure high standards in this critical area of management.

5.52. When complaints cannot be resolved satisfactorily at the service level the other avenue is through the Commissioner for Health Complaints. At present the Commissioner's brief only covers residential services and excludes other services to people with a disability. The Department of Health and Community Care indicated that it is investigating the feasibility of expanding the brief of the Commissioner for Health Complaints to cover all areas of disability.⁸⁶ The Committee sees merit in expanding the Commissioner's brief and urges the Government to do this quickly . The Government will need to provide additional resources to enable the unit to take on this expanded role.

5.53. At the beginning of the inquiry the Committee found that many people were unaware of the role and independence of the Commissioner for Health Complaints or how to lodge a complaint. The fact that the Health Complaints Unit is located in the Moore Street building with many government health services compromises the independence of the unit in the eyes of some people. The Committee considers that the Unit should be relocated to a more independently perceived site. During the inquiry the Committee referred several people to the Commissioner for Health Complaints.

5.54. It is evident that existing complaints mechanisms are not working as well as they should and that there is a lack of confidence in the system at present. The Committee believes that this is an extremely serious situation because of the vulnerability of the client group. The Commissioner for Health Complaint's brief is limited in relation to services for people with a disability. There is a need for some service providers such as ACT Community Care to

⁸⁴ ACT Community Care, *Practice Instructions*, Section 1.

⁸⁵ Paper tabled on 4 October 1996, *Actions by the Disability Program to meet DSA requirements and Disability Service Standards*, p7.

⁸⁶ Transcript, p 65.

develop more effective complaints resolution and grievance procedures in order to meet the Standards and Requirements of the legislation. There is also a need to publicise complaints mechanisms more extensively particularly at the service provider level. The Committee strongly believes that there must be adequate protections in place.

Recommendation 6

5.55. The Committee recommends that in future the Department of Health and Community Care require all funded services to develop effective complaints systems and grievance procedures and include information on those procedures in the provider/client service agreement.

Recommendation 7

5.56. The Committee recommends that the Government legislate to broaden the powers of the Commissioner for Health Complaints in relation to services for people with a disability and ensure that this work is appropriately resourced.

Quality assurance mechanisms

5.57. The Federal and ACT legislation is based on high principles and values with regard to people with disabilities. Its implementation has required a commitment to its intent and significant changes to the way services are delivered. A period of extensive change is underway. This has been and will continue to be challenging for all concerned. There are concerns about the quality of some services and whether they are meeting the requirements of the legislation.

5.58. Analysis of the evidence received indicates that while a number of mechanisms are in place to evaluate the quality of services provided to people with disabilities as yet there is no systematic standards monitoring process to determine whether services are meeting the Standards and Requirements of the legislation.⁸⁷

5.59. ACT Community Care told the Committee that in the coming months it is planning to complete the development of a quality assurance framework for the Disability Program which ensures that its services meet required standards and achieve ongoing improvement.⁸⁸ It is also examining accreditation options for the Program. These initiatives should assist in ensuring the Program's responsiveness to meeting the individual needs of clients as well as making the system more transparent.

⁸⁷ Transcript p 64, p 271.

⁸⁸ M Szwarcbord, Opening Statement, 4 October 1996, p7.

5.60. There is a number of alternative quality assurance strategies which can be considered. In discussing the issue of quality assurance in the national review of the Commonwealth/State Disability Agreement Yeatman notes that ‘the central question regarding which quality assurance strategy makes sense is how to promote quality outcomes which are meaningful while at the same time minimising both the monitoring costs for ensuring compliance, and the compliance costs for service providers’.⁸⁹ This point was also made by the ACT Department of Health and Community Care.

5.61. The national review of the CSDA was not conclusive about the need for a sustained quality assurance monitoring system. It reported on the benefits of the New South Wales system which ensures that services are meeting the Disability Service Standards but questioned whether such a system needed to be continued once the change of culture in disability services provision had been achieved.

5.62. The Committee recognises the importance of establishing an effective, systematic low cost quality improvement and assurance mechanism for the disability services area especially during the period of change. It also recognises that quality assurance is a complex concept and suggests that the ACT not try to reinvent the wheel when addressing this matter but rather draw on the experience of other jurisdictions.

5.63. Any quality assurance mechanism developed should involve all the key stakeholders including service providers and their staff, consumers, parents, guardians and advocacy groups. In accordance with the spirit of the legislation, that is, that the basic rights of people with disabilities are the same as other members of the community, it is essential that consumer participation is clearly structured into all levels of planning, development, monitoring and evaluation of policies and services at all levels.

5.64. The national review of the Commonwealth/State Disability Agreement recommended that discussions take place between governments to exchange information on quality assurance strategies and approaches with a view to determining whether any general principles or models can be derived for the disability sector. The Committee urges the ACT to support this recommendation.

⁸⁹ Yeatman, Anna. *‘Getting Real’ The Final Report of the Commonwealth/State Disability Agreement*, AGPS, Canberra, July 1996, p 109.

Recommendation 8

5.65. The Committee recommends that in consultation with key stakeholders, the ACT Government immediately develop a systematic and independent standards monitoring process to determine whether services are meeting the Disability Services Standards and the requirements of the ACT legislation and report to the Social Policy Committee on progress in six months.

Recommendation 9

5.66. The Committee recommends that the ACT Government as a matter of priority work with other governments to develop a national model for quality improvement and assurance and if this is not progressing the ACT develop its own model, which incorporates the processes referred to in Recommendation 8.

Recommendation 10

5.67. The Committee recommends that in any future arrangements the ACT Government ensure that consumer participation is clearly structured into all levels of planning, development, monitoring and evaluation of policies and services for people with disabilities.

Employment

5.68. A number of submissions and witnesses at public hearings addressed employment issues. As mentioned earlier the CSDA made the Commonwealth responsible for the administration of disability employment services.

5.69. Significant changes have occurred in employment services for people with a disability since the introduction of the Disability Services Act (DSA). The DSA established a new direction for the delivery of disability employment services. The rhetoric spoke of 'Disability, Society and Change'. The principles and objectives spoke of people with disabilities having the 'same basic rights as other members of Australian society'. For employment services there was much talk about the transition of traditional employment services (ie Sheltered Workshops) to becoming services that were consistent with the principles and objectives of the DSA. Significant effort, time and money have gone into improving the quality of employment services culminating in the Commonwealth Disability Service Standards in 1993.

5.70. Some new and innovative employment services for people with disabilities have been introduced including some programs which place and

support people with disabilities in mainstream jobs with appropriate remuneration.

5.71. However as was noted in several submissions, for a large number of people with disabilities the promises of the DSA and its standards have not been fulfilled. The recent reviews of the Disability Services Program and the Commonwealth Disability Services legislation, and the Final Report of the Review of the CSDA have indicated that there are significant changes and reforms needed.

5.72. People First ACT⁹⁰ pointed out that the question of which Government is responsible for what services is to some extent irrelevant to the consumer. It is the quality of services, based on the individual needs of people with disabilities, that should be the foundation principle in the delivery of human services to people with disabilities. The administration of disability services must be able to respond to the large unmet needs of people with disabilities. The current administrative structure has not responded well to the unmet needs.

5.73. People First ACT⁹¹ maintains that from the perspective of consumer interests and needs, the CSDA has failed to ensure that the rights of people with disabilities as employees or consumers are protected and fulfilled. The exploitation of people with intellectual disability by employers funded by the Disability Services Program of the Commonwealth Government continues to be tolerated by the community in an unconscious and apathetic manner. People First ACT claims there is much harm being done by many who mean to 'do good'.

5.74. The Disability Services Advisory Committee (DSAC)⁹² also expressed serious concerns about employment matters. It asserted that supported employment models in the ACT have not resulted in real jobs for people with a disability; rather they have resulted in jobs for administrators and support workers and very limited outcomes for people with a disability themselves.

5.75. People First ACT⁹³ advised the Committee that this is not specific to the ACT, but consistent with the systemic discrimination and abuse of employees with disabilities as consumers of the Disability Services Program. In fact the Australian Law Reform Commission (ALRC) who have reviewed the Commonwealth Disability Services Legislation stated in a press release that:

⁹⁰ *Submission 27.*

⁹¹ *Submission 27.*

⁹² *Submission 3.*

⁹³ *Submission 27.*

*Services are provided on the basis of bureaucratic convenience rather than to advance the rights and interests of people with a disability and meet Australia's obligations to them.*⁹⁴

5.76. DSAC suggested that reporting requirements for supported employment agencies need to be strengthened to ensure there is some measure of the quality of the service and not only a simple focus on numbers. In its view reporting should be on outcomes such as the number of people assisted in finding employment, the number assisted in seeking and/or gaining promotion. The Committee notes this is another example of the need to improve accountability against the Disability Services Standards.

5.77. Concern was expressed about the limited employment opportunities for many people with a disability and the prevalence of part time jobs offering very few hours for example half a day a fortnight. It is questionable whether such limited hours should constitute 'part time employment'.

5.78. Other employment issues raised by DSAC included:

- the need for resources for appropriate training to equip people with a disability to apply on an equal footing;
- trainers and employers need to be more aware of the reasonable adjustment principle and that adjustments are just a normal part of doing/learning the job;
- generic structures such as the CES need to better incorporate programs for people with a disability, without marginalising people from the mainstream services;
- greater opportunities need to be provided for people with a disability not in the workforce to engage in voluntary work and thereby develop/use skills; and
- attention needs to be paid to career planning and development opportunities.

5.79. People First ACT⁹⁵ advised the Committee that the provision of appropriate wages and conditions to employees of Sheltered Workshops needs to be addressed immediately as a matter of fundamental rights.

5.80. The recent review of the Disability Services Program revealed that only 19 per cent of people employed in sheltered workshops received a wage based on an award.⁹⁶ People First ACT believes that the current situation amounts to

⁹⁴ Submission 27, p2.

⁹⁵ Submission 27, p 4.

⁹⁶ Baume Peter, Kay Kathleen, *Working Solution*, Report of the Strategic Review of the Commonwealth Disability Services Program, AGPS, Canberra, 1995

the exploitation and discrimination of employees with a disability on a large scale.

5.81. The Committee was told that there are approximately 60 people with a disability employed by sheltered workshops in the ACT and that some people are working for as little as \$1.66 per hour. This pay rate is not based on any valid assessment of productivity and is not commensurate with any relevant awards.⁹⁷

5.82. The provision of appropriate wages and conditions for these employees is seen by advocacy agencies as a major issue which needs to be addressed as a matter of fundamental rights.

5.83. In addition the funding of sheltered employers and supported employment services which do not pay or ensure appropriate wages for their consumers was reported as a serious concern by People First ACT. This matter was also raised in the Review of the Disability Services Program and the Australian Law Reform Commission's review of Commonwealth Disability Services Legislation. Both recommended that changes be made. The Review of the Disability Services Program recommended that DSP funded services should pay employees under an award or certified agreement and should pay at least pro rata wages consistent with the principles of the Supported Wage System.⁹⁸ The Australian Law Reform recommended that: 'pay and working conditions of people with a disability should specifically be protected in disability services legislation.' It pointed out that traditionally people with a disability in supported or sheltered employment have not been regarded as employees. This has resulted in poor wages and working conditions.⁹⁹ The spirit of the legislation would imply that it is critical that employment options for people with disabilities should be equal in every sense to other members of the community.

5.84. The Woden Community Service drew the Committee's attention to the problems created by the split in funding between the two governments on employment services and community access. Participation in community access services offers support in learning skills which can lead to employment opportunities. It argued that individuals should have an opportunity to experience a combination of both community access and employment, however because of the funding arrangements this is almost impossible due to the requirement of a transfer of resources from one government to another as well as the limited places available to people who require community access support.

⁹⁷ *Submission 27*, p 4.

⁹⁸ ⁹⁸ Baume Peter, Kay Kathleen, *Working Solution*, Report of the Strategic Review of the Commonwealth Disability Services Program, AGPS, Canberra, 1995, p 12.

⁹⁹ Australian Law Reform Commission, *Making Rights Count: Services for People with a Disability*, Report No 79, AGPS, Canberra, p 233.

5.85. The Koomarri Association¹⁰⁰ is concerned about the issue of school to work transition. It reported that people are being readied for work in the special school education system but that because there is comparatively little liaison between parties at a broad Agency level those leaving the special school system, who are unable to be placed in employment are left in ‘no man’s land’ until they get into a Commonwealth funded program. The Association claims that during the interim they are an ACT government responsibility however they are receiving no support.

5.86. Another group of young people experiencing difficulties after leaving school are those who have multiple, minimal disabilities or disabilities where it is difficult to establish 20 per cent disability. These young people have difficulty establishing their eligibility for Disability Support Pension and often have problems in finding and maintaining employment until they can cope independently.¹⁰¹ However most are not able to access supported employment programs such as Transed, which would assist them to further develop their skills and independence because these programs are extremely limited in the number of people not on Disability Support Pension that they are allowed to take. More flexibility is needed to give these young people an opportunity to participate in supported employment programs.

5.87. The National Brain Injury Foundation told the Committee that there are still very limited employment opportunities for people with acquired brain injury who could undertake work.¹⁰²

5.88. The evidence received by the Committee indicates that in terms of employment the impact of the CSDA has resulted in little change or improvement for people with disabilities in the ACT. There are still very limited employment opportunities for people with disabilities. The transition from school to work poses problems for many young people. Integration of people with disabilities into the mainstream workforce is not occurring as quickly as many would like. Wages and working conditions for many people with disabilities are not equitable in relation to people without disabilities.

5.89. In responding to these issues in the negotiations with the Commonwealth, the Committee urges the ACT Government to consider both ways to address the unmet need and improve the quality of the services being provided.

¹⁰⁰ *Submission 4.*

¹⁰¹ *Submission 11.*

¹⁰² *Transcript, p 205.*

Recommendation 11

5.90. The Committee recommends that the ACT Government:

- **adopt a position which ensures equitable wages and working conditions for people with disabilities; and**
- **immediately bring to the attention of the Commonwealth the unjust and inequitable wages paid in some Commonwealth funded employment services for people with disabilities.**

Recommendation 12

5.91. The Committee recommends that the ACT Government obtain a commitment from the Commonwealth to fund adequately and support employment opportunities for people with disabilities in line with the spirit of the Disability Services Act 1986.

6. FUNDING OF SERVICES UNDER THE AGREEMENT

6.1. A large number of submissions perceived funding for services to people with disabilities to be inadequate. A major concern surrounds the availability of sufficient resources to successfully implement the intention of the Disability legislation.

6.2. Several issues relating to funding of services have already been raised in this report. They include:

- increased demands on accommodation support services resulting from the split between the Commonwealth and the States/Territories of funding for employment and accommodation services;
- the split between funding for employment and community access between the Commonwealth and the States/Territories, which has placed an added burden on accommodation support services;
- inadequate funding by the Commonwealth to support children with disabilities in childcare and out of school hours programs;
- very limited funding for employment support programs for young people who do not meet the eligibility requirements for the Disability Support Pension; and
- duplication in funding sources for respite care services.

6.3. Government housing services are not part of the CSDA however ACT Housing¹⁰³ raised funding issues which will need to be addressed in the future. As an accommodation provider either under head lease agreements or individual leases for people with disabilities, ACT Housing is currently responsible for modifications and maintenance to the houses it leases. The cost of modifications and maintenance for properties leased under the above arrangements is much higher than the costs for its other properties. For example properties leased to the Disability Program of ACT Community Care average \$4,820 per annum for repairs compared with the average cost across all other properties of \$1,190 per annum. ACT Housing stated that it accepts financial responsibility for repairs and maintenance which are a result of 'fair wear and tear'. However for the properties leased by the Disability Program only a small proportion of these costs are related to 'fair wear and tear'. ACT Housing is of the view that head-leasing tenants need to be funded to pay for non 'fair wear and tear' repair costs. The issue of non 'fair wear and tear' is to some extent related to behaviour management. The Committee does believe that ACT Housing however has a responsibility to ensure houses occupied by people with disabilities are appropriately designed for the needs of the residents, for example they include bathroom facilities which meet

¹⁰³ *Housing for People with a Disability: An ACT Housing Perspective*, Paper tabled by ACT Housing 9 August 1996.

occupational health and safety standards for staff and fixtures without sharp corners.

6.4. Capital costs for houses for people with disabilities are also higher than average because of the modifications required to some houses to meet the needs of the tenants. At present ACT Housing's capital works program can consider the needs of some clients who require modified or special housing. However client demand exceeds the agency's financial capacity to meet all the demands. In the future under revised Commonwealth/State housing funding arrangements there is unlikely to be any capital funding¹⁰⁴ and the ACT will need to make provision as a community service obligation.

ACT funding issues to be considered in future arrangements

6.5. Since its introduction over five years ago the CSDA has made some attempt to sort out the funding and administration issues for services in the disability sector. However there is still some way to go. The way funding is allocated still tends to result in a focus on the activity or service rather than the needs of the individual. There is a need to explore means of ensuring the focus remains on the needs of the individual.

6.6. One way of achieving greater focus on functional support needs of service users rather than on categorisation into 'disability types', and 'service types' would be to broad band disability services, including HACC and other relevant services. Yeatman¹⁰⁵ recommends that the next CSDA include the disability component of the HACC program as well as the Commonwealth Rehabilitation Service with appropriate adjustments to the funding base. The Committee urges the ACT Government to support this move.

6.7. In the allocation of funding to the States/Territories under any future arrangements with the Commonwealth, the Government noted that it is important that future Commonwealth funding is based on an equitable formula which takes account of all significant factors. In the past the ACT has been disadvantaged under the CSDA by a low allocation of transitional funds. More equitable funding would reduce concerns about whether the ACT is expending enough on disability services. The size of the ACT gives advantages in terms of a compact constituency and some disadvantages in terms of opportunities for economies of scale. This small size is also significant when it comes to competing for resources in the national arena. It is therefore particularly important to the ACT that funding allocation from the Commonwealth is done

¹⁰⁴ *ibid*

¹⁰⁵ Yeatman, Anna. *'Getting Real' The Final Report of the Commonwealth/State Disability Agreement*, AGPS, Canberra, July 1996, p xvii.

according to an equitable formula which takes account of all relevant factors, with indexed growth.¹⁰⁶

6.8. Another important factor to be considered in future funding arrangements is the role of Canberra as a regional centre for surrounding areas of NSW. There is a trend for people with disabilities to move here from surrounding areas, in order to access housing, employment or specialist services. The Government reported that this may slightly skew the proportion of people in the ACT requiring support because of a disability and should be taken into account in setting a funding formula.¹⁰⁷

6.9. In relation to the roles of Commonwealth and States/Territories, the issue of the transfer to the States/Territories of the purchasing function was addressed by both the ACT Government and some non government organisations. The Government stated its in principle support for such a transfer with ongoing joint funding by the States/Territories and the Commonwealth. The Department of Health and Community Care along with non government services providers stressed the importance of the Commonwealth retaining its responsibility for providing growth funding to the States/Territories for the provision and purchasing of services.

6.10. The Committee believes the matter of growth funding is critical. Disability services are becoming more expensive and in greater demand as people live longer. Resource strains on services for people with disabilities need to be acknowledged by the Commonwealth. The Commonwealth should not expect the Territory to continue to expand disability services without additional funding. At present many parents have to resort to political action to obtain much needed services for their sons or daughters with disabilities resulting in a real danger that only those who make the most noise receive services. This is a most unsatisfactory situation for all concerned. However unless there is a commitment to growth funding from the Commonwealth the Territory will have great difficulty in maintaining service levels. The Committee urges the Government to vigorously pursue additional funding for disability services from the Commonwealth. Should this be unsuccessful the provision of additional funding for disability services must be seen as a priority of the ACT Government.

Recommendation 13

6.11. The Committee recommends that the ACT Government work with the other States and the Northern Territory to obtain a commitment from the Commonwealth to provide growth funding to all States and Territories under the new arrangements.

¹⁰⁶ *Submission 14*, p 7.

¹⁰⁷ *Submission 14*, p 7.

Accountability measures

6.12. There is some evidence of inefficiencies in reporting mechanisms. ACROD¹⁰⁸ pointed out that some service providers have access to funds that flow from several programs and the present system of reporting results in duplication.

6.13. The Government's view and the view of non government agencies¹⁰⁹ which addressed this issue is that accountability of services should be consistent nationally and across service types. The Government believes that when this is achieved some funds will be found which are currently being used ineffectively and which could contribute to meeting unmet needs.¹¹⁰

Kerrie Tucker MLA
Chair
14 February 1997

¹⁰⁸ *Submission 5.*

¹⁰⁹ For example Disabled Peoples International (Australia), Transcript, p 141.

¹¹⁰ *Submission 14*, p 5.

APPENDIX 1 DISABILITY SERVICES STANDARDS

Standard 1 SERVICE ACCESS

Each consumer seeking a service has access to a service on the basis of relative need and available resources.

Standard 2 INDIVIDUAL NEEDS

Each person with a disability receives a service which is designed to meet, in the least restrictive way, his or her individual needs and personal goals.

Standard 3 CHOICE

Each person with a **disability has the opportunity to participate as fully as possible** in making decisions about the events and activities of his or her daily life in relation to the services he or she receives

Standard 4 PRIVACY, DIGNITY AND CONFIDENTIALITY

Each consumer's right to privacy, dignity and confidentiality in all aspects of his or her life is recognised and respected

Standard 5 PARTICIPATION AND INTEGRATION

Each person with a disability is supported and encouraged to participate and be involved in the life of the community.

Standard 6 VALUED STATUS

Each person with a disability has the opportunity to develop and maintain skills and to participate in activities that enable him or her to achieve valued roles in the community.

Standard 7 COMPLAINTS AND DISPUTES

Each consumer is free to raise and have resolved, any complaint or disputes he or she may have regarding the agency or service

Standard 8 SERVICE MANAGEMENT

Each agency adopts sound management practices which maximise outcomes for consumers.

Standard 9 EMPLOYMENT CONDITIONS

Each person with a disability enjoys comparable working conditions to those expected and enjoyed by the general workforce.

Standard 10 EMPLOYMENT SUPPORT

The employment prospects of each person with a disability are maximised by effective and relevant support.

Standard 11 EMPLOYMENT SKILLS DEVELOPMENT

The employment prospects of each person with a disability are maximised by effective and relevant training.

APPENDIX 2 SCHEDULES TO THE DISABILITY SERVICES ACT 1991

SCHEDULE 1

HUMAN RIGHTS PRINCIPLES TO BE FURTHERED IN RELATION TO PEOPLE WITH DISABILITIES

1. All people with disabilities are individuals who have the inherent right to respect for their human worth and dignity.
2. People with disabilities, whatever the origin, nature, type or degree of disability, have the same basic human rights as other members of society and should be enabled to exercise these basic human rights.
3. People with disabilities have the same rights as other members of society to realise their individual capacities for physical, social, emotional and intellectual development.
4. People with disabilities and carers of people with disabilities have the same right as other members of society to services which will support their attaining a reasonable quality of life.
5. People with disabilities have the same right as other members of society to make and actively participate in the decisions which affect their lives and are entitled to appropriate and necessary support to enable participation in, direction and implementation of the decisions which affect their lives.
6. People with disabilities have the same right as other members of society to receive services in a manner which results in the least restriction of their rights and opportunities.
7. People with disabilities have the same right of pursuit of any grievance in relation to services as have other members of society.
8. People with disabilities who wish to pursue a grievance also have the right to
 - (a) adequate support to enable pursuit of the grievance; and
 - (b) be able to pursue the grievance without fear of discontinuation of services or recrimination from any person or agency who may be affected by or involved in the pursuit of the grievance.

SCHEDULE 2

REQUIREMENTS TO BE COMPLIED WITH IN RELATION TO THE DESIGN AND IMPLEMENTATION OF PROGRAMS AND SERVICES RELATING TO PEOPLE WITH DISABILITIES

1. Services should have as their focus the achievement of a better quality of life for people with disabilities, such as increased independence, education and employment opportunities and integration into the community.
2. Services should contribute to ensuring that the conditions of everyday life of people with disabilities are the same as, or as close as possible to, the conditions of everyday life enjoyed in the general community.
3. Services should be provided as part of local coordinated service systems and be integrated with services generally available to members of the community where possible.
4. Services should be tailored to meet the individual needs and goals of people with disabilities.
5. Programs and services should be designed and administered so as to meet the needs of people with disabilities who may experience additional disadvantage as a result of their sex, ethnic origin, physical isolation or Aboriginality.
6. Programs and services should be designed and administered so as to promote recognition of the competence of, and enhance the image of, people with disabilities.
7. Programs and services should be designed and administered so as to promote the participation of people with disabilities in the life of the local community through maximum physical and social integration in that community.
8. Programs and services should be designed and administered so as to ensure that no single organisation providing services exercises control over all or most aspects of the life of a person with disabilities.
9. Organisations providing services, whether those services are provided specifically to people with disabilities or generally to the community, should make available information from which the quality of their services can be judged.
10. Programs and services should be designed and administered so as to provide opportunities for people with disabilities to reach goals and enjoy

lifestyles which are valued by the community generally and are appropriate to their age.

11. Services should be designed and administered so as to ensure that people with disabilities have access to advocacy support where necessary to ensure adequate participation in decision-making about the services they receive.

12. Programs and services should be designed and administered so as to ensure that appropriate avenues exist for people with disabilities to raise and have resolved any grievances about services.

13. Services should be designed and administered so as to provide people with disabilities with, and encourage them to make use of, avenues for continuing participation in the planning and operation of services which they receive. In particular, programs and services provided to persons with disabilities by the Territory and organisations should provide opportunities for consultation in relation to the development of major policy and program changes.

14. Programs and services should be designed and administered so as to respect the rights of people with disabilities to privacy and confidentiality.

APPENDIX 3 SUBMISSIONS RECEIVED

1. Mrs Ana Moreno
2. Mr Malcolm Knowles
3. Disability Services Advisory Committee
4. Koomarri Association ACT Inc.
5. ACROD ACT Division
6. Intelicare Association Inc.
7. ACT Down Syndrome Association Inc.
8. Speech Pathology Association of Australia ACT Branch.
9. Koomarri School
10. Northside Community Service Inc.
11. Lake Tuggeranong College
12. Respite Care Act Incorporated
13. ACT Council on Intellectual Disability
14. ACT Government
15. Parent Advocacy
16. Community Information and Referral Service of the ACT Inc
17. Mrs Patricia Linford
18. Stroke Association of the ACT Inc.
19. Confidential
20. Ms Sara Bhas
21. Ms Jan Bell

22. Attention Deficit Disorder Support Group
23. Woden Community Service Inc.
24. J.B. and E.A. Dickson
25. Max Jensen and Associates
26. Confidential
27. People First ACT Incorporated
28. Confidential
29. People First ACT Incorporated
30. Health Services Union of Australia ACT No 1 Branch

APPENDIX 4 WITNESSES AT PUBLIC HEARINGS

Thursday 8 August 1996

Department of Health and Community Care

Dr Penny Gregory Executive Director, Health Outcomes Policy and Planning
Ms Margaret Spalding, Manager Projects
Mr Brian Corley, Director Executive Coordination

Department of Education and Training and Children's Youth and Family Services Bureau

Mr Allan Hird, Director School Programs
Ms Jill Farrelly, Director Children's Services
Ms Ann Hole, Manager Child Health and Development Service
Ms Helga McPhie, Manager Focus Programs.

Northside Community Services

Mrs Donna Clancy, Unit Director Children and Youth Services
Mrs Tamara Doran, Support Worker

Disability Services Advisory Council

Mr Ian Trewhella, Chair
Ms Margo Hodge, Member

Friday 9 August 1996

ACT Housing

Mr Ken Bone, Director Business Management
Ms Marcia Vannithone, Senior Policy Officer

Friday 23 August 1996

Disabled Peoples' International (Australia) ACT Branch

Mr John Way, Executive Officer

Family Planning ACT

Ms Judith Charles, Disability Coordinator

Ms Joanne Malpas, Director Education

ADD Support Group Inc

Mrs Beryl Gover, President
Dr Robert Apathy, Psychologist
Mrs Lorraine Hamilton, Member

Individual

Mrs Stella McLaughlin

Friday 30 August 1996

Quality Care for Children with Disabilities Inc

Ms Cathie Spicer

Koomarri Association Inc and ACROD

Mr Bryan Woodford

National Brain Injury Foundation

Ms Jeanette Budak
Ms Dorothy Sales
Dr Peter McCullagh

Individual

Mr Tony Pintos-Lopez

Friday 27 September 1996

Woden Community Service

Mrs Jenny Kempnich-Brophy Manager Disability Services
Ms Kerry Anne Borgas - Direct Care Worker
Mr John Simpkin - Former Manager 'Choices'

Individual

Mr Kevin Reiher

People with family members in ACT Disability Program group houses

Mrs Kay Fouquet
Mrs Julia Korda
Mrs Jan Focken

Ms Sherry McArdle -English

Friday 4 October

ACT Department of Health and Community Care

Ms Helen Briggs
Mr Brian Corley

ACT Community Care

Mr Michael Szwarcbord
Ms Lynne Grayson

Thursday 7 November 1996

People First ACT Incorporated

Mr Paul Cain
Mr Gerry Brophy

People with family members in ACT Disability Program group houses

Ms Sherry McArdle-English
Mr Robert Wedgwood
Mr John McNicol
Mr Ralph Hill

Friday 29 November 1996

ACT Community Care

Mr Michael Szwarcbord
Ms Lynne Grayson

People with family members in ACT Disability Program group houses

Mr David Dempster
Mrs Jill Dempster
Mr Robert Hill

APPENDIX 5 Disability Services Grants 1996-97

The following information was provided by the ACT Department of Health and Community Care.

<u>Organisation / Project</u>	<u>Total</u>
ACT Deafness Resource Centre Support Worker	\$ 23,463
ACT Soc for Phys Hand - Hartley Court	\$ 318,268
ACT Soc for Phys Hand - Hartley House	\$ 78,473
ACT Soc for Phys Hand - Recreation Program	\$ 12 545
ACT Soc for Phys Hand - Respite Care	\$ 71,304
Belconnen Comm Service - Respite Care	\$ 36,478
Canberra Deaf Child Assoc - Information Service	\$ 3,163
Centacare - Towards Independence	\$ 45,194
Citizens Advocacy - Advocacy Service	\$ 26,900
Community Options - Parent Advocacy	\$ 31,568
Community Programs Assoc - Community Access	\$ 124,419
DARE - Supported Accommodation	\$ 59,006
Focus - Accommodation Support - Base	\$ 773,485
Focus - Accommodation Support - Target Individ	\$ 43,432
Home Help ACT Inc - Combined Care	\$ 85,120
Koomarri Assoc - Brokerage/Community Access	\$ 35 315
L'Arche Genesaret - Accommodation Support	\$ 173,639
Mental Health Found'n - Accommodation Support	\$ 89,205
Nat'1 Brain Injury Fdn - Administration	\$ 2,922
Nat'1 Brain Injury Fdn - Tanderra Housing Assoc	\$ 73,798
Pegasus - Riding for the Disabled	\$ 67,015
Respite Care ACT Inc - Respite Care	\$ 264,078
Sharing Places - Community Access	\$ 459,221
TADACT - Aids and appliances	\$ 43,631
Woden Comm Service - Community Life Skills	\$ 281,918
Woden Comm Service - Respite Care	\$ 95,444
Total Committed Funds	\$3,319,004

APPENDIX 6 Acronyms

ABS	Australian Bureau of Statistics
CES	Commonwealth Employment Service
CSDA	Commonwealth State/Territory Disability Agreement
DSAC	Disability Services Advisory Committee
DSP	Disability Services Program (Commonwealth)
HACC	Home and Community Care
ISP	Individual Support Package