26 August, 2014.

**SUBMISSION TO THE WELFARE REVIEW**

The existence of the Welfare Review – and its importance to Australians with a Disability employed in Australia’s Disability Enterprise- has only recently been brought to my attention whilst I was attending the recent National Disability Work Conference in Sydney.

Although submissions have now closed I ask that:-

1. This submission be accepted
2. That the Committee accept, at its convenience, personal representation from actual workers, their families and carers into the needs of employees at Australia’s Disability Enterprises, whose voices, despite assertions from Peak Bodies – has never been heard.

No one denies the need for welfare review, but it is critical that our nation’s most vulnerable stakeholders are given the opportunity for input around the issue of Australian Disability Enterprises – and their future.

These are times of great uncertainty for this group of people, whom I represented before the Australian Industrial Relations Commission 10 years ago. As the national president of a self-funded advocacy organisation – Australian Parent Advocacy Inc.- we were deprived of a voice by the National Council of Intellectual Disability (NCID) in the determination of an industrially legislated wage assessment tool – known as the Business Services Wage Assessment Tool (BSWAT). We live this journey – throughout Australia – but the NCID refuse, ideologically, to accept any form of congregate care – be it supported employment or accommodation. We refused to accept any money from Government, or from providers – so we could tell it like it is.

The BSWAT has now been declared “discriminatory”, and Disability Enterprises still using it have until April, 2015 to change to a “non-discriminatory tool” – or be in default and penalised.

As well as being a parent and advocate, I am also a professional business woman, a national finalist in the Telstra Business Woman of the Year Awards (Qld Telstra Business Woman of the Year –small Business 1998) – so have a professional grasp on business issues .No business can change its structure to accommodate an 80-200% increase in wages – in a 12 month period – and survive, particularly in the current economic climate.

It is almost impossible for Not-for-Profit organisations, which are community based, socially outcome focussed, provide services for our marginalised workers (mostly with intellectual disability), and are heavily embedded in their communities as an important thread in the local social fabric, to remain viable businesses with massive wage increases.

From your list of stakeholders at Public Meetings – it is obvious that Advocacy Peak Bodies, Carer Peak Bodies and National Disability Service Providers have provided their input at those State meetings. But, families/carers and workers cannot fund their costs to such stakeholder meetings and the advocacy groups accuse service providers of conflicts of interest – ie. “exploiting vulnerable people just to protect their own jobs”. Harsh words – but that’s the reality.

It is not, therefore my intention to argue the business case in depth – other than my earlier statement. I would expect this has already been done by Service Providers.

Rather I request that a member or members of the committee visit one of our Disability Enterprises (ADE) – at your convenience. As the Queensland Representative of our *“ADE’s* *work for me”* Campaign – [www.ade.org.au](http://www.ade.org.au) – I could arrange a personal representation of some parents and workers to visit you. But our workers deserve to have their say – in their own work environment, in their own comfort zone – and I ask if this can be arranged – at a venue of your convenience. These are vulnerable people who are now fearful of losing their jobs – and that is their world.

Based on the financial reality that the Supported Wage System – which is the only tool that the advocacy groups will accept – is unsustainable for the future existence of a large number of our enterprises – I base my representations – on behalf of some 10,000 workers still using the BSWAT - on the following

1. The right of choice – a basic human right which we, the non-disabled population, insist is an essential part of our own lives.
2. The reality of providing employment services for a country as big, as de-centralised and geographically large as Australia is far from the purely ideologically vision of the Peak advocacy groups. My views, therefore, are largely regional but strengthened by 50 years of understanding in business, in community, local government and as a community advocate for people with disability and the aged.
3. The dis-enfranchisement of this vulnerable group of workers by Peak Bodies.
4. Transition from ADE’s to Open employment - the issues
5. The benefits provided by ADE’s for the workers, the communities and the families/carers.
6. The real problems with the dictates of Peak Bodies who do not walk the walk – but talk the talk. This requires structural change at Peak Body level.

My history in this field, to date, is provided as *Appendices 1 and 2*, They are my representations to both the National Council on Intellectual Disability (now called Inclusion Australia) and the Human Rights Commission, re their public position and actions – without appropriate stakeholder consultation. *Appendix 3* is a published opinion piece by Mr. Graeme Innes, - previous Commissioner of the Human Rights Commission, and *Appendix 4* is my response to that article.

**The term “carer” is loosely used in the field of Australian Human services. It can be interpreted as any of the following:-**

**Carers**  **Type of recipient (caree).**

 **“Life-time” a disability from cradle to grave.**

**“Time-of-life” usually the frail aged- whose caring needs**

**(statistically) span a period of 5- 10 years.**

**“Term-of life” usually a disability acquired at some stage of life, genetically, medically or through trauma**

**“Foster” the caring role is one of choice.**

**“Young the role is performed by a child or adolescent**

 **(usually a family member)**

**“Paid” properly termed “support worker”, but**

 **generically classed as “carers”. Unlike other “carers” - they have workplace entitlements**

 **and choice.**

**“Wild-life” An optional choice of caring for animals and/or the**

 **environment.**

**My use of the term “family/parent/carer” relates, principally, to intellectual disability, which is either “life-time”- cradle to grave or “term-of-life” –i.e. acquired brain injury. Increasingly mental illness (often episodic) is confused with intellectual disability, but this submission in focussed on intellectual disability.**

1. **The Right of Choice**

Appendices 3 and 4 address this issue. Suffice to say – one cannot choose what does not exist. Anecdotal and printed evidence confirms the NCID agenda – whilst praiseworthy in its ideals – is designed to remove any form of congregate service in either supported accommodation or employment. Whilst this might be possible for a small number of the cohort in my submission – it is not possible for the majority. If we go back as far as the introduction of the Disability Services Act in 1987 – Minister John Howe addressed that very issue when he “grand-fathered” – despite the very public objections of the same vocal advocates – the future of the then “sheltered workshops”. We have made great progress – in the delivery of service and outcomes for employees. Much still needs to be done. The model of service needs to remain – to provide choice- and the whole sector needs to work towards common worker goals and continued service delivery improvement, as the NDIS now encompasses the landscape. This requires collaboration between Governments, communities, service delivery, workers, families/carers and those national bodies who purport to “represent people with a disability” – more especially our own national peak body – the NCID.

1. **National Service Delivery**

Australia is a very de-centralised country with distance being one of the tyrannies of delivering services – efficiently and effectively – for any business. What works in Victoria, might not work in NSW, Western Australia or Queensland. Victoria’s land mass will be accommodated in Queensland – 7 times, and in Western Australia – 11 times, so the extra costs, in an ever-increasing cost-of-living climate for power, fuel, utilities and insurances have a big impact on regional services.

Yet, nationally, the number of people with intellectual disability continues to rise as we have higher incidences because of:-

* The existing population living longer.
* More ABI due to increased driving and drowning traumas
* Foetal alcohol and drug dependency at birth
* Increased live premature births – due to medical intervention – but often with future learning/disability issues
* Autism – still for unknown reasons
* Mental illness – although episodic – increasingly becoming a permanent disability for a variety of reasons.

The Wide Bay Burnett district is one such large regional area. Bundaberg, as one of two hubs within that area, has the highest unemployment statistics in the nation, a higher than national average of disability, the aged and low disposable income. As it transits from a seasonal agricultural/manufacturing base, and now recovering from two huge floods in two years, it is socially vulnerable and increasingly welfare dependent.

Regional distances and costs to cover individual representation in national consultancy issues on welfare and disability, cannot be factored into household budgets and fit within the family caring routines. Increasingly, there is an emphasis on policy makers relying solely on internet/computer contact. Many of our family carers are not computer literate.

Regional communities actively support that which they create – and our disability enterprises and services – are an important thread in our regional social fabric. However, physical representation in policy-making is increasingly more difficult for people with intellectual disability – their families and carers - living outside the urban and metropolitan regions. We need to rely on effective representation to the National Peak Body for our marginalised group of people, their families and carers.

This scenario is repeated throughout Australia – especially in the larger States. Governments cannot be expected to manage this – so provide funds to organisations to keep regional constituents informed, to provide information and to garner feed-back into issues. The theory works well. But the implementation of that theory fails dismally.

1. **Disenfranchisement.**

For purposes of this submission “dis-enfranchisement” is defined as

*“the explicit revocation of, or failure to grant , the right to vote to a person or group of persons”.*

Further, dis-enfranchisement creates “disempowerment”

“Disempowerment” is defined as the *“reduction of the power, authority or influence of individuals, or a group of organised persons, to make their own choices”.*

This submission covers the very real disenfranchisement of a large group of vulnerable stakeholders- the workers in our Disability Enterprises, their families and carers. The disability sector encompasses various types of disability – all of whom have their own Peak Body, supported financially by either Federal or State Governments, or both.

The National Council for Intellectual Disability is our only Peak Body – reporting directly to the Federal Government and formally representing us in the formation of policy and future policy direction. They have an obligation to consult –with their constituents – especially when those constituents could be adversely affected by their Peak Body policy decisions and actions – into which they, as constituents and consumers - have had no input. NCID have failed to consult- despite requests and opportunities. National and international disability work conferences have been held in the past 2 years – one at the Gold Coast, and the recent one in Sydney, An excellent opportunity for the NCID to consult, but they don’t attend and won’t consult.

Our criticism of the NCID is based on actions – or lack of them – not on individuals or some of the good work they have done, and are doing in services other than supported employment.

Let’s use Queensland as an example – but this is relevant for most States – especially the geographically larger ones.

The NCID proclaims they have 5000 members representing all 8 Australian States and Territories. The Queensland representative is Parent to Parent – a State funded advocacy organisation – with no apparent representation in employment services, and only a limited spread – State-wide – with none in the north.

The Federal Court case of Nojin and Prior is history – and we all need to move on. Despite the position taken by the NCID – and their very determined efforts to have the BSWAT – and any other assessment tool abolished – and replaced by the SWS- they have not, at any time accepted invitations to confer with the constituents their actions will displace. Families and workers do not disagree that, as the NDIS rolls out, it is a time to put in place better school to work transition policies. But the NCID have argued for a 12month exemption to allow the 11000 workers, still using the BSWAT, to transition to another type of tool. And, if it isn’t the SWS – then they will simply mount a case for any such replacement – other than the SWS - to be classified as “discriminatory”.

This means some services will have to close. The NCID accepts the obligatory use of the SWS will mean increased wage expenses for the ADE’s, but further state that if ADE’s are not viable the Commonwealth Government must consider the option of those services becoming “day services” that can continue to support people with a disability.*(Appendix 5)*

However, “day services” are State funded services, they are user pays, and not readily available. The Queensland NDIS does not commence its roll-out until 2016, and the existing BSWAT exemption is only until April, 2015.

Our Peak Body states unviable disability enterprises should become “day-services” . But, even if a retrenched worker could access an alternate “day-service” – and that’s not always possible - they are user pay services with no employment focus generally provided by a different level of Government. Factual evidence exists that the loss of the employment ethic leads to loss of individual self-esteem, a subsequent loss of wage income, increased personal expenditure for the replacement “day services” (if available) – plus additional transport costs associated with such services.

Our public challenge is for the NCID to identify,

* How many of their 8000 members actually work in disability enterprises?
* What is the geographical spread of that membership representation?
* What actions have they, as the Peak Body, taken, in the past 5 years, to consult – “hands-on” with those of their membership who would be disadvantaged by their public exhortations that the SWS is the ONLY acceptable wage assessment tool in national supported employment services.?
* What actions have been taken by the State representatives to the National Board of the NCID – within their own States ?
* What formal records exist of those consultations with disability enterprises within their State?
* If such consultations have taken place within those States- What was the outcome fed back to the National NCID Board, and the constituents about those consultations
* And if those State consultations did not take place – Why not?
* The National Council on Intellectual Disability is our only national Peak Body. Our workers sometimes have multiple and/or medical issues. There are Peak Bodies for the blind, deaf, physically disabled and specific types of intellectual impairment – but our vulnerable workers have to rely on our Peak Body or advocacy groups purporting to represent their needs. Sadly - and factual evidence supports this - some of these advocacy groups – despite their criteria for taxpayer funding, are reluctant to advocate for a service type that conflicts with their ideological visions, irrespective of the wishes of the consumer, their families/carers.
* What right has the NCID to rob some 11,000 workers, their families and carers – of their right of choice - without any evidence of actual consultation – “on the ground” – with those same workers.

Despite the NCID’s public assertions to the contrary, our disability enterprises do provide “real jobs” for their workers – who are also NCID constituents. There would appear to be a difference in interpretation of “real jobs” between the majority of disability enterprise workers and a small number of NCID constituents. This could result from the individual needs, capacities and limitations of a large cohort of workers, in different geographical areas, with differing needs, governed – as all businesses are – by market issues of supply, demand and economic climate.

The difference of opinion is not about the job – but the method of assessing wage entitlements for the employees in those jobs.

There are some 31 different wage tools within a work environment employing some 20,000 vulnerable workers. The majority of those workers have an intellectual disability so they are NCID constituents. Due to their disability those workers are usually on a disability support pension, the level of which is determined by the amount of income provided by their employment. Due to their individual needs, the employment is often built around the workers. This is the exact opposite to a normal work environment where the business owner establishes a market and then recruits its workers. Disability enterprises are usually Not-for-Profit community organisations established and supported in local communities to provide employment for vulnerable workers in a supported work environment. The Federal Government provides funding to those enterprises to ensure the personal supports for those workers are met by the provider – in that workplace. The BSWAT is the Commonwealth approved, industrially legislated assessment tool used in the majority of those workplaces.

In any industrial disputation, especially about something as major as the assessment tool for wages - – it is normal industrial practice to consult with the majority of workers and their employers. As the personal support needs of these vulnerable workers are Federally subsidised, and the majority of the workers are constituents of a Federally funded Peak Body, a reasonable requirement would have been for that Peak Body (The NCID) to consult with workers, employers and/or their families/carers, and agree to an industrial process of resolving the disputation.

The NCID did not consult with the majority of their constituents/workers in their workplaces, or become involved in addressing the elements of the BSWAT which the aggrieved minority of workers felt was unjust. They simply decided that the majority of the workers had no vote in any possible future outcome – whatever path the NCID – as the advocate for the minority of aggrieved workers decided to take. Now, you can dress that up any way you like – that’s the industrial and business reality.

So – the NCID – as the Peak Body, Federally funded to represent Australia’s intellectually disabled citizens – the core mission of their funding – peremptorily revoked the voting power – on the floor of the workplace – from the majority of the workers.

As this disenfranchisement of the majority of workers then moved through the resultant processes, the NCID further deliberately disempowered that majority of workers – who are also the majority of their own constituents – by removing their right of choice.

This majority of workers might CHOOSE their current employment options, but the NCID is removing that right. It is impossible for them to choose what no longer exists and the NCID has decided that all enterprises must now use the SWS assessment tool of THEIR choosing - **AND NO OTHER –** even if this makes the business unviable and forces closure.

This is akin to dictating that all Chambers of Commerce – as policy and market leaders – must force all Australian business to accept 24hour trading – irrespective of individual circumstances – throughout Australia. The trading hours dictate wage costs – which dictate business survival.

Dis-enfranchisement – as deliberately exercised by the NCID against 11,000 workers – who are also the majority of their own constituents, whom they are Federally funded to represent- has led to disempowerment of those workers – and the NCID, at national level is now dictating the time frame.

Those workers have the RIGHT to choose another tool from the suite of industrially approved wage assessment tools- but the NCID has made it quite clear they will accept ***nothing other*** than the SWS. They know the increased wage costs could make many of the businesses financially unviable – with the subsequent loss of jobs. The NCID insists, on these occasions, Government must then provide alternate user-pays “day services” – which might, or might not be available in the widespread geographical areas of the current jobs.

This is an outrageous example of dis-enfranchisement and dis-empowerment by a Federally funded Peak Body of their own majority of employment constituents – on the ideological grounds of “RIGHTS”.

It deprives some 11,000 workers of their basic human rights and, as we move into a national NDIS roll-out, within a welfare review regime - it is a national disgrace that taxpayer funds can be used against such a large group of vulnerable, voice-less Australian citizens – by a Peak Body funded to represent them.

1. **TRANSITION FROM ADE’S TO OPEN EMPLOYMENT – The Issues**

Australian Disability Enterprises, as a congregate model of supported employment have been denounced by the NCID and some associated Peak Advocacy Groups as making the workers “dependent” on this model of employment and creating unnecessary “barriers’ for them to move to open employment options in the community. This, they contend, means they miss out on social inclusion and full acceptance into the wider community of work and social life.

The issue of whether ADE’s create dependency in their workers cannot be evaluated without an understanding of the difficulties of transiting from this model to the standard open employment business model. Neither should we divorce this model from the realities of the business environment – which captures us all during our working life.

* One of our employees in a Western Australian enterprise recently celebrated 43 years and retired – with all the usual party and gifts He was uncertain what he would do with his life now he was “*no longer a factory worker”.*
* In our business lives, how many of us stay within the same sector, even if we move to another town?
* How often do we read of teachers, business people, public servants receiving awards for extended years of service.?

It is reasonable to conclude that security of tenure in our so-called “normal” occupations and/or professional lives does not indicate “dependency”. Rather it indicates choice and job satisfaction. It is accepted as “loyalty” – not “dependency”. so why do the advocates make that distinction with our ADE workers? They will say it is because our workers have never had the opportunity to exercise their right of “choice”, yet now those same critics want to remove this congregate model of supported employment. They insist those same workers be paid a wage that will force the business to close, move the disenfranchised workers into open employment or revert to State funded ‘day services” – with no employment focus – if such a service is available in their region.

This is all based on the “rights” of those workers. But there’s not a lot of consultation, consideration or understanding in that rationale – and no evidence of respect for the human rights of the individual. There is deliberate destruction of the right of choice. This right of choice is enjoyed by able bodied workers whose length of tenure in their chosen field of employment is regarded as loyalty, not dependency. Advocacy is a deliberate choice of employment for some of the key players in the current exercise of “rights”. Some have been there – in their chosen fields – for decades. Is that taxpayer funded “loyalty” or “dependency”?

For comparison we now need to consider workers in a standard disability enterprise. We need to do so in the light of the current welfare review, the roll out of the NDIS – affecting different regions, at different times- in a climate of fear and legal turmoil, deliberately created by the same advocacy movement. We need to examine some of the actual issues that surround the movement, by workers, from disability enterprises to open employment. There is a field of thought that accepts this transition should be accompanied by a “pass-port” system, that allows a worker, if the transition is unsuccessful, to return to their previous job. The funded advocacy movement, however, is employing a de-facto “no back-filling policy”. This was the terminology employed in earlier attempts to close business services. It’s a policy ensuring that once a worker moves out – the vacancy cannot be “back-filled” by a new employee, because that vacancy would not attract new support funding and the enterprise would “die on the vine”. This return to the old “no-back-filling” policy is encapsulated in the combined advocacy submission statement that *“The hiring of new employees should not occur until the ADE has demonstrated business viability, which includes wages assessed by the SWS.”.*  That’s the old “*no back-filling policy*”- dressed up more palatably for the public - as *“rights”.*

The following is a list of my own and other family- lived experience of the issues that surround the transition of workers from disability enterprises into open employment:-

Evidence based data exists to prove that if say 3 people move from an ADE to outside employment – then 2 of those would probably come back – over time. There are various reasons for this. I have summarised them as follows:--

* **The worker most likely to transition is usually the more highly functioning worker. In the ADE they are probably “top-dog” with their choice of occupation and have a strong peer relationship, and a full time job**
* **They are a “high performer” in a team of “lower performers”.**

* **The move to open employment sees them reduced to a “lower performer” in a team of “better performers”.**
* **They generally only secure the most menial of tasks.**
* **Those tasks, whatever they are, will probably not have visually strong public work frontages**
* **They will not necessarily be involved in their co-workers social life**
* **There is a loss of self-esteem.**
* **Returning to the ADE sees them regain a wider circle of friends**
* **There is a loss of some personal self-esteem if they have to return to the ADE as they have to deal with a loss of face and the fact that they “failed out there”.**
* **The support systems, and acceptance of their fellow workers sees them, over time, regain their previous peer group position.**
* **Their mental health improves as the wider social circles, the work regimes, the acceptance, familiar support and routines kick in.**

The following are case studies from some existing regional disability providers, who are viable, who do pay the necessary SWS, but who also understand the difficulties of transition from a congregate model of supported employment to open employment. A variety of work options is provided and good inter community links have been forged with the business community – locally, regionally and wider.

**My summary is based on the following facts and case studies**

1. Often a “top dog” in an ADE will be working full-time, or pretty close to it, as they will be a valued and useful element in the business. In Open Employment however, there are very few Full-time jobs. The average hours in Open Employment have always been lower than ADEs, and the average hours of the “Top Dog” ADE workers are generally more than the average in Open Employment. Anecdotally, I have evidence of excellent ADE workers, with full-time jobs at their ADE, moving into mainstream jobs, and only getting 8, 12 or 15 hours. The jobs are menial, with negative inter-action components. Being part-time, rather than full time, this led to boredom, depression, loneliness, and behaviours, not evident in the ADE, have surfaced. There is evidence of some of these ex-ADE workers turning to alcohol abuse, ending up in the legal/police system with associated mental health issues. . The DES system exacerbates some of these issues because the system pays as much for finding an 8 hour per week job as it does for a 38 hour per week job. There is the capacity, with the offer of a full-time job by an employer, for that “job” to be carved into 2 or more part time jobs. This gets more people into jobs and higher payments from Govt. This practice can also happen in ADE’s, but is more prevalent in DES jobs, and doesn’t happen nearly as much with “top dogs”.

2. The DES system has become very poor at providing ongoing, on the job, support. It has become a process of “ find the job, train the person, place the person, then get out as quickly as possible” This appears to be further driven by the payment for certain time-based outcomes in work… i.e. 13 and 26 weeks - when there is very little interest in maintaining support after this time. My own personal experience was with project officers who approached their task with a pre-conceived idea that the worker needed certain supports, “learned the job” within a set time frame, and then the informal business supports from co-workers and management would take over. Just doesn’t happen, in many of the case studies I present. There is a higher risk of job loss in Open Employment and it is a fact of life – for our workers – that employment is only one part of a tapestry of supports that maintains and sustains each individual in the community.

3. Then there’s the $1 an hour furphy. Let’s examine spending power !!!!!! If a Top Dog in an ADE is working full-time on $6.50 an hour ( for an example ), they will have an annual income of $13,000 plus pension plus Mobility Allowance, and not a huge amount of spare time each week to spend it. Put them into an Open Employment setting say for 15 hpw at $12 ( 60% ) under the SWS, they will have $9,360, plus Mobility Allowance plus pension. They also will have more spare time and usually more travel costs. We need to remember that it is the more capable (“top dog”) worker who is most likely to transition to Open Employment. We never see any comparisons of the wages of a fully employed ADE worker against the SWS, usually part-time Open Employment worker. Sure their hourly rate will be higher, but their spending power is actually less. It’s likely that the workers in Open Employment earning at the 80% or 90% SWS level, or even 100%, are not the type of person who would have been in an ADE anyway.

4. Depending on the industry - unskilled or lower skilled workers – can be required to work shift work at odd hours (i.e. 4am starts ) or rotating shifts. Supporting an ex-ADE worker in this environment is almost impossible. There are issues of transport, support in accommodation, medication, waking, other routines in their life etc… etc… that overload the capacity of the support system. Often, business requires some of the hours – if not all- to be worked on week-ends – when other workers might make themselves unavailable because it doesn’t suit their life-style. This timing and availability of support workers also places enormous strains on the support system. Business has options from an ever-increasing pool of unemployed, non-disabled workers, so performance issues can overcome the business commitment to employing a person with a disability.

5. Training…. Good ADE’s provide a long-term commitment to training and skill acquisitions for their employees with disabilities, and often will plug away at up-skilling someone way past the point that any Open Employment, for profit business would or should support. Additionally those with Competency based Pay Systems will also pay their employees more as they upskill. This training incentive is not paramount for businesses employed ex-ADE workers in Open Employment. If an employee doesn’t “get it” , quickly, they are soon relegated to the most basic and menial roles, or dismissed, rather than upskilled.

6 Any analysis of the transition process also needs to consider – not just the average 60% who might elect to return to the ADE, but the average 20% who stay in the open employment sector but don’t retain that employment. The overall problem is that these workers don’t feel like they *“ fitted in*”. These are their verbatim comments:-

* **Don’t feel valued here like I was at the ADE. I’m not considered important here.**
* **Worried I might lose my job – there’s no job security**
* **Miss my friends and colleagues**
* **Don’t know who I can talk to if I have a problem**
* **Don’t want to create hassles**
* **Don’t feel like I can ever do any better than this – no career path**.

Further to the below email, please see below Flagstaff’s experiences with our range of supported employees and their transition to Open Employment. The following is our experience from employees who have attempted to move out into open employment and the result.

7 I have documented data of one employee who has left 4 times to move into Open Employment, but now wants to move back to the ADE, even though he is anxious to stay in the open employment sector. As well as an intellectual disability he suffers with anxiety and severe depression – he is in his late 40’s. If he experiences a small change of circumstance or is asked, the wrong way, to do something, he gets anxious, then depressed and cannot turn up for work, so loses that job. He returns to the ADE as his safety net because he feels valued and can engage in meaningful work. This helps him to get back on top of his issues, concerns and depression – and the whole circle then starts again. Fortunately, he has the will to keep trying – but not everyone does.

Many of the employees returning have had some bad experiences which have shattered their confidence. They will not consider open employment as an option. They choose to remain in an environment that has meaning and is one in which they feel safe and socially valued.

Another employee was supported 1:1 in the open employment workplace, but because of inappropriate communication, and some social behaviour issues the employer did not consider the employee to be work-ready and terminated him. The employer, despite the money being thrown at him to continue the placement, did not feel the situation was sustainable for themselves, or the employee, long term. That worker has been traumatised by the episode and will probably never consider open employment again.

There are also positive stories about ADE employees who have completed various qualifications within their supported employment workplace. This has increased their self-esteem and confidence, so further training options are being considered. Perhaps open employment might be an option for them as they continue to grow and maximise their potential within that supported environment – and are appropriately supported if they decide to take that path.

Lest the 2 out of 3 scenario for people exiting ADE’s and then returning be challenged

These are actual case studies – again, of a regional ADE, paying SWS wages, so they fit neatly in the advocacy network’s “acceptable” employment regime:-

In the last year 7 employees have exited to take up jobs in open employment or otherwise go to a DES.

Of those 7

* 2 returned to the ADE – 1worker felt the DES wasn’t helping him, and with the other the job fell through.
* 1 has lost his job and now wants to return to the ADE
* 1 has returned – but chose a different ADE – because the job didn’t eventuate).

Nationally, the return rate of 57-60% can be substantiated

There are many more case studies- but these people are going under the radar because the landscape is being controlled – not by effective collaboration and consultation by the advocacy movement, providers, workers and their family/carers – but an ideology that is supposedly based on “rights” yet considers that disenfranchisement and disempowerment of the affected cohort is an appropriate treatment for those constituents.

Whilst the NCID trumpets the payment of the SWS and the viability of ADE’s as being the **only path forward –** the international community provides examples of why this won’t work in Australia.

…. In British Columbia in Canada in 2002 or so, the Provincial Government ruled that all employees – disabled, prisoners or otherwise – had to be paid the minimum wage, which was at that time about $7 ( award wages were about $14 ) so about 50%. Within 18 months, every ADE in the Province had shut because they went broke. Somewhere around 5% of the ex-ADE workers ended up in Open Employment, the other 95% all ended up in non-vocational day programs…

So, what will happen in Australia, and in our welfare system – unless the motivation and actions of the NCID and associated advocacy networks are challenged? Exactly the same, We should learn from overseas mistakes – not repeat them, otherwise some 15,000 workers –mostly with intellectual disability – will end up job-less and dependent on “day services” – at home, or on the streets.

1. **THE BENEFITS OF ADE’S**

Alternatively, Australian Disability Enterprises provide benefits to the workers, the community, families/carers, the business communities and the Federal Government, whose investment in this sector promotes maximisation of individual potential. The Federal Disability Support Pension outlays are reduced at a 50% rate per dollar post threshold, as the individual is remunerated for work effort. This then reduces the dependency of this group of people.

Our ADE’s provide self-esteem, a job, dignity, a wide circle of friends, sporting and community inclusion opportunities, more disposable income to meet daily life expenses and social inclusion. They are an important thread in the social fabric of the Australian way of Life and our ethic of a “fair-go” for the less fortunate.

It is not all about money, and our workers and their families/carers can tell their own story far better than I. Please visit them on [www.ade.org.au](http://www.ade.org.au)

1. **THE UNREPRESENTATIVE NATURE OF THE NATIONAL COUNCIL OF INTELLECTUAL DISABILITY.**

There is an urgent need for structural reform of the Peak Body representing Australians with an intellectual disability, and a history lesson- in time line form - is appropriate.

1. They are taxpayer funded to represent a special class of membership
2. They are funded to represent that membership at national and state policy making level.
3. They have failed to consult a significant and vulnerable cohort of that membership , namely workers, providers, families and carers of their members employed in Australia’s Disability Enterprises.
4. The actions of the Peak Body have been deliberately designed to disenfranchise and dis-empower that section of their membership.
5. The NCID has, historically refused to recognise service providers – and their Peak Body provider – National Disability Services - as representatives of people with a disability employed in Australia’s Disability Enterprises and other forms of employment. Service providers are considered to be businesses protecting their jobs, and “exploiting vulnerable people with a disability”
6. NCID’s actions has left their membership – employed in supported disability enterprises – without a voice at national level.
7. They have not fulfilled their responsibility to represent a significant proportion of their membership in the matter of supported employment – and their acquittal of Federal funding for their Peak Body funding should be called into question.
8. Historically, the advent of the National Disability Services Act, 1987 heralded the need for an effective body to replace the previous AAMR – Australian Association for the Mentally Retarded
9. This became the National Council for Intellectual Disability
10. The structure for the new Body remained the same – representatives of service providers- from each State to ensure national representation of the membership
11. Over time the agenda for the Peak Body became embedded in rights – with little or no understanding of the provision of services for their membership – nationally.
12. This led to a withdrawal of those State representatives who provided services and had effective communication with consumers and their family/carers.
13. The State representatives then became primarily advocacy based- not service delivery based - and effective communication with consumers of those services was lost.
14. As the NCID’s agenda became ideologically driven, with a publicly stated determination to remove congregate care – no matter how person-centred- from the range of acceptable services – family carers of affected consumers found that their State representatives and advocacy groups refused them advocacy if they supported a model of service that was contrary to the Advocacy Group’s ideology.
15. In the early 90’s – in the reality of the national de-institutionalisation push – families/carers were left with no means of input into Government policy at either levels of Government.
16. This led to the formation of a family/user- funded parent advocacy body which became known as Australian Parent Advocacy Inc – with parent representatives from every State.
17. No Government funding was accepted, and funds were provided by individual membership subscriptions, so there could be no conflicts of interest in the pursuit of family carer and family member interests.
18. I was the inaugural Secretary/Treasurer
19. Families were not pro-institution – but wanted a timely, appropriate transition to the goal for which we had all worked in the International Year of the Handicapped – National legislation that was seamless, that included Standards and Strategies to ensure that our disabled family members were supported through all stages of their life, in appropriate family and community settings..
20. There was need for reform – but it was important that such reform benefitted all
21. People with intellectual disability have always been the major users of national congregate accommodation and employment in the Nation. The NCID’s determination to replace supported employment (the old sheltered workshop) with nothing other than open employment and the SWS, led to Australian Parent Advocacy gaining more impetus and support.
22. We all supported the need for award based wage assessment and the Safety Net Wage case before the Australian Industrial Relations Commission was a matter of concern for us. The NCID – supporting the cause of two workshop employees – and using the Services of AED Legal, mounted a legal case before the AIRC. This was to convince them that the BSWAT – which had been trialled and was the end result of consultation with the sector, with workers and their family/carers was the **only** acceptable assessment tool. It, they argued - not the BSWAT - should be approved by the AIRC.
23. This would have shut the employment services, which were slowly growing the business services model into one of business and community service. Most services then, and now, are community services run by Boards of Management – not publicly listed corporations. .
24. At our own cost families visited our State business services and collated thousands of signatures from workers, their famiul/carers and worker committees to put their case before the AIRC
25. As the then National President, I attended one of the many Hearings – again at our own cost – to put our case. We could not afford legal representation, and were challenged by the NCID and their legal team of Wilson/Cain (same as now)
26. I was challenged by Mr. Cain to be allowed to be present because, under industrial law, I was not a worker and had no authority to present the case.
27. The signatures, which gave me authority to represent our workers, were tabled before the Commission. Consequently, Mr.Cain’s request for my dismissal was refused by the Judges..
28. From there I was appointed as a member of the National Disability Consultative Committee where we all worked collaboratively, over a period of time, at the direction of the AIRC with the Federal Government, two Unions and ACROD – the then national service provider body
29. This culminated in the legal acceptance of the BSWAT as one of a suite of acceptable tools for the calculation of worker entitlements in supported employment
30. To ensure no conflicts of interest the Commonwealth Rehabilitation Service (CRS) was appointed, by the AIRC, as the independent assessor using the BSWAT
31. Around the end of the nineties, there was a national protest by workers and families about the growing unrepresentative nature of the NCID and associated advocacy groups.
32. This became a matter of media attention and the Minister of the time- Minister Vanstone- convened a national round-table in Adelaide to hear the concerns of the disenfranchised families and workers.
33. Such was the legitimacy of those concerns that a National Advocacy Review was undertaken and a National Family Carers Voice was established. I was appointed as one of those representatives on the steering committee and then was a 2 year appointee for the formal group – charged with charting the best way forward for disenfranchised families. This was an advisory body to the Minister and its work was never public.
34. The BSWAT was legislated late 2004 – the Family Carers Voice, after 4 years produced a national review of families, assisted by a Federally appointed consultant. The Formal Report contained a recommendation for a National Peak Body to represent family carers, as the then Carers Australia was primarily for aged care.
35. The Report was provided to the Minister who was reluctant to set up yet another Peak Body as they had just set up Families Australia- which concentrated mainly on foster care and younger children. The Minister implemented a compromise position which set up a separate national advisory body of carers to work with the National Disability Advisory Council – reporting directly to the Minister.
36. Following the resolution of the BSWAT issue, and a promise of better representation for family carers into the future, Australian Parent Advocacy Inc was disbanded because privately funded national bodies are unsustainable into the future and we felt the task had been accomplished.
37. Definite improvements in quality, wages and business guidelines have been implemented within supported employment. The NCID and associated advocacy networks – after initially having to accept that some forms of congregate care would always be needed for our intellectually disabled family members – have adopted a more practical approach to the issue of supported accommodation.
38. Now family carers and their disabled family members once again find themselves being held to ransom by the ideologically driven agenda of the NCID – now strengthened by a wider advocacy network.
39. It is reasonable to lodge a formal complaint with the Federal Government, in the course of this Welfare Review about the actions, and lack of representative actions by the NCID. We question how they can be taxpayer funded to represent us, and our families but are now holding us all to ransom. They didn’t consult us at all.
40. There is no argument that the BSWAT should have been constantly reviewed over these years, that any issues should have been the subject of industrial disputation, collaboration and communication with all stakeholders.
41. The only effective consultation that has taken place has been done by the Commonwealth Government – and the case they now argue – is the case put forward by the workers and their families. This is that
42. Our workers want to keep their jobs, that this should never have got to this stage, that the $1per hour “rights” argument promoted by the NCID is not indicative of the whole sector, and we should all be working together to resolve it
43. That all this history should be a part of the Welfare Review and ensure that the mechanisms for representation within the disability and welfare sector actually work
44. It is interesting to note that – in the approaching NDIS climate – the NCID is now removing any formal recognition – in their brand name and marketing (all tax-payer funded) – of any obligation to it’s current constituents – those Australians with intellectual disability.
45. “Inclusion Australia” has a warm fuzzy feeling - and will provide no direct requirement for people with intellectual disability to be represented by this Peak Body with the new NDIS-ready name

As we, in the sector, deal with the legal challenges created by an emphasis on rights, without reason, reality or responsibility, with the roll out of the National Disability Insurance Scheme – one of our goals over many decades – and the result of the Welfare Review – now underway – I ask that

* This submission be accepted as a necessary, if late contribution for a group of people who have been deliberately dis-enfranchised and dis-empowered.
* That it is understood I have never worked in the disability sector, so have nothing to gain by providing this submission – other than to provide an alternate opinion which, from a consumer and family perspective has not yet been aired.
* That my comments are historically evidence based
* The Committee would benefit from meeting with our ADE workers at a time and place of your convenience to form your own opinion of the representations I now make on their behalf. It has to be helpful for you to hear their views, personally – and if my humble efforts achieve nothing more than that, then this submission has been worth every minute devoted to it.

Finally, no one believes that ADE’s are without fault. Even their supporters will admit that this model does have a structural flaw – of its very own making.

**That structural flaw is:-**

** Not dependency,**

** Not low wages,**

** Not segregated employment,**

** But is that the nature of work undertaken by some ADEs has no carefully crafted career path leading to open employment.**

 **……….. b*ecause….***

**that is the very nature of an ADE. It actually works – not for the provider - but for the employee with special needs. In the diverse regions of Australia committed families, providers and people with a disability have sought out and created a niche market – for *that* ADE within *that* community – around a group of people who want to work, who want to enjoy the benefits of the camaraderie, support and social life that is provided by their local ADE . And they depend on their families, their Governments, their service providers and their communities to make that happen. So! why should that be taken away from them?**