28 April 2015

**Submission re NDIS Quality and Safeguards Framework –**

**Specifically in relation to: “System for Handling Complaints”.**

**Introduction**

In general our organisation supports option 3b: Disability Complaints Office as the ultimate formal place for resolving complaints related to the NDIS. However we are vexed as to why there has been so little consideration of role and funding of independent disability advocacy anywhere in the consultation paper.

While a Disability Complaints Office proposal is important, without advocacy support for people with a disability it would seem akin to having a court system without lawyers.

We also emphasise that there is the issue of escalating matters to a formal complaint too quickly as it is our experience that many people with a disability are reticent to go down this path and often prefer to investigate other alternative dispute resolution options first such as direct negotiation with the support of a professional advocate.

One view is that advocacy services have been little mentioned in the Framework document as the Federal Government intends to continue to fund advocacy services through the National Disability Advocacy Program. However, even if this is so, it does not take into account the possibility of state governments such as that in NSW of diverting advocacy funding towards the NDIS. If this occurs the capacity of many disability advocacy services will be significantly depleted or stopped.

It appears well accepted by the Productivity Commission and the NDIS Legislation that individual advocacy support is needed for people with a disability inside and outside the NDIS to ensure they are treated fairly and aid access to any complaints handling system. Our advocates have many years of experience in supporting people with complaints and also experience in the NDIS Hunter Trial site.

**Background**

Disability Advocacy NSW is the main disability advocacy provider covering the Hunter NDIS trial site. Disability Advocacy NSW is not a peak group but focuses mainly on day to day individual advocacy and systemic advocacy at a regional level. Our head office is in Newcastle. We receive a combination of funding from the NSW and the Federal Governments. Our service also covers other large rural and remote regions of NSW including the Mid North Coast and New England. We have advocates in local offices in Tamworth, Armidale, Coffs Harbour, Taree and Port Macquarie and have also diversified by operating a community legal centre on the Mid North Coast.

The NDIS has increased our advocacy workload. Overall we have coped relatively well with this increase in workload for three reasons.

Firstly, we have ensured we provide a modern and professional service to our clients. Our service was the first advocacy service in Australia to achieve both National and NSW independent accreditation.

Secondly, we have prepared, diversified and cost-effectively amalgamated with other services and combined the funding support of the NSW and Federal Governments to provide quality individual advocacy. We use a modular regional model where financial and administrative tasks are done centrally but advocacy support is provided locally in rural areas by well-supported professional advocates.

Thirdly, we have received extra funding from the Federal Government to provide External Merits Review Support for clients wishing to appeal National Disability Insurance Agency decisions at the Administrative Appeals Tribunal.

Since the beginning of the NDIS we have dealt with over 1000 advocacy issues in the trial site. Of these issues, 13.5% relate directly to the NDIS. Currently, the NDIS is one of our top three advocacy issues. As the NDIS grows this proportion will increase, yet it is still only part of the work we do. Many clients seek individual advocacy to support them with problems they have with education, service provision, health, discrimination, abuse, transport, accommodation and legal areas. Most of these areas will remain outside the NDIS.

We understand and support the NDIS funding approach. However, we caution that a blanket approach to funding is not the best way to fund disability advocacy services that are aimed at *independently* safeguarding rights *and choices* of people with a disability. People with a disability most often come to us after they have encountered a problem with the system, whether it is inside or outside the NDIS.

*The work we do often has the effect of stopping small issues becoming significant problems, preventing substantial damage to individuals and saving the Government time and money in the long run.*

The 2011 Productivity Commission Inquiry Report into Disability Care and Support took many submissions that addressed the issue of advocacy support and made a number of statements in support of the role and value of advocacy in the context of the proposed NDIS. The Commission noted the important role that both independent advocacy and systemic advocacy would continue to play under the NDIS and how independence of services like ours would allow representation of the interests of the most vulnerable people in the disability system.

The Productivity Commission also noted that:

1. neither systemic, nor individual advocacy are well suited to a user pays system so independent advocacy should continue to be block funded[[1]](#footnote-1)
2. organisations funded to provide advocacy, in order to avoid any conflict of interest, should not also be funded through the NDIS, as with Disability Support Organisation’s or service providers, or directly by the NDIA at all[[2]](#footnote-2)
3. that NDIA should not directly fund advocacy support however there may be merit in the NDIA contributing additional untied funds to the existing advocacy programs.[[3]](#footnote-3)

We agree with these recommendations but also reiterate the extra point that many advocacy issues are not NDIS related and this fact needs to be accounted for: even in this consultation which focuses on the NDIS.

Good quality, professional and independent advocacy remains an important part of developing a well functioning and sustainable NDIS.

Local advocacy services need resources to assist participants through the complaints and appeals processes and to negotiate continuous improvement of the NDIS, as well as assisting them with the myriad of other issues that arise and are not related to the NDIS.

**Conclusion**

There appears to be growing indications that there is a move away from funding disability advocacy independently of the NDIS despite the Productivity Commission’s recommendations.

Our service supports the set up of a disability complaints office because there is a need for an ultimate body to deal with significant complaints. Yet the fact remains that many people with a disability prefer to have their complaints settled by alternative less formal way with the assistance of an independent disability advocate.



Mark Grierson

Chief Executive Officer

1. Productivity Commission 2011, p. 524 [↑](#footnote-ref-1)
2. Productivity Commission 2011, p. 525 [↑](#footnote-ref-2)
3. Productivity Commission 2011, p. 525 [↑](#footnote-ref-3)