

**PORTFOLIO COMMITTEE NO. 2
INQUIRY INTO THE IMPLEMENTATION OF THE NDIS AND THE PROVISION OF
DISABILITY SERVICES IN NSW**

Additional information

NSW Disability Advocacy Alliance

Thank you for the opportunity to provide additional information to the Inquiry into the Implementation of the National Disability Insurance Scheme and the provision of disability services in New South Wales. We are making this submission to clarify some issues that arose from questions that were put to us by the committee when we appeared before you on Tuesday 2 October.

Disability – definition and clarification of figures quoted

During the hearing The Hon. Shayne Mallard, MLC, asked about the number of people with disability in the state, the number of people with disability who are eligible for the NDIS and the numbers of people who had transferred across from NSW funded services into the NDIS. We answered those questions, but wish to provide a more thorough and referenced response.

According to the *Australian Bureau of Statistics Disability, Ageing and Carers, Australia: Summary of Findings, 2015*, there are 1.3724 million people with disability living in NSW.¹ This survey “defines disability as any limitation, restriction or impairment which restricts everyday activities and has lasted, or is likely to last, for at least six months.”²

According to the NSW Government’s NDIS website: “In NSW, the NDIS is expected to benefit up to 140,000 people with disability.”³ This number is based on the work that the Productivity Commission undertook as part of their inquiry that led to the development of the NDIS. These figures were obtained from the Productivity Commission’s reports on its inquiry into Disability Care and Support, which estimated

¹ Australian Bureau of Statistics *Disability, Ageing and Carers, Australia: Summary of Findings, 2015*, Data Cube: New South Wales

<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4430.02015?OpenDocument#Data> Released 12/01/2017

² Australian Bureau of Statistics *Disability, Ageing and Carers, Australia: Summary of Findings, 2015*, Disability <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/4430.0Main%20Features202015?opendocument&tabname=Summary&prodno=4430.0&issue=2015&num=&view=>

³ NSW Government, *The NSW and Australian governments sign landmark agreement* <https://ndis.nsw.gov.au/2018/05/landmark-agreement/> May 25, 2018

that the NDIS would provide packages to 410,000 people across the country.⁴ 140,000 is the estimate of how many people with disability in NSW would be eligible.

At the first hearing held by your committee as part of this inquiry, the NDIA updated you to say that as of July 2018, around 97,000 people with disability in NSW have an individual funded packages.⁵ The most recent published data, from June 2018 quarterly report, said that 52,300 people with disability have transferred from existing ADHC services to the NDIS throughout the roll out period.⁶

The NSW Disability Advocacy Alliance welcomes this increase in the number of people with disability in NSW who are receiving funding, while noting the issues raised by our member organisations, and many others, about the specific examples of positive and negative experiences of people in applying for plans and packages and in the delivery of plans and packages.

From our calculations, this leaves a further 1.23 million people with disability in NSW who don't have an NDIS package. (When giving evidence at the enquiry we quoted 1.2 million.⁷) These people rely on the services of the NSW Government and many of those people come to our Alliance members for independent disability advocacy, information and peak representation to help them get a fair deal. Sometimes this is for transport issues, navigating the justice system, accessing the physical environment or dealing with horrific cases of abuse, exploitation and discrimination.

This is essential to the points that the NSW Disability Advocacy Alliance has been making. All of the 1.3724 million people with disability in NSW, those with an NDIS package and those whom are not eligible, will continue to require access to services that are provided and regulated by the NSW Government.

The barriers that people with disability face will continue to exist, even with the presence of an NDIS package. A person's NDIS package cannot support making Redfern station accessible. A person's NDIS package cannot make their local school inclusive, or help them to navigate the justice system should they be at risk or incarceration.

⁴ Productivity Commission, *Disability Care and Support Productivity Commission Inquiry Report Volume 1 No. 54*, 31 July 2011 <https://www.pc.gov.au/inquiries/completed/disability-support/report>

⁵ Report on Proceedings Before Portfolio Committee no. 2 – Health and Community Services, Implementation of the National Disability Insurance Scheme and the provision of Disability Services in New South Wales <https://www.parliament.nsw.gov.au/lcdocs/transcripts/2084/Transcript%20-%202017%20September%202018%20-%20Uncorrected.pdf>

⁶ COAG Disability Reform Council NDIS Quarterly Performance Report, NSW 30 June 2018 p.8 <https://www.ndis.gov.au/medias/documents/nsw-performance-aug18/NSW-Performance-Report.pdf>

⁷ Report on Proceedings Before Portfolio Committee no. 2 – Health and Community Services, Implementation of the National Disability Insurance Scheme and the provision of Disability Services in New South Wales <https://www.parliament.nsw.gov.au/lcdocs/transcripts/2084/Transcript%20-%202017%20September%202018%20-%20Uncorrected.pdf>

The role of a Public Advocate

The Hon. Courtney Houssos questioned us about the establishment and role of a Public Advocate in NSW, that has been put forward by the NSW Law Reform (and raised by the NSW Ombudsman and others during the inquiry.)

The NSW Disability Advocacy Alliance supports the development of the role of a Public Advocate in NSW, however we wish to make it clear that this position should be completely independent of all other NSW Government departments (such as FACS, Justice etc) and also separate to that of the NSW Trustee and Guardian, or NSW Ombudsman office. This would allow it to work in tandem with these complimentary bodies, but also, should the need arise, speak to issues occurring for people with disability from within any of these oversight bodies, or critique the functions of these statutory bodies should they not align with the needs of people with disability.

It should be clearly noted that all supporters of the call for the establishment of a Public Advocate, including the NSW Law Reform itself (within its review of the Guardianship Act – in which it calls for the establishment of such a body,⁸) identify that it is a body that **compliments** the work of the community advocacy sector, and in fact would be hampered in its ability to operate effectively should these organisations no longer be in place – as it would refer back to them for support in referring people whom needed decision making assistance and would look to be informed by these organisations as to where systemic issues may exist, in order to also be able to address them.

ILC – Information, Linkages and Capacity Building Grants:

Finally, evidence was provided at the Parliamentary Inquiry from Government representatives which would seek to imply that the NDIA wants to fund disability advocacy through Information, Linkages and Capacity Building (ILC) grants. However, there is no documented evidence to uphold this assertion. We note the following:

- 1) All documented evidence regarding ILC grants clearly states that the ILC will not fund disability advocacy. Disability advocacy is distinct from the functions funded under NDIS, including the ILC component of the NDIS. ILC funding does not replace the need for disability advocacy funding in NSW. The Government's own ILC guidelines state that "we will not fund individual or systemic advocacy in ILC."⁹

⁸ NSW Law Reform Commission – Review of the Guardianship Act 1987, Report 145, 13.22 p212
https://www.lawreform.justice.nsw.gov.au/Pages/lrc/lrc_current_projects/Guardianship/Report-145.aspx

⁹ National Disability Insurance Agency, ILC Commissioning Framework, Nov 2016 p20
<https://www.ndis.gov.au/medias/documents/hf4/ha1/8799111970846/ILC-Commissioning-Framework-PDF-3MB-.pdf>

2) Organisations providing advocacy, representation and information are essential ongoing supports to enable people with disability to fully participate and be included in the community. These disability advocacy organisations are not eligible for funding under NDIS plans and nor are they eligible for funding under ILC grants. As with other states of Australia they require State Government funding. It is critical that ongoing funding should be designed and allocated to ensure that disability advocacy is trustworthy and successful. This means disability advocacy must be:

- Independent: no financial conflict of interest
- Specialist: run by and for people with disability, with deep expertise in the unique challenges and possibilities faced by people with disability
- Long-term: here to stay, something every person who needs it can count on

Funding for individual disability advocacy means that people with disability have a free, local, independent champion in their corner. Someone to stand by them when things go wrong, and to help make things go right.

Funding for systemic advocacy means funding disability advocacy organisations which protect and uphold the rights of people with disability and address injustice. Systemic disability advocacy works to make long term changes in legislation, policies, systems and processes both in government and the private sector which will bring positive change to the lives of people with disability and raise community awareness and education on disability issues.

3) While all disability advocacy organisations work on NDIS issues, their work is much wider than this. We see the work of disability advocacy organisations on human rights and inclusion and across all government portfolio areas and at all levels of government – local, state and federal. Disability advocacy organisations work on what is important to and what impacts on the lives of people with disability.

4) In regard to the references made by Government representatives to use of ILC funding to fund disability advocacy. It should be noted that applications for ILC are accepted in only 4 activity areas being:

1. Information, linkages and referrals: activities that provide people with disability and their families and carers with access to up-to-date, relevant and quality information and/or make sure they are linked into services and supports in the community that meet their needs.

2. Capacity building for mainstream services: activities that increase mainstream services knowledge and skills to meet the needs of people with disability.

3. Community awareness and capacity building: activities that will help community activities and programmes understand the needs of people with disability and have the skills and knowledge they need to be more inclusive.

4. Individual Capacity Building: activities that help people with disability to have knowledge, skills and confidence they need to set and achieve their goals. People who do not have an NDIS plan will be prioritised in this area.

None of these activity areas fund either individual or systemic disability advocacy.

- 5) The way some Government representatives refer to disability advocacy implies that at a certain point there will no longer be a need for disability advocacy, however nothing could be further from reality.

Disability advocacy cannot be funded for a finite period of time and then switched off. Like the ongoing help, support and advocacy that disability advocacy organisations provide to people with disability and their families, likewise funding for the disability advocacy organisations which are providing this help, support and advocacy needs to be ongoing, permanent and reliable.