

advocacy for **inclusion**

Submission to ACT Budget Consultation 2019-2020

“An innovative and fair Canberra is an inclusive Canberra”

Advocacy for Inclusion

October 2018

About Advocacy for Inclusion

Advocacy for Inclusion acknowledges the Ngunnawal people as the traditional owners of the land on which we work.

Advocacy for Inclusion provides independent individual, self and systemic advocacy for people with disabilities. We are a Disabled Peoples Organisation (DPO) which means most of our board, members and staff are people with disabilities. We represent all people with disabilities in Canberra, working towards an inclusive Territory.

We act with and on behalf of individuals in a supportive manner, or assist individuals to act on their own behalf, to obtain a fair and just outcome for the individual concerned.

Advocacy for Inclusion works within a human rights framework and acknowledges the *United Nations Convention on the Rights of Persons with Disabilities* and is signed onto the *ACT Human Rights Act 2004*.

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A Growing Canberra – An Introduction

1. We welcome the opportunity to be involved in the ACT Budget Consultations 2019-2020. The following submission builds on our long history of advocacy on access to justice issues, and our extensive expertise in the area of violence, including domestic and family violence, against people with disability. AFI provides individual advocacy support to many people with disability who have and currently experienced marginalisation in the ACT.
2. We endorse ACTCOSS's 2016 statement, which highlights the experience of AFI and the support we offer for people with disabilities in the ACT community on a daily basis:

“We see this every day in the ACT. We see a growing gap between those who enjoy Canberra’s prosperity and liveability and those who don’t. This growing gap compromises individual and family economic and social wellbeing, compromises environmental values and threatens our collective success.”¹

3. This submission will request the ACT Government to ‘think ahead’ in community support services and bridging the affordable housing gap, particularly in the context of a growing Canberra.
4. Our vision is for the ACT to be community-centric in which the ACT Government should be focusing on ensuring services are available, accessible and accommodating to people with disabilities. Decreasing inequality will ensure prosperity and sustainability for a growing Canberra.

Recommendations

Recommendation 1: Further funding for individual advocacy organisations to ensure increase in service capacity towards people with disabilities in a ‘growing Canberra’ without sole reliance on the NDIS.

Recommendation 2: The ACT Government to actively work with the Office for Disability and Office for Mental Health towards the implementation of the NDIS mental health stream to ensure services, support and advocacy for available and ready.

Recommendation 3: The ACT Government to increase funding for disability and mental health community organisations to increase advocacy capacity to further support people with psychosocial disability in gaining supports, whether in or out of the NDIS.

Recommendation 4: The ACT Government to consider funding and elevating similar programs like the Cradle to Kinder program in Victoria, designed for parents with disabilities to access appropriate services under the ACT Disability Justice Strategy.

Recommendation 5: The Office for Disability to work with ACT Health and Child and Youth Protection Services to conduct a comprehensive review of pre-birth notifications to establish basic demographic details about mothers in the ACT, including the presence of any disability and the reasons given for the making of notifications. This information must be made public and transparent.

Recommendation 6: Provide early intervention parenting supports to parents with disabilities through the NDIS, ACT Disability Justice Strategy and supplement funding to Advocacy for

¹ ACTCOSS et al., Community shared statement for ACT 2016 election, ACTCOSS, Canberra, 2016, accessed 20 November 2017, <<http://www.actcoss.org.au/publications/advocacypublications/community-shared-statement-act-2016-election>>.

Inclusion to be an advocacy and support base. This solution is not currently routinely used in the ACT.

Recommendation 7: ACT Government to mandate Universal Design into the building of all new homes in Canberra, providing more choice and availability for people with disabilities.

Recommendation 8: Additional funding under the Disability Justice Strategy should be allocated to provide disability support leaving domestic and family violence.

Recommendation 9: The ACT Government to consider investing in a similar model of a Disability and Family Violence Crisis Response Initiative to ensure people with disability have high access to services when escaping violence. With additional funding, this can be a joint initiative between domestic violence sector and the disability advocacy sector collectively.

Recommendation 10: Further funding for Advocacy for Inclusion under the Disability Justice Strategy to ensure that all justice services, including police, custodian staff, domestic violence and support services, receive training regarding accommodating disability.

Recommendation 11: Article 31 of the CRPD2 – statistics and data collection – should be used to identify and address the barriers to ensure that the Disability Justice Strategy operates effectively.

² UNCRPD Article 31: *Statistics and Data Collection*: “States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention: (b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics”.

Priority 1: Justice Outcomes for People with Disability

5. In every ACT Budget consultation, AFI continues to toot the same message: justice outcomes for people with disabilities. We also continue to focus on people who are highly marginalised, excluded and socially isolated in the ACT community.
6. We continue to thank the ACT Government, namely the Office for Disability, for providing Advocacy for Inclusion with additional funding under the Disability Justice Strategy to employ additional individual advocacy staff to accommodate the growing number of clients. This is funding will enable our service to promote the choice and control of people with disabilities, whether they are on the NDIS or not.
7. It remains to be recognised that people with disabilities continue not to be treated as equal citizens within the justice system, including child protection, in the ACT. People with disabilities remain overrepresented in the criminal justice system, as victims and offenders.³ People with cognitive/intellectual disability⁴ and people with psychosocial disability⁵ make up a large majority of the custodian services (prisons, remand centres, forensic mental health facilities) than people without assessment or disclosure of disability.
8. In our justice approach, we have actively participated in and supported consultations in 2018, including the Human Rights Standards for ACT Corrective Services; Response to the ACT Office for the Senior Practitioner; the Disability Justice Strategy; ALRC Review of the Family Law System; the Charter of Right for Victims of Crime consultations and the ACT position under OPCAT.⁶
9. Individual and systemic advocacy continue to play a crucial role in preventative and support initiatives under the ACT Disability Justice Strategy, particularly cases in community inclusion (access to programs or services), acceptable housing, child protection matters, justice intervention (court appearances, bail understanding, victim support, legal representation) and guardianship matters.
10. Foremost, this needs to continue to be recognised, with further adequate funding to advocacy organisations to ensure accountability of the ACT Government and to ensure fair access to advocacy and support for all people with disability in the community sector.
11. It remains clear that the NDIS is not and will not provide community supports to all who need them and should not be a substitute for available services or block those needing further support without the NDIS – particularly in the justice system where disability and mental health are high in numbers.
12. The current ACT community sector is dangerously becoming reliant on the NDIS being the sole support for people with disabilities – without NDIS support; people are seemly unable to access supports. The community sector infrastructure needs to support people with disabilities are both on the NDIS and also those who are ineligible for support or, simply choose not to take part in the NDIS.

Recommendation 1: Further funding for individual advocacy organisations to ensure increase in service capacity towards people with disabilities in a ‘growing Canberra’ without sole reliance on the NDIS.

³ Committee on the Rights of Persons with Disabilities, ‘Concluding Observations on the Initial Report of Australia, Adopted by the Committee at its Tenth Session (2-13 September 2013)’, UN Doc CRPD/C/AUS/CO/1 (4 October 2013).

⁴ NSW Law Reform Commission, 2010. ‘People with Cognitive and Mental Health Impairments in the Criminal Justice System: An Overview’ (Consultation Paper No 5, January 2010), pp13-15

⁵ Ibid - 46-78% of prisoners experience a ‘psychiatric disorder’, compared to 11% of the general population

⁶ Australia’s ratification of the Optional Protocol for the Convention of Torture

Increase in Mental Health Advocacy

13. We are currently experiencing a change in our advocacy delivery under the NDIS. As a model of advocacy, Advocacy for Inclusion is federally funded to provide advocacy support for people accessing NDIS Appeals and complaints processes. On top of this work, we are experiencing a growth in the need for advocacy for people with disabilities who have been made ineligible to the NDIS, supporting them to understand why and to access other support services.
14. The further growth is anticipated to come from the newly-released announcement⁷ of the NDIS being extended to people with psycho-social and mental health. Due to the complexities under the NDIS, it is highly likely that our Appeals work will expand, our individual advocacy capacity will be further stretched, and people will be in need for increased advocacy in which we will need to accommodate advocacy to the mental health sector.
15. The ACT Government must ensure the further provision of appropriate and timely support for people with psychosocial disability and mental health to ensure intensive recovery supports are available. The NDIS transition in the ACT has led to service gaps for people with mental health where ineligibility is apparent. Timely and appropriate support is also necessary for those who choose, out of choice and control, not engage with the NDIS.

Recommendation 2: The ACT Government to actively work with the Office for Disability and Office for Mental Health towards the implementation of the NDIS mental health stream to ensure services, support and advocacy for available and ready.

Recommendation 3: The ACT Government to increase funding for disability and mental health community organisations to increase advocacy capacity to further support people with psycho-social disability in gaining supports, whether in or out of the NDIS.

Increase Supports for Parents with Disability

16. Parents with disabilities have high exposure to the child protection system.^{8 9 10 11 12 13 14} In our advocacy work, we have observed a number of concerning transparency and accountability issues, particularly between agencies and parents with disabilities, and their children being removed from their care.¹⁵
17. In most Advocacy for Inclusion cases, children have been removed from parents because no appropriate support was available to help them to care for their children. In all these cases no supports were tried or offered before removal was undertaken.¹⁶

⁷ Department of Social Services (DSS) (2018) 'Government announces improved NDIS mental health support', Media Release 10th October 2018, accessed: <https://ministers.dss.gov.au/media-releases/3691>

⁸ Lamont, A., & Bromfield, L. (2009). 'Parental intellectual disability and child protection: Key issues'. *National Child Protection Clearing House*, (31), 1-18. www.aifs.gov.au/nch/pubs/issues/issues31/issues31.html

⁹ McConnell, D., Llewellyn, G., & Ferronato, L. (2000). *Parents with a disability and the NSW Children's Court*. Sydney: University of Sydney.

¹⁰ Booth, T., & Booth, W. (2005). Parents with learning difficulties in the child protection system: Experiences and perspectives. *Journal of intellectual disabilities*, 9(2), 109-129

¹¹ Mildon, R., Matthews, J., & Gavidia-Payne, S. (2003). *Understanding and supporting parents with learning difficulties*. Melbourne: Victorian Parenting Centre

¹² Llewellyn, G., McConnell, D. & Ferronato, L. (2003). *Prevalence and outcomes for parents with disabilities and their children in an Australian court sample*, *Child Abuse & Neglect*, 27(3), 235-251. doi: 10.1016/S0145-2134(03)00004-8

¹³ McConnell, D., Llewellyn, G., & Ferronato, L. (2002). 'Disability and decision-making in Australian care proceedings'. *International Journal of Law Policy and the Family*, 16(2), 270-299. doi: 10.1093/lawfam/16.2.270

¹⁴ Refer to Advocacy for Inclusion. (2013). *Counting them in: Parents with disabilities and the ACT Child Protection System*.

¹⁵ Office for the Public Advocate (2015) 'Rebuilding the Village: Supporting Families where the Parent has a Disability', *Report 2: Child Protection*, Victoria

¹⁶ Advocacy for Inclusion (2013) *Counting them in: Parents with disabilities and the ACT Child Protection System*.

18. The ACT Government is obligated to fulfil the right for parents with disabilities to care for their children - with appropriate supports under the UN CRPD Article 23.¹⁷ The ACT Disability Justice Strategy must be integrated across the ACT Government, with an emphasis on the provision of support required by people with disability. Through a holistic approach, women and girls should be supported to pursue justice while receiving the appropriate parenting and family support to ensure their children are not removed unnecessarily.
19. In 2012, Victoria introduced the Cradle to Kinder program¹⁸ designed to provide “an intensive ante and postnatal support service for Victorian families”. The target group was young pregnant women under 25 where a report to child protection had been received for their unborn child and where indicators of concerns regarding the wellbeing of the child regardless of the parent not yet being involved in the child protection system. Priority was provided to women who had been part of out-of-home care, Aboriginal and Torres Strait Islander women and women with disabilities. The program was successful in which provided a ‘whole of family’ approach to parenting with further support was extended by health, education and community government portfolios.
20. Such programs and support services will remove the inaccessibility of justice processes and lack of available services for most parents with disabilities. Such experiences have led parents to believe that nobody understands or validate their experiences and parenting role. This is evident to women with disability who have experienced domestic and family violence that may have their children removed, in the question of their support and ability to care for their child/ren.¹⁹

Recommendation 4: The ACT Government to consider funding and elevating similar programs like the Cradle to Kinder program in Victoria, designed for parents with disabilities to access appropriate services under the ACT Disability Justice Strategy.

Recommendation 5: The Office for Disability to work with ACT Health and Child and Youth Protection Services to conduct a comprehensive review of pre-birth notifications to establish basic demographic details about mothers in the ACT, including the presence of any disability and the reasons given for the making of notifications. This information must be made public and transparent.

Recommendation 6: Provide early intervention parenting supports to parents with disabilities through the NDIS, ACT Disability Justice Strategy and supplement funding to Advocacy for Inclusion to be an advocacy and support base. This solution is not currently routinely used in the ACT.

Priority Action 2: Increase in Housing for Low-Income/Disadvantaged

21. Advocacy for Inclusion warmly welcomes the release of the ACT Housing Strategy and investment in public housing over five years. The investment to further grow the community housing sector is highly welcomed. Most welcomed has been the commitment by the Barr Government to increase support services for people living in low-income and disadvantaged circumstances. It is essential that as Canberra grows, an increase in support services in the community sector is crucial.
22. Lack of affordable housing is becoming critical, with accessible housing option for people with disabilities is further limited. People with disabilities are more likely to be on low-income, if not unemployed, and in

¹⁷ See also articles 5, 9, 12, 18, 20, 21, 22 and 40 of the CRC, article 14(4) of the ICCPR, article 16 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and articles 3(h), 7, 18(2) and 23 of the Convention on the Rights of Persons with Disabilities (CRPD).

¹⁸ Information on the Cradle to Kinder program is available via www.DHHS.vic.gov.au

¹⁹ Refer to Advocacy for Inclusion (2018) *Submission in response to ALRC Review of the Family Law System: Issue Paper*, and Advocacy for Inclusion (2017) *Response to the Standing Committee on Justice and Community Safety Discussion Paper: Domestic and Family Violence – Policy Approaches and Responses*

housing where they are forced to share or live in group homes rather than independently. Due to the high unavailability of inaccessible properties, there is a lack of housing choices in general.^{20 21}

23. Increase in housing for people with disabilities does not mean building more or maintaining institutional living arrangements in the form of group or congregate living arrangements. Canberra, to be genuinely inclusive needs to incorporate Universal Design as a linkage to the ACT Housing Strategy to ensure people with disabilities are provided opportunities to have choice and independence in their housing.²²

Recommendation 7: ACT Government to mandate Universal Design into the building of all new homes in Canberra, providing more choice and availability for people with disabilities.

People with Disabilities Escaping Violence

24. Whilst we welcome the commitment to increase affordable housing in Canberra and support services, it also requires balance. To increase support services, it is necessary to increase the supports and housing in which victims are experiencing domestic, and family violence can access.
25. Women with disabilities experience domestic violence in situations similar to women without disabilities; they will be assaulted by someone who is known to them, will most likely be assaulted by a man and it will most likely be in private, in their 'place of residence', or in the home of a friend or relative.^{23 24 25}
26. In various settings where women with disabilities reside violence may be perpetrated by a number of people who come into contact with the woman in her domestic life. These may include other residents, co-patients, a relative and/or a caregiver, whether a family member or paid service provider.²⁶ For women who have made the choice to leave an abusive situation, accessible, appropriate and reliable service provisions and transport on short notice is almost impossible to find, particularly for women with disabilities who have high support and mobility needs. This issue can become more profound in situations where the perpetrator may be the sole source of transport, heightening the isolation and social exclusion and creating a large barrier to escape.
27. Facilities without ramps and lifts, communication equipment; attendant care via support workers; interpreter services for Deaf/Hard of Hearing; information in alternative formats such as Easy English; suitably trained staff in disability and so on, are not ready for women with disabilities seeking shelter. In addition, women with disabilities with children who flee violent situations run the risk of losing custody of their children because child protection authorities may question their ability to care for them alone on top of their own support needs.^{27 28}

²⁰ Anglicare Australia (2018) 'Rental Affordability Snapshot 2018.' *Anglicare Australia*: Canberra.

²¹ Productivity Commission (2017) 'Housing and Homelessness', *Report on Government Services 2017*, Canberra.

²² UN CPRD, *Article 19: Living Independently and Being Included in the Community*, (a) "Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement"

²³ ANROWS, 2015, What does it take? Developing informed and effective tertiary responses to violence and abuse of women and girls with disabilities in Australia: State of knowledge paper see http://anrows.org.au/sites/default/files/3_3.4%20Landscapes%20Disability.pdf

²⁴ UN Women, 2006, *Forms of violence against women*. Retrieved from <http://www.endvawnow.org/en/articles/296-forms-of-violence-against-women-.html>

²⁵ Plummer, S.-B., & Findley, P. A. (2012). *Women with disabilities' experience with physical and sexual abuse: Review of the literature and implications for the field*. *Trauma, Violence & Abuse*, 13(1), 15-29.

²⁶ KPMG Consulting, 2000, 'Information resources on domestic violence for women with disabilities': Issues Paper; Prepared for the Commonwealth Office of the Status of Women; Canberra

²⁷ McConnell, D., & Bjög Sigurjónsdóttir, H. (2010). see http://www.washhouse.org.au//index.php?option=com_content&task=view&id=11&Itemid=18

²⁸ Advocacy for Inclusion, 2013, Counting them in: Parents with disabilities and the ACT Child Protection System, Submission to the ACT Out of Home Care Strategy 2015-2020, see http://www.advocacyforinclusion.org/Site%20Data/Publications/Submissions/2014/Submission_to_Proposed_OOHCS_4June2014FINA L.pdf

28. Domestic Violence and victims support services in the ACT are strictly limited, at capacity and does not reflect the cost of disability support provision. Funding provided to cover the victim's immediate needs (i.e. clothing, furniture, bedding, groceries) for those who have had to flee their homes. People with disabilities, particularly women and girls, are forced to choose between these immediate needs and disability support needs is inappropriate and discriminatory.
29. Domestic violence crisis workers are often inexperienced or untrained in disability support, often relying on the NDIS to the funding source. It also forced people with disabilities to remain in violent homes to access the support need, putting them at greater risk with very limited alternatives.
30. The NDIS is slow to respond in crisis situations and often held the belief that funding will provide all services for people with disabilities. The processes involved in amending a single plan for an existing participant or for a new participant to enter the NDIS is lengthy, bureaucratic and often requires support to understand the process and the written information. For this reason, the NDIA has detailed that is not a crisis response service and should be so – crisis services and intervention remain the responsibility of the ACT Government.
31. With the commitment to grow community support services, it recommended that the ACT Government look to building a *Disability and Family Violence Crisis Response Initiative* (currently a Victorian model)^{29 30} in which provides immediate disability supports upon leaving a domestic or family violence situation. The individual funding provided to each person can use the funds to purchase attendant care support, hire equipment, personal care and shopping assistance, interpreting services and transport costs.
32. The initiative has high potential in the ACT to form strong collaborations between the domestic and family violence sector and the disability advocacy sector to support people, namely women and girls, with disability to leave violence.

Recommendation 8: Additional funding under the Disability Justice Strategy should be allocated to provide disability support leaving domestic and family violence.

Recommendation 9: The ACT Government to consider investing in a similar model of a Disability and Family Violence Crisis Response Initiative to ensure people with disability have high access to services when escaping violence. With additional funding, this can be a joint initiative between domestic violence sector and the disability advocacy sector collectively.

Conclusion

33. We thank the ACT Government the opportunity in continuing to consult, have input and be valued as part of the ACT Budget Consultation 2019-2020.
34. This submission is centred on the need to increase, tighten and highly support people with disabilities in a growing Canberra. We again welcome the initiatives that the ACT Governments are proposing to increase affordable housing and support services yet expect that people with disabilities will be included and considered in all policy going forward. For this, we suggest:

²⁹ Woodlock D, Healey L, Howe K, McGuire M, Geddes V and Granek S. (2014) Voices Against Violence Paper One: Summary Report and Recommendations, *Women with Disabilities Victoria, Office of the Public Advocate and Domestic Violence Resource Centre Victoria*.

³⁰ Ibid: Recommendation 178 states that “the Victorian Government extend eligibility for the Victorian Disability Family Violence Crisis Response to assist people with disabilities who are victims of family violence and are not eligible for services under the Disability Act 2006 (Vic) but who nevertheless require assistance. Such eligibility should apply when these individuals do not have access to alternative supports.”

Keep Training Local

35. There are many community organisations who are well placed to provide training in their specialised field. Advocacy for Inclusion has conducted a number of training and has developed well-renowned resources – and it is frustrating to see the ACT Government outsourcing similar training that can be accessed in Canberra, from similar organisations. Keeping it local is necessary by providing organisations, like Advocacy for Inclusion, additional funding to create resources and hire staff to conduct training is vital.

Recommendation 10: Further funding for Advocacy for Inclusion under the Disability Justice Strategy to ensure that all justice services, including police, custodial staff, domestic violence and support services, receive training regarding accommodating disability.

Data Collection – Again

36. Data collection in the ACT remains crucial in how many people with disabilities travel through the justice system to ensure that policy implementation and consultation between both JACS, CSD, the Office for Disability and community advocacy organisations is transparent.
37. Individual advocacy support, if provided early upon data, can also be a measure of early intervention in the justice system. The ACT Government, including Office for Disability, should work across ACT Correctional Services, ACT Health, ACT Housing and the NDIA to develop a strategy for correctional services to identify prisoners with an intellectual/cognitive disability, psychosocial disability and require support in re-integrating back into the community prior to their release.³¹

Recommendation 11: Article 31 of the CRPD³² – statistics and data collection – should be used to identify and address the barriers to ensure that the Disability Justice Strategy operates effectively.

³¹ Bevan, N. and Sands, T. 2016. *Submission to the Senate Inquiry into Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia*, Australian Cross Disability Alliance; Sydney, Australia. Available: http://dpoa.org.au/wp-content/uploads/2016/04/ACDA_IndefiniteDetention_Submission_April2016.pdf

³² UNCRPD *Article 31: Statistics and Data Collection*: “States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention: (b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics”.