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**Joint statement – ACT Disabled Peoples Organisations outline priorities as the ACT Government moves to respond to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability**

**Message to the ACT Chief Minister Andrew Barr MLA; and**

**ACT Minister for Disability Rachel Stephen-Smith MLA**

**Issued by: Advocacy for Inclusion, ACT Down Syndrome, Women with Disabilities ACT, and  
Endorsed by Mental Health Community Coalition ACT**

The Final Report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability was released a month ago. The report sets out a range of recommendations for transformative change for Federal, State and Territory Governments. The Commission recommends Governments respond by the end of March 2024.

ACT Disabled Peoples organisations now come together to begin to bring the following priorities to the attention of the ACT Government in its work program and in its deliberations through to the National Cabinet. We also note ongoing work underway by national peak bodies and commend this to Governments as they frame responses.

**Legal frameworks**

The Commission recommends that the Australian government should commit to the enactment of an Australian Disability Rights Act (DRA). Legislation should be introduced into parliament as soon as possible. The DRA should impose duties to comply with CRPD which would then be enforced by a National Disability Commission. As proposed, the DRA would only be binding to Commonwealth agencies however some of the commissioners recommended that it be extended to other entities.

The Royal Commission recommends amendments to make the Commonwealth Disability Discrimination Act (DDA) more effective including creating a positive duty to end discrimination and changing the legal test for direct discrimination. They also recommend the removal of the 'reasonable' defence for unjustifiable hardship. Additionally they recommend creating provisions for harassment and vilification on the grounds of disability within the DDA.

*As the ACT discusses these matters in the National Cabinet, ACT Disabled Peoples organisations signal our strong support for either a Disability Rights Act or a strong Human Rights Act which binds Australia to enacting the CRPD. We support all the recommended changes to the Disability Discrimination Act. Here in the ACT, we support a Territory based Disability Rights Act alongside (and separate to) the Disability Inclusion Bill. This should be introduced early in the next Assembly.*

## **Guardianship**

The Commission recommends changes to guardianship to recognise and encourage supported decision-making including seeing guardianship is only a last resort. They recommend that the States and Territories and the Australian Government adopt uniform national decision-making principles.

They recommend scrapping the gag provisions which prevents people with disability talking about their lives under guardianship as well as national standards for public advocates, public guardians and public trustees.

They also recommend work to support people to maximise financial independence and a review of fees and charges applied by public trustees. They recommend sweeping changes to guardianship and administration legislation to enhance the agency of people under orders and to remove presumptions about loss of agency and capacity.

*As the ACT discusses these matters in the National Cabinet, ACT Disabled Peoples organisations signal our support for shared approaches to Guardianship provided that they do not remove positive assumptions and protections already enacted.*

*Here in the ACT, we support work to support people to maximise financial independence and a review of fees and charges applied by public trustees. We support work to enhance the agency of people under orders and to remove presumptions about loss of agency and capacity.*

## **Advocacy**

The Commission recommends improved access to advocacy including increases to advocacy funding.

*As the ACT discusses these matters in the National Cabinet, ACT Disabled Peoples organisations signal our support for increased funding under the National Disability Advocacy Framework.*

*Here in the ACT, we note pressing and concerning pressures on advocacy capacity due to program, changes, COVID, disruption, the NDIS and reform agendas across justice, education, health, service commissioning and other matters. We call for a doubling of Advocacy funding including funding for peaks.*

## **Migration**

The Commission recommends a review of section 52 of the Migration act which authorises discrimination against people with disability seeking to enter Australia.

*As the ACT discusses these matters in the National Cabinet, ACT Disabled Peoples organisations signal our support an immediate end to discriminatory migration policies.*

## **Disability Policy and Ministers**

The Commission recommends a specific portfolio and a Minister for Disability and Inclusion along with a Department of Disability Equality and Inclusion with people with disability in leadership positions.

The Commission recommends that the Australian government and state and territory governments should develop a new national disability agreement to be signed by first ministers which provides a framework for intergovernmental collaboration about the NDIS and Australia's disability strategy by the end of 2024.

They also recommend that the Australian Disability Strategy should be aligned with the recommendations of the commission by the end of 2024 with reviews of the state and territory strategies by mid-2025. The commission also recommends that a range of intergovernmental agreements, such as the Housing and Homelessness Agreement and Closing the Gap, should be reviewed to ensure outcomes for people with disability

There should be state and territory focal points for the implementation of the CRPD.

*As the ACT discusses these matters in the National Cabinet, ACT Disabled Peoples organisations signal our support for a dedicated Federal Ministry and a new national disability agreement. We support the inclusion of dedicated requirements, funding and reporting within all bilateral agreements especially those concerned with housing, education, closing the gap, health, infrastructure and municipal services*

*Here in the ACT, we support prompt and fulsome responses through an ACT Disability Strategy, the ACT Health Strategy and an Inclusive Education Strategy focussed on improving access to mainstream education. These strategies should be robust, backed by investments and policy and evaluation capacity.*

### **Accessible information**

The Commission recommends a national plan to promote accessible information and communications with an initial focus on responding to emergencies and natural disasters and an increase in the number of Auslan interpreters.

*As the ACT discusses these matters in the National Cabinet, ACT Disabled Peoples organisations signal our support for dedicated and purposeful national work in these areas.*

*Here in the ACT, we note shortages on Auslan interpreters and also in Deaf/Blind communication guides and support increased funding.*

### **Health**

The commission recommends work to expand the capacity of the health workforce to engage with people with cognitive disability as well as specialised health and mental health services for people with cognitive disability.

They recommend that the right to equitable access be embedded in key policy instruments for health services.

They also recommend that there should be a program of work to ensure that adaptations and supports are available within all publicly funded healthcare settings.

Also recommend healthcare navigators to support people with disabilities in care in healthcare settings.

*As the ACT discusses these matters in the National Cabinet, ACT Disabled Peoples organisations signal our support for dedicated and [purposeful national work in these areas including a National Disability Health Strategy and funding within Health Agreements.*

*Here in the ACT, we support a focus on expanded capacity in the health work and a right to equitable access with adaptations and supports. We also support disability healthcare navigators. These and the other priorities in Imaging Better should form the basis of a robust health strategy.*

## **Restrictive Practices**

The Commission recommends stronger legal frameworks for the authorisation oversight of restrictive practices. The report includes recommendations for practices that should never be used at all in different settings.

The commission remain recommends a legislative prohibition of non-therapeutic sterilisation of people with disabilities.

*Here in the ACT we support work to understand the most appropriate ways to end non therapeutic sterilisation of people with disability and urge Governments to work with people with disability on these issues.*

## **Education**

The commissioners with a disability recommended a 28-year phase out of all segregated schools. The Commissioners unanimously supported a legal entitlement for students with a disability to enrol at a local mainstream school, steps to prevent the exclusionary discipline of students with disability and improving policies and procedures on the provision of reasonable adjustments. They also recommended careers guidance and transition support service for people with disabilities plus inclusive education units, workforce reform and work on data. In addition, they recommend improvements to student with disability funding loadings.

*As the ACT discusses these matters in the National Cabinet, ACT Disabled Peoples organisations signal our support for funding in bilateral and multilateral agreements to deliver these recommendations.*

*Here in the ACT, we support a phase out of all segregated schools along the lines of the roadmap for Inclusive Education. The ACT's strategy for inclusive education should respond to these recommendations and include a clear definition of inclusive education that is not segregation. We support the creation of a right to enrol at a mainstream school and the ability of students with disability to learn in a mainstream classroom. We support steps to prevent the exclusionary discipline of students with disability and improve policies and procedures on the provision of reasonable adjustments. We support a focus on universal design within all school buildings, digital processes and curricula plus continued increases to the student loading to reduce the ACT's overreliance on segregation.*

## **Employment**

The commission recommends broader access to employment services including removing the requirement for person to have an eight hours a week work capacity, establishing specific and disaggregated targets for disability employment in the public sector, specific disability employment targets for new public service hires, changes to the application of the merit principle and an adjustment passport. They also recommend that all governments should adopt procurement policies to preference businesses and entities that are able to demonstrate good practice.

The Commission recommends that there should be a Disability Employment Rights Council, and amendment to the Fair Work Act and an amendment to the Disability Discrimination Act as well as widening the role of the Fair Work Ombudsman.

*As the ACT discusses these matters in the National Cabinet, ACT Disabled Peoples organisations signal our support for an end to segregated employment and improvements to employment services and for a national inclusive employment roadmap to eliminate sub minimum wages.*

*Here in the ACT, we urge attention to the recommendations of the ACT Assembly Inquiry on disability employment which remain relevant and respond to issues also raised by the Commission.*

## **Housing**

The Commission recommends that states and territories should immediately adopt the mandatory Australian Building Codes Board Liveable Housing Design Standard for all new dwellings as well as respond to the additional need for crisis housing. In addition, they recommend increased tenancy and occupancy protections for people with disabilities and minimum service standards monitoring and oversight in supported residential services.

A majority of the commissioners including the commissioners with disability recommended the Australian government and the state and territory governments develop and implement a comprehensive roadmap to phase-out group homes within the next 15 years.

*As the ACT discusses these matters in the National Cabinet, ACT Disabled Peoples organisations signal our support for increased funding for accessible and affordable public and community housing. We also support changes to SDA funding to ensure it does not preference group housing arrangements.*

*Here in the ACT, we urge early adoption of the liveable housing standard, more public housing at the gold standard of accessibility, improvements in non-group housing options for people with intellectual disability, planning reform to grow access and affordable housing, a package to encourage socially responsible, sector-wide leasehold application processes, growth in accessible non group community housing, market development work and greater tenancy protections .*

## **Justice**

The Commission recommended the development of a human rights education and training strategy for National Preventative Mechanisms under the Optional Protocol on Torture. The Commission also recommended prohibiting solitary confinement in youth detention and better disability training within youth detention.

There were a number of recommendations designed to prevent people being subject to indefinite detention as a result of being found unfit to be tried. They were also recommendations around the screening assessing and identification of disability in custody.

The commission also recommended improvements at the NDIS and criminal justice system interface to ensure that people are funded in crisis including where interface issues cannot be resolved.

In addition there were also recommendations to improve police responses to people with disabilities and ensure Police are covered by the Disability Discrimination Act. The Commission recommended streams of work by state governments to review and fund court-based diversion programs for people with cognitive disability.

The Commission recommended that the ACT should develop and fund court-based diversion programs for people with disability charged with summary offences in local or magistrates courts. The Commission recommended raising the age of criminal responsibility to 14 and to work towards nationally consistent inclusive definitions of gender-based violence under the National Plan to End Violence against Women and Children.

*As the ACT discusses these matters in the National Cabinet, ACT Disabled Peoples organisations signal our support for these recommendations including nationally consistent inclusive definitions of gender-based violence under the National Plan to End Violence against Women and Children*

*Here in the ACT, we support a court-based diversion program for people with disability, funding for pre-crisis interventions and diversion from corrections, an end to indefinite detention in justice settings and improvements to screening to AMC.*

### **First Nations**

The commission recommended culturally appropriate parenting capacity assessments work to ensure the cultural safety of First Nations people in criminal justice settings, the expansion of community connector programs, block funding for first Nations community-controlled organisations to deliver flexible supports, inclusion of a first Nations person on the NDIA board. It also recommended codesign work on policy guidelines for funding for first Nations family members to provide supports to participants in remote communities.

A First Nations Disability Forum should elevate first Nations Disability policy with ministers and the commission also included recommendations to grow the First Nations disability workforce.

*As the ACT discusses these matters in the National Cabinet, ACT Disabled Peoples organisations urge attention to the voice of First Nations DPO's including FPDN and we provide strong support for measures to elevate First Nations Disability Policy.*

### **OPCAT**

Commission recommended a program of work to enshrine the key provision of the optional protocol against torture within legislation. There was a recommendation for nationally consistent community visitor schemes in close spaces.

Here in the ACT we support appropriate funding for an NPM which goes beyond a staff member

### **Disability Death Reviews**

The commission recommended a Disability Death review scheme to monitor and review the deaths of people with disability and remove avoidable risk factors to be operationalised your national agreement. It also recommended nationally consistent reportable conduct schemes for disability in line with the recommendations of the Royal commission into institutional responses to child sexual abuse.

*As the ACT discusses these matters in the National Cabinet, ACT Disabled Peoples organisations support a Disability Death Review Scheme.*

### **Missing areas of focus**

*In addition to the areas highlighted by the Royal Commission we ask that the ACT Government and the National Cabinet attend to other priorities not comprehensively covered in recommendations, but which were mentioned in hearings. These include the end of discrimination and barriers in transport, the impact of poverty on people with disability including the need for a dedicated cost of disability and illness allowance. We also urge greater attention to measures to end gender-based violence and discrimination as well as discrimination against parents with disability. We support focus and attention on efforts to respond to the ongoing impacts of the COVID19 pandemic on people with disability through measured protections, public health measures in disability and health settings, public education and community development supports.*