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Northern Territory Disability Advocates call for action on NDIS Appeals crisis.

Darwin Community Legal Service (**DCLS**), Disability Advocacy Services (**DAS**) Alice Springs and NPY Women's Council (**NPYWC**) are all NT based organisations that receive funding from the Department of Social Services for NDIS Appeals Advocacy.

NDIS Appeals Advocacy provides specialist support to National Disability Insurance Scheme (**NDIS**) participants and people seeking access to NDIS supports when appealing decisions made by the National Disability Insurance Agency (**NDIA**) to the Administrative Appeals Tribunal (**AAT**).

Rights of people with a disability in the NT

However, the funding our services receive for NDIS Appeals Advocacy is highly inadequate, to the point that none of us now have funding for even one full-time position.

DSS has not correlated funding for NDIS Appeals Advocacy support to NT participant needs, the service areas or the specialist nature of the work.

On top of this DSS has advised that the NDIS Appeals Advocacy funding of \$80,000 pa received by DCLS for NT wide assistance, will be reduced by 30% next financial year.

The NDIS Appeals Advocacy funding each of our organisations receives is unresponsive and tokenistic to the NT context and is dismissive of the rights and needs of people with a disability in the NT especially those in remote and very remote settings.

Compounded by a crisis in NDIS Appeals legal representation in the NT

Further to this, an access to justice crisis for people with a disability is currently unfolding in the NT.

The only organisation receiving specific funding to provide legal representation at the AAT for NDIS Appeals has suspended assistance for new matters for this financial year and stated that the funding allocation on offer to them for 2022 – 23 will still not be enough to meet current demand let alone the increasing



demand for assistance we are seeing occur. As a result, there are currently no funded pathways for legal representation for NDIS participants looking to appeal NDIS decisions.

Other legal services, such as DCLS' General Legal Service, cannot fill this gap, and have not received resources to do so. This further increases the burden on the advocacy organisations, as we continue to support clients through the AAT appeals process without additional legal support to refer to and cooperate with.

Deeply concerned

We are deeply concerned for Territorians looking to appeal NDIA decisions due to the insufficient availability of specialist advocacy support and suspension of legal representation for new matters.

Many NDIS participants who need to exercise their appeal rights are already at breaking point and are facing major risks to their health and safety.

In the AAT and well before, through the internal appeals process, we are typically arguing for sufficient support worker hours to ensure the person's safety and basic needs are met. The lack of appropriate NDIS funding for our clients means isolation, deteriorating health and increased hospital admissions. People in these situations are at significant risk of harm due to the inadequate level of funding provided for in their NDIS plans.

Having run out of internal review options through the NDIS, participants are left with no choice but to appeal to the AAT.

An AAT NDIS Appeal is a traumatic, labour intensive, and lengthy process. Supporting people through this process requires intensive support, specialist advocacy and legal representation.

In our experience, the NDIA frequently briefs top tier legal firms and barristers. This means that an NDIS appeal is already a significantly unbalanced process.

Underfunding specialist advocacy and legal services leaves people with disability unsupported in the AAT and on the current allocations offered to our services by DSS for the next 3 years will also compromise the level of support, advocacy, and assistance available to participants through the internal review process. This exposes people to what they experience as highly skewed and unfair processes, which are damaging in many ways, especially in the areas of their physical and mental health. Participants often cannot proceed alone and they ultimately give up by withdrawing their application.

Published statistics from the AAT show that NDIS appeals applications are increasing. Trends in NDIA decision-making, participant needs, and the decision review process means that NDIS participant AAT appeals are likely to continue to escalate.

Summary

We call for:

- Urgent funding to deal with the immediate crisis to ensure that people with disability have access to NDIS Appeals legal representation.
- Urgent NDIS Appeals advocacy funding increase for the remainder of the financial year.

- Substantial increase in funding for specialist NDIS Appeals advocacy for 2022-2023 and subsequent financial years.
- A long-overdue needs-based analysis of the funding and service model in the NT for advocacy and legal support in the NDIS that is suitable, culturally appropriate, and accessible.

Yours Sincerely,

Darwin Community Legal Service

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