

Submission  
No 306

**INQUIRY INTO IMPLEMENTATION OF THE NATIONAL  
DISABILITY INSURANCE SCHEME AND THE PROVISION  
OF DISABILITY SERVICES IN NEW SOUTH WALES**

**Organisation:** Women's Domestic Violence Court Advocacy Service NSW Inc.  
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## **Women's Domestic Violence**

Court Advocacy Service NSW Inc

# **Submission to the NSW Legislative Councils Inquiry into the Implementation into the National Disability Insurance Scheme and the provision of disability services in New South Wales.**

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**Prepared by: Isabella Vitale**

**WDVCAS NSW Inc.**

**[projects@wdvcasnsw.org.au](mailto:projects@wdvcasnsw.org.au)**

## Introduction

The Women's Domestic Violence Court Advocacy Services of NSW (WDVCAS NSW) welcome the opportunity to provide a submission into the NSW Legislative Councils Inquiry into the Implementation of the National Disability Insurance Scheme (NDIS) and the provision of disability services in NSW. Within this submission WDVCAS NSW will address terms of reference B and E as they intersect and are most relevant to our work in supporting women and children with disabilities who experience Domestic and Family Violence (DFV) in NSW. In this submission WDVCAS NSW, through consultation with WDVCAS staff across the state and the Illawarra Women's Health Centre, will highlight the gaps, common issues and challenges of navigating the NDIS experienced by clients. This paper will also provide anecdotal evidence, supported by external sources and a case study, to support the issues discussed as well as make general recommendations around the themes of safety, trauma informed care and gaps in service provision within the NDIS. (as outlined in sections B and E) WDVCAS NSW is willing to attend the inquiry and can be contacted in regards for further information regarding this submission.

## About WDVCAS NSW

WDVCAS NSW is the peak, state-wide organisation representing the 29 individual WDVCAS services across New South Wales, who support women and their children who are experiencing DFV. The WDVCAS services support women who are seeking legal protection from domestic violence in the local and district courts. We currently support women at 117 local courts in NSW. WDVCAS also support women and children at risk of harm or serious harm who are referred directly from police following an incident of DFV regardless of legal intervention.

WDVCAS NSW supports better outcomes for women and children by identifying and advocating on DFV violence issues within social, political and legal contexts. WDVCAS NSW operates from a human rights and feminist perspective to support better outcomes for women and children experiencing DFV; identifying and advocating on these issues within social, political and legal contexts. WDVCAS NSW works in the community and with media to increase awareness about DFV and to improve policy and practice. Our activities include advocacy, support for our members, policy development, lobbying, representation at government forums, information dissemination and media consultation. We are funded by Legal Aid NSW's Women's Domestic Violence Court Advocacy Program and by our members.

## Background

DFV is a crime affecting women regardless of intersectional identities comprising any behaviour that exerts power and control over an individual or family. These behaviours include but are not limited to physical, sexual, verbal, emotional, financial, psychological, social abuse and stalking and or harassment behaviours.<sup>1</sup> DFV is gendered in nature with recent statistics suggesting 1 in 6 women have experienced intimate partner violence since the age of 15 compared to 1 in 16 men.<sup>2</sup> Throughout this submission WDVCAS NSW will refer to victims as women and children as we are a women's service and due to the gendered nature of violence demonstrated by the statistics included. However, WDVCAS NSW would like to acknowledge that males can also be victims of DFV.

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<sup>1</sup> Domestic Violence NSW, *What is Domestic Violence?*, Domestic Violence NSW, <http://dvnsw.org.au/what-is-domestic-violence/>, viewed 14 August 2018

<sup>2</sup> Australian Bureau of Statistics, *Personal Safety, Australia, 2016*, cat. no. 4906.0, ABS, Canberra, 2016, p. <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0>, viewed 14 August 2018

Women with disabilities are particularly vulnerable to DFV and may experience a variety of barriers to accessing support. Statistics have estimated that women with disabilities have a 37.3% increased risk of experiencing DFV than their peers, a rate 7% higher than the national average.<sup>3</sup> There are also instances where DFV is the cause of disability. Recent studies in the Asia-Pacific region have highlighted gaps that demonstrate that women with disabilities may not be adequately represented in prevalence statistics.<sup>4</sup> However, the statistics available indicate that due to the prevalence and nature of DFV it is essential for services and programs such as the NDIS to systematically recognise and adapt their practices, policies and guidelines to ensure that the diverse needs of women with disabilities are effectively responded to.

## Recommendations Summary

**Recommendation 1-** Advocates to support women through the NDIS processes and systems.

**Recommendation 2-** NDIS to implement 'safety' procedures specific to DFV.

**Recommendation 3-** Increase/Introduce trauma informed care practice models.

**Recommendation 4-** NDIS eligibility requirements require a structural change to enhance service provision to individuals with a disability, including those experiencing psychosocial disabilities.

**Recommendation 5-** NDIS to consider the safety and accessibility of adequate housing for women with disabilities.

**Recommendation 6-** NDIS to provide mutual recognition to organisation's previously accredited under the Quality Improvement Council (QIC)

**Recommendation 7-** Mandatory DFV training to be provided to NDIS staff and disability support staff in the broader sector.

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<sup>3</sup> People with Disability Australia, Domestic Violence NSW, 2015, 'Women With Disability and Domestic and Family Violence- A Guide For Policy and Practice', People with a Disability Australia, <http://pwd.org.au/wp-content/uploads/2018/07/1.-A-Guide-for-Policy-and-Practice.pdf>, viewed 7 August 2018

<sup>4</sup> Vaughn, C, Devine, A, Diemer, K 2018, 'Measuring the Prevalence of Violence against Women with disabilities', kNOwVAWdata, <http://asiapacific.unfpa.org/en/publications/measuring-prevalence-violence-against-women-disabilities>, viewed 20 August 2018

## **B) The experience of people with complex care and support needs in developing, enacting and reviewing NDIS plans**

WDVCAS NSW believes that the current NDIS plan processes regarding development, enactment and review are inadequate in addressing complex care and support needs and require revision. Women with disabilities are unique in their abilities, strengths and experiences and thus require support that addresses their individual circumstances. Women experiencing DFV are further disadvantaged through the NDIS plans and overall processes. Consultation with our members has suggested that the NDIS has demonstrated capacity to provide referrals to support services. However, the consensus from our staff and others in the service sector suggests that the NDIS has demonstrated limited understanding of DFV as a factor that increases the level of support needs and further impacts on clients with complex care needs.

Regarding the development and review of NDIS plans, consultation with our members suggest that women experiencing DFV may be in the process of navigating complex systems such as the criminal justice and family law system, which is often time consuming and a traumatic process for all women. Women with disabilities have additional challenges when faced with navigating the complexities of systems like the NDIS which like the legal system are complex and slow, with plans taking up to six months or more to be reviewed. The challenges and complexities of navigating multiple systems can often result in women refraining from developing NDIS plans or dis-engaging with the NDIS to meet immediate safety and survival needs. One solution that could assist women in navigating such complex systems involves the introduction of disability advocates that are trained and competent in supporting women with a disability experiencing DFV. See **Recommendation 1** for more information.

DFV is often not factored into the development of NDIS plans. Women experiencing DFV may not disclose experiences of violence due to several factors including feelings of shame and fear, normalisation of violence and dependence on the perpetrator. This is prevalent in the disability context with women relying on the perpetrator for care needs and financial support. Furthermore, women with a disability may be unaware of their rights, available supports or that the violence perpetrated against them is a crime.<sup>5</sup> These factors are compounded by the lack of NDIS understanding around DFV and specific DFV supports. For example, in instances where violence and abuse are perpetrated by the individual assisting with the completion of NDIS applications, there are no provisions to interview the woman separately to allow for a disclosure or any information that could assist with safety and support.

### **Recommendation 1- Advocates to support women through the NDIS processes and systems.**

WDVCAS NSW in conjunction with the Illawarra's Women's Health Centre proposes that women with a disability experiencing DFV are provided with an 'advocate' or third-party disability support worker. The role of the advocate will be to assist women with NDIS plans and processes to ensure that their support and care needs are addressed from a DFV and disability perspective. Where there is strong knowledge of DFV, advocates can also ensure that questions regarding violence are specific, respectful and trauma informed.

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<sup>5</sup> Howe, K, Atmore, C 2011, 'Submission to Parliament of Victoria Law Reform Committee Inquiry into Access to and Interaction with the Justice System by People with an Intellectual Disability and Their Families and Carers', Women with a Disability Victoria, [https://www.parliament.vic.gov.au/file\\_uploads/Law\\_Reform\\_Committee\\_-\\_Access\\_to\\_and\\_interaction\\_with\\_the\\_justice\\_system\\_by\\_people\\_with\\_an\\_intellectual\\_disability\\_and\\_their\\_families\\_and\\_carers\\_-\\_Final\\_report\\_76JG2vK1.pdf](https://www.parliament.vic.gov.au/file_uploads/Law_Reform_Committee_-_Access_to_and_interaction_with_the_justice_system_by_people_with_an_intellectual_disability_and_their_families_and_carers_-_Final_report_76JG2vK1.pdf), viewed 7 August 2018

WDVCAS NSW has identified issues in the implementation of safety measures in NDIS plans and system more broadly. Consultation suggests that safety is not considered to be a 'real' measured outcome in the development and review of NDIS plans, conflicting with WDVCAS NSW beliefs that safety should be the highest priority for women experiencing DFV.

This is exemplified in instances where the perpetrator is listed as a correspondence and/or plan nominee, allowing the NDIS to become another manipulation and control tactic for perpetrators. In these instances, experiences suggest that holistic considerations to the safety of women are not factors in NDIS planning leaving these women vulnerable to further violence. Consultation has also presented issues around individuals enacting NDIS plans, specifically that the NDIS must refrain from assuming individual capabilities of women with a disability, particularly where DFV is a factor. For example, women with disabilities who experience violence perpetrated by a carer may lack the knowledge and ability to enact aspects of their plans, such as placing invoices for services received. Particularly, where there are experiences of financial abuse where often the woman is excluded from accessing finances or completing financial transactions.

**Recommendation 2- NDIS to implement 'safety' procedures specific to DFV.** The NDIS needs to provide greater education to staff around safety outcomes for clients, to be transferred into the implementation of internal procedures and guidelines that support women experiencing DFV. This could also include increased communication and liaison with other services involved with the client, DFV specific or otherwise to increase awareness and effective responses regarding individual circumstances and support needs.

Furthermore, WDVCAS NSW suggests that similar to the lack of understanding around safety, the NDIS lacks education around trauma informed care and approaches, providing additional barriers for women with disabilities experiencing DFV. Victims of DFV often experience numerous violent behaviours that are not always physical or visible and are often not addressed, such as financial abuse. Nonetheless, the impact of continued fear of threats, further violence and abuse, may result in victims experiencing trauma that can be severe and life-long, impacting on thoughts, beliefs and behaviours.<sup>6</sup> Increasing understanding on DFV trauma is necessary for the NDIS and the broader disability sector, to address the support needs of women through providing a model of care that recognises the impacts of trauma and modifies practice accordingly. In terms of NDIS planning, the development of NDIS plans should consider the impacts of trauma and coordinate assistance around identified issues, either from the individual or support workers/advocates. Continuing with the previous example of financial abuse, victims may feel distressed or overwhelmed around the practice of banking and financial management. Therefore, where appropriate (depending on care needs and ability) education and support around such tasks should be factored into the development of NDIS plans.

**Recommendation 3- Increase/Introduce trauma informed care practice models.** WDVCAS NSW suggest that the NDIS provide training and educational resources around the topic of trauma informed practice across all positions and hierarchies. Knowledge of trauma particularly in DFV is seen as essential by our sector when considering the multiple challenges women with disabilities encounter, compounded by the complex trauma associated with DFV.

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<sup>6</sup> Domestic Violence NSW 2017, *Good Practice Guidelines For The Domestic And Family Violence Sector In NSW*, Domestic Violence NSW, <http://dvnsw.org.au/wp-content/uploads/2017/08/DFV-Practice-Guidelines.pdf>, viewed 13 August 2018

## **E) The provision of support services, including accommodation services, for people of with disability regardless of whether they are eligible or ineligible to participate in the National Disability Insurance Scheme**

WDVCAS NSW in collaboration with Illawarra Women's Health Centre has identified several issues regarding NDIS service provision, that pose barriers for women with disabilities experiencing DFV. Despite recent NDIS media releases and reports stating that the NDIS supports over 183, 965 Australians with a disability<sup>7</sup>, WDVCAS NSW consultation and experience states that only a small proportion of people with a disability are found eligible for NDIS support and funding. This is a service provision issue as the broader disability sector may not be adequately equipped to meet the needs of the majority who are ineligible, particularly the multiple and complex needs of women impacted by DFV.

WDVCAS NSW has concerns regarding service provision to the large proportion of individuals ineligible for NDIS support. In particular, individuals experiencing psychosocial disabilities (also referred to as mental health conditions/issues). In the context of DFV psychosocial disabilities may be caused or exacerbated through experiences and trauma associated with DFV. In these instances, women often struggle accessing NDIS support services due the NDIS reliance on self-referrals and individuals "reaching out for help"<sup>8</sup>. Individuals experiencing psychosocial disabilities may lack the capacity or ability to do so, when experiencing the impacts and symptomology associated with psychosocial disabilities. For example, a woman experiencing clinical depression may find it difficult to complete daily tasks let alone NDIS applications and documents which are often complicated and overwhelming. Additional factors to consider also include a lack of knowledge about the impacts of social isolation often experienced by DFV victims. Therefore, if found ineligible this group of women are again faced with navigating an overwhelming system of finding support services that adequately address their needs, which is difficult due the factors mentioned above. The case study provided by the Disability focused Case Worker at Southern Sydney WDVCAS, entitled **Case Study 1** has been included to illustrate this concern and inform **Recommendation 4**.

**Recommendation 4- NDIS eligibility requirements require a structural change to enhance service provision to individuals with a disability, including those experiencing psychosocial disabilities.** The consensus of anecdotal evidence gathered to inform this submission has demonstrated that the despite NDIS reports, current NDIS eligibility requirements are extremely difficult to navigate resulting in a large proportion of individuals without NDIS support. The NDIS needs to consider a restructure of eligibility criteria or consider supports for those found ineligible, as there is a gap in service provision that does not address needs of the women with a disability experiencing DFV.

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<sup>7</sup> National Disability Insurance Agency 2018, 'COAG Disability Reform Council Quarterly Report', National Disability Insurance Agency, <https://www.ndis.gov.au/medias/documents/coag-report-q4-y5-full/2018-Q4-June-COAG-report-Full.pdf>, viewed 14 August 20180

<sup>8</sup> Coogan, M 2018, 'Concerns Raised Over NDIS Barriers for Homeless People With Disability', Pro-bono Australia, [https://probonoaustralia.com.au/news/2018/08/concerns-raised-ndis-barriers-homeless-people-disability/?utm\\_source=Pro+Bono+Australia+-+email+updates&utm\\_campaign=7ef50b0b34-EMAIL\\_CAMPAIGN\\_2017\\_08\\_18\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_5ee68172fb-7ef50b0b34-147712469&mc\\_cid=7ef50b0b34&mc\\_eid=c9ff2d1f1e](https://probonoaustralia.com.au/news/2018/08/concerns-raised-ndis-barriers-homeless-people-disability/?utm_source=Pro+Bono+Australia+-+email+updates&utm_campaign=7ef50b0b34-EMAIL_CAMPAIGN_2017_08_18_COPY_01&utm_medium=email&utm_term=0_5ee68172fb-7ef50b0b34-147712469&mc_cid=7ef50b0b34&mc_eid=c9ff2d1f1e), viewed 15 August

WDVCAS NSW has also identified issues of service provision regarding accommodation. In the context of DFV this a major concern for all women, with women with disabilities at an increased risk of homelessness and falling through the cracks of the service delivery system. The link between homelessness and DFV is ever present in our communities, with DFV considered as the leading cause of homelessness among women and children.<sup>9</sup> The issues identified related to women found ineligible for NDIS support and the lack of safe crisis accommodation options. While the Domestic Violence Line is a useful resource for service providers to gain information and referrals to emergency housing, women with disabilities may be unable to secure safe and adequate housing. For example, temporary accommodation support can include referrals to motels which for women with disabilities pose barriers in terms of safety and accessibility, as such facilities may not be designed to support care needs. While women's refuges generally do provide for women with disabilities, WDVCAS staff suggest that refuges are at full capacity. Alternative options such as NSW Housing are also struggling to meet client needs, with excessive wait lists which are often lengthened for women with disabilities due to the number of properties that are appropriate.

Additional concerns are held for women who are found eligible for NDIS support, in terms of the NDIS's available accommodation support. The NDIS does provide Specialist Disability Accommodation (SDA) when found "reasonable and necessary" to support clients with "extreme functional impairments or very high support needs"<sup>10</sup>. Despite this, the rules and regulations of SDA require assessment processes that need time, which may not be afforded to women in need of emergency accommodation support. Furthermore, SDA operational guidelines do not contain any specific strategies related to DFV,<sup>11</sup> which is concerning due to previous statements listing DFV as the leading cause of homelessness for women and children.

**Recommendation 5- NDIS to consider the safety and accessibility of adequate housing for women with disabilities.** The NDIS needs to consider gaps in service provision, specifically accommodation that are increased due to the large proportion of people rejected from NDIS. Furthermore, the NDIS has to consider implementing policies and procedures around SDA and other accommodation supports that recognise women who have experienced DFV or are in the process of fleeing DFV.

WDVCAS NSW in collaboration with the Illawarra Women's Health Centre has identified a gap in service provision related to the Quality Improvement Council (QIC), which is currently responsible for National Health accreditation processes, including the disability sector. The NDIS incorporation of the QIC has resulted in previously accredited organisation's being no longer considered accredited under NDIS standards. Under these standards organisation's have reported that to be considered a NDIS service provider, services must undergo a costly and time-consuming re-accreditation processes. The consequences include smaller non-government organisation's and private practices such as psychologists refrain from re-accreditation. This impacts service provision as it limits the number of services available for those who are eligible for a NDIS plan, often requiring clients to move to different agencies that are NDIS service providers, which can be distressing for clients. In the context of DFV this also impacts on individuals accessing psychological and/or emotional support to assist in the healing process from their experiences and impacts of DFV. Furthermore, as previously mentioned a large majority of people are not eligible for NDIS support which not only limits service

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<sup>9</sup> Australian Institute of Health and Welfare 2018, 'Family, domestic and sexual violence in Australia 2018', Australian Institute of Health and Welfare, <https://www.aihw.gov.au/getmedia/d1a8d479-a39a-48c1-bbe2-4b27c7a321e0/aihw-fdv-02.pdf.aspx?inline=true>, viewed 14 August 2018

<sup>10</sup> National Disability Insurance Scheme 2018, 'Housing and the NDIS', National Disability Scheme, <https://www.ndis.gov.au/housing>, viewed 15 August 2018

<sup>11</sup> National Disability Insurance Scheme 2018, 'Specialist Disability Accommodation (SDA)', National Disability Insurance Scheme, <https://www.ndis.gov.au/Operational-Guideline/SDA>, viewed 15 August 2018



provision but also ignores women with disabilities who have affordability issues and cannot access private support, which again impacts on recovery and may further compound distress and trauma.

**Recommendation 6- NDIS to provide mutual recognition to organisation's previously accredited under the QIC.** Mutual recognition should be provided to organisation's previously accredited under the QIC to increase the level of service provision available for clients. The corresponding role of organisation's should be to demonstrate compliance with standards and if gaps are present, then the service should pay costs relating to gaps only.

Through addressing the previous term of reference, a lack of understanding of trauma, safety and DFV was absent from the NDIS and disability sector. Those who contributed to this submission all articulated further concerns around the lack of specific DFV training as a service provision issue for the NDIS. In regard to women who are eligible for NDIS support, current staff are unknowledgeable on DFV issues, its impacts and complexities. Therefore, limiting staff capabilities to practice effectively and competently with women who are or have experienced DFV. For example, previous studies have highlighted the benefits of DFV training in altering attitudes and performance, ultimately enhancing practice in terms of identifying risk factors and increasing effective responses to DFV clients.<sup>12</sup> Therefore, the knowledge and skills acquired from DFV training and learning will not only fill gaps in service provision but can also be transferable across the disability sector to improve client support and experiences regardless of NDIS eligibility.

**Recommendation 7- Mandatory DFV training to be provided to NDIS staff and disability support staff in the broader sector.** The NDIS needs to provide specific DFV training across all employment levels. Training should be centered around effectively identifying and responding to DFV, to ensure effective practice and uphold the safety and care of women with a disability who experience DFV.

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<sup>12</sup> Zaher, E et al 2014, 'Effect of Domestic Violence Training', Can Family Physician, vol. 60, no.7, pp.618-624, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4096259/>, viewed 15 August 2018



## Case Study 1

(note that the names of clients and/or family have been de-identified)

Client- Susan\*

### Background;

Susan is a 45 year old woman who has two adult children living with her, Jane\* 22 and Michael\* 24. She is divorced from her former husband. Susan came to our service after an incident with Michael. Michael has a learning delay as well as mental health issues and possible schizophrenia. The incident occurred while he was highly agitated and hearing voices – he hit Susan over the head while they were in the car due to the radio being up too loud. There was an AVO put in place with conditions 1abc only. Michael also has a lot of other court proceedings relating to theft, drug possession and riding public transport without a ticket.

Michael does not have an NDIS package. He is engaged with a mental health service that offers a one on one mentoring program, and his support worker sees him once a fortnight or so, where they go for outings. Susan is extremely frustrated at what she sees as a lack of support for Michael and herself. She reports that she feels extremely depressed about the situation and exhausted. I have tried to assist with finding programs that may be able to support Michael, however without an NDIS package, a lot of them aren't accessible. I have referred Susan and Michael to a couple of services that help with the NDIS application process, however Susan tells me that she didn't think they were much help.

Susan finds the application process very overwhelming, and just too big for her to cope with, in between managing Michael's behavior and his other court matters. The process hasn't been very straight forward, and as she is already feeling overwhelmed, this is something that really feels too big for her. Susan also has her own mental health issues as well as a long standing back injury that keeps her from working. She applied for the Disability Support pension through Centrelink, and her application was rejected, meaning she is also struggling financially.

From working with Susan and Michael, I think that social and life skill programs would be of great benefit to Michael. I have tried to source programs that might be beneficial, but again without the NDIS, a lot of them aren't accessible. Finding services that assist with NDIS planning and applications is difficult, and often clients don't even know where to start. Combined with the difficulty in successfully applying for the DSP as well means that clients feel unsupported. The amount of time it takes to complete the NDIS application process makes it difficult for women who are also managing/dealing with a violent partner, or the breakup of the relationship, and caring for children, especially if those children have special needs.

Susan is still trying to get Michael's NDIS application completed and find a service that she is comfortable with to help her complete it.