December 9, 2016

To Whom It May Concern:

**Department of Health - Fifth National Mental Health Plan**

People with Disability Australia ([PWDA](http://www.pwd.org.au/)) welcomes the opportunity to provide feedback on the Fifth National Mental Health Plan (The Fifth Plan). As a leading disability rights, advocacy and representative organisation of and for all people with disability, these reforms directly affect our members, and the wider community we represent. The overarching concerns outlined in this letter support our input to the consultation workshop held in Sydney on November 22.

Reform of the mental health service system to better meet the needs of people affected by mental health concerns and psychosocial disability is welcome, and the rhetoric in the Fifth Plan around a holistic response, with individuals at the centre of service planning, delivery, evaluation and reforms will underpin whether the reforms achieve success. However, we believe that there are a number of fundamental concerns with the draft Fifth Plan which undermine this rhetoric and which need to be addressed in order for the Fifth Plan to deliver meaningful change.

**The Fifth Plan fails to acknowledge and embed the rights of the Convention on the Rights of Persons with Disabilities (CRPD)**

The values that underpin the Fifth Plan include upholding human rights and dignity. Whilst the Fifth Plan makes brief mention of the *United Nations (UN) Human Rights Resolution on Mental Health and Human Rights (2016)*, we are seriously concerned that there is no mention of the *Convention on the Rights of Persons with Disabilities (CRPD),* despite the integral role that mental health legislation and the mental health service system reforms play in the fulfilment of Australia’s obligations under the CRPD.

Whilst the Fifth Plan suggests that this is a time of opportunity to align national priorities to improve mental health care practices in Australia with the UN Resolution mentioned above, the lack of reference to aligning these reforms with Australia’s obligations under the CPRD is a critical oversight. The plan acknowledges that different mental health legislation across jurisdictions challenge uniformity of national policies and practices. We note with serious concern that this legislation, and subsequent policies and reforms (including this Fifth Plan) in many respects continue to breach, are inconsistent with, or fail to fulfil Australia’s obligations under the CRPD.

The Committee on the Rights of Persons with Disabilities, *Concluding observations on the initial report of Australia (2013)* raise specific areas of concern and recommendations that are directly relevant to the reform processes underway (specifically against Articles 12, 13, 14, 15). These recommendations include immediate measures that should be put in place to address the rights violations of people with psychosocial disability subject to: a lack of legal protection, involuntary medical treatment, compulsory treatment orders and restrictive practices, forced incarceration and indefinite detention. These critical recommendations are in regards to all situations where these violations occur, including mental health facilities, schools, hospital, juvenile justice centres and prisons.

**We strongly urge the Department of Health to review, and amend, the Fifth Plan to appropriately recognise Australia’s obligations under the CRPD, and put in places strategies to make concerted progress towards the fulfilment of these obligations through these reforms.**

**Interaction between the Fifth Plan and the National Disability Insurance Scheme (NDIS)**

The NDIA estimate that by 2019-2020, approximately 14% of NDIS participants will be people with severe and ongoing psychosocial disability. However, at this time it remains unclear how the referral and service systems between mental health services and the NDIS will operate, to ensure that all people who may be eligible are identified and supported to access NDIS packages as soon as possible, and nobody falls through the gaps. The Fifth Plan offers little clarity in this regard.

In 2015, the Council of Australian Governments (COAG) agreed to the *Principles to determine the responsibilities of the NDIS and other service systems* and supporting *Applied Principles.* These Principles outline agreed responsibilities between the NDIS and mainstream services, including mental health. As stated in the 2nd Implementation Plan for the National Disability Strategy *Driving Action 2015-2018* (released this month), these Principles ‘include a commitment to a seamless interaction of people with disability with the NDIS and other service systems, as well as coordinated approaches between systems. This recognises that there is a need for service systems to work together at the local level to coordinate supports for participants, as they often require supports from multiple systems or transition from one to another’.

Whilst we understand that work is ongoing to formalise the interactions between the NDIS and mental health services, we are concerned that the Fifth Plan makes limited mention of how this will work in practice to ensure that people with psychosocial disability are provided with appropriate services and referrals between systems, including those people with disability who are NDIS participants, but for who mental health may be a secondary concern.

As this work continues **there needs to be particular attention paid, as noted in the *Applied Principles*, to how investments in psychosocial early intervention can support people with early onset psychosis and improve whole-of-life outcomes for individuals, consistent with the insurance principles of the NDIS**. This is a critical consideration in the establishment of responsibilities between the mental health sector and the NDIS to ensure that people who may benefit from early intervention are identified as early as possible and referred appropriately.

# We note that the Federal Government Joint Standing Committee on the NDIS has just announced an inquiry into *The provision of services under the NDIS for people with psychosocial disabilities related to a mental health condition.* The Committee is accepting submissions until February, and are due to report in June 2017. This inquiry will likely gather significant, invaluable, evidence to inform the operational opportunities and concerns between the NDIS and the mental health service system. **We strongly urge the Department of Health to contribute to, and be strongly informed, by the outcomes of the parliamentary inquiry**.

**Recognition of priority populations**

The Fifth Plan outlines a number of priority population groups, including Aboriginal and Torres Strait Islander people, CALD and LGBTIQ communities. However, the draft Fifth Plan does not acknowledge the intersections across these communities, and the multifaceted structural barriers, stigma and discrimination that this creates. In addition, the Fifth Plan does not prioritise strategies to address how psychosocial disability manifests and impacts upon people of different ages and demographics, such as the elderly, children and young people. There are key priority populations that are not mentioned in the Fifth Plan, including people in juvenile justice and prison, and refugees and asylum seekers, including those held in immigration detention.

People with disability are not a homogenous group, and within the Fifth Plan’s priority populations, disability will compound the stigma, discrimination and structural barriers that they face. This should be acknowledged in the Fifth Plan, and an emphasis placed on research to inform appropriate mental health service responses.

In addition, PWDA echoes the concerns raised by the Council for Intellectual Disability (CID) regarding the lack of mention in the Fifth Plan of people with intellectual disability who also experience psychosocial disability and mental health concerns.

It is estimated that approximately 150,000 people with intellectual disability have mental concerns. These individuals face significant issues in accessing appropriate mental health services due to difficulties with communication and diagnosis and the complex interplay between the mental illness, intellectual disability and the person’s social circumstances.

The National Roundtable on the Mental Health of People with Intellectual Disability 2013 endorsed eight key elements of an effective response, including that the ‘needs of people with intellectual disability and a mental disorder are specifically accommodated in all mental health initiatives’.

In addition, the NSW Mental Health Commission included a specific and detailed focus on intellectual disability mental health in its 10-year strategic plan for mental health in NSW. The Fifth Plan needs to identify people with intellectual disability as a priority population, and include key strategies across the priority areas to respond to specific needs of these individuals.

**We recommend that the Fifth Plan is amended to acknowledge and respond to the needs of the priority groups that have been omitted in the draft**, particularly given that these population groups are disproportionately vulnerable to the impact of mental health concerns and psychosocial disability, including risk of suicide, as well as often being those most lacking in appropriate service provision within both the disability and mental health sectors.

**National mental health safety and quality framework**

Priority Area 7 of the draft Fifth Plan outlines actions to establish a national mental health safety and quality framework, which will deliver a ‘safe and high quality service system that is tailored to the needs of consumers’. Australian Governments are currently in the process of finalising a national approach to quality and safeguards for the NDIS. PWDA is very concerned that this process, and the essential interactions between these frameworks was not even mentioned in the draft Fifth Plan.

*The NDIS Quality and Safeguards Framework – Consultation Report*, released in 2015 by Commonwealth, State and Territory Disability Ministers, highlighted concerns around ‘the potential for further complicating system pathways for people with disability, particularly people wanting to escalate a complaint if it could also be made to another existing complaints body. Particular reference was also made to the need for clarification of the interaction between NDIS quality and safeguarding measures with mental health sector quality and safeguarding measures’.

Priority Area 7 also refers to work around the Safety and Quality in Health Care and the National Standards for Mental Health Services, to better ensure a safe and high quality mental health service system. However, once again the Fifth Plan does not acknowledge the interaction with the NDIS and disability services provided under the scheme that may deliver support to people with psychosocial disability. In the NDIS Quality and Safeguards Framework consultation report, there was particular reference to ‘recognition of compliance with the National Standards for Mental Health Services for providers supporting NDIS participants with psychosocial disability and to the use of the Attendant Care Industry Standard for home care supports’. Specific recommendations were made around minimum qualification requirements, such as a Certificate IV in Mental Health or Mental Health Peer Work, for all NDIS services providers offering support to people with mental health concerns. **It is essential that quality and safety frameworks put in place under the NDIS and mental health reforms are fully integrated, and this needs to be reflected in further drafts of the Fifth Plan.**

In addition, Priority Area 7 identifies that Governments will undertake work to improve consistency across jurisdiction in policy underpinning mental health legislation ‘based on a understanding of their impacts on consumer and carers’. As mentioned previously, mental health legislation across jurisdictions in Australia breach the human rights of people with disability. **The current mental health reforms should take concrete steps to review and eliminate policies and practices that allow services to breach the rights of people with disability** as outlined in the first section of this letter.

**National reform and system performance measures**

Any measure of mental health reforms in Australia should have distinct indicators clearly linked to the fulfilment of Australia’s obligations under the CRPD. The COAG National Disability Strategy (NDS) 2010-2020 (the policy framework through which Australia is working to fulfil CRPD obligations), specifically calls for universal mental health initiatives to address the needs of people with disability. In addition, the NDIS is a critical component of the service delivery commitments made under the NDS. Despite this policy framework and commitments already in place, the NDS is not acknowledged within this draft Fifth Plan.

Given that the Fifth Plan gives no mention to either the NDS, or the CRPD, **we strongly urge the Health Department to review and amend the Fifth Plan to ensure that it aligns with commitments made under the NDS and CRPD, and these commitments are adequately reflected in system reform objectives and performance measures.**

As acknowledged in the draft Fifth Plan, these reforms must be driven, and directly informed, by consumers themselves. **We recommend that the Department of Health work with the NDIA to facilitate a mechanism through which feedback and concerns regarding the interaction of the NDIS and mental health services can be raised**. This should be part of the national reform and system performance measures, but **this mechanism must have a remit to cover both the NDIS and mental health service systems, ensuring that feedback from consumers directly influences improvements in both areas of reform**. As such, monitoring and reporting processes should recognise the interdependence of these systems and measure the contribution of each reforms against commitments made. As the NDIS is rolled out, lessons learnt from participants themselves, including evidence gathered during the previously mentioned parliamentary inquiry will be invaluable.

We welcome the opportunity to elaborate further on any issues raised in this letter.

Yours sincerely,



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*People with Disability Australia (*[*PWDA*](http://www.pwd.org.au/)*) is a leading disability rights, advocacy and representative organisation of and for all people with disability. We are the only national, cross-disability organisation - we represent the interests of people with all kinds of disability. We are a non-profit, non-government organisation.*

*PWDA’s primary membership is made up of people with disability and organisations primarily constituted by people with disability. PWDA also has a large associate membership of other individuals and organisations committed to the disability rights movement.*

*We have a vision of a socially just, accessible, and inclusive community, in which the human rights, citizenship, contribution, potential and diversity of all people with disability are recognised, respected and celebrated. PWDA was founded in 1981, the International Year of Disabled Persons, to provide people with disability with a voice of our own.*

*PWDA is also a founding member of Disabled People’s Organisations Australia (*[*DPO Australia*](http://dpoa.org.au/)*) along with Women With Disabilities Australia, First Peoples Disability Network Australia, and National Ethnic Disability Alliance. DPO’s are organisations that are led by, and constituted of, people with disability.*

*The key purpose of DPO Australia is to promote, protect and advance the human rights and freedoms of people with disability In Australia by working collaboratively on areas of shared interests, purposes, strategic priorities and opportunities. DPO Australia has been funded by the Australian Government to be the recognised coordinating point between Government/s and other stakeholders, for consultation and engagement with people with disability in Australia.*