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National Disability Advocacy Framework,
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National Disability Advocacy Framework

Introduction

The Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing Australians from culturally and linguistically diverse (CALD) backgrounds. We work to promote fairness and responsiveness to our constituency in the delivery and design of government policies and programs. At the heart of FECCA's work is promoting multiculturalism, embodied in equitable policies and non-discriminatory practices for all Australians, regardless of their cultural, linguistic, ethnic, racial or religious backgrounds. Towards this end, FECCA strives to ensure that the needs and aspirations of various cohorts of Australia's CALD population are heard by policy and decisions makers, as well as the broader public. FECCA continues to work with organisations that advocate for people with disabilities from CALD backgrounds, including the National Ethnic Disability Alliance (NEDA).

According to the *Survey of Disability, Ageing and Carers*, 4.2 million or 18.5% of Australians live with disability.¹ More than 1 million people with disabilities in Australia are from CALD backgrounds.² In other words, CALD people constitute close to one fourth of the total number of people with disabilities living in Australia. These individuals are often subjected to two fold discrimination based on their disability as well as their CALD background.

The assistance received through disability advocacy services significantly improves the lives of people with disability, especially when navigating through the government support systems, including the National Disability Insurance Scheme (NDIS/ the Scheme).

¹ Australian Bureau of Statistics, *Survey of Disability, Ageing and Carers* (2012).

² National Ethnic Disability Alliance, *Disability Employment Services (DES) Consumer Engagement Project* (June 2014), 4, accessed at:

http://www.neda.org.au/images/reports/NEDA_DES_PROJECT_2014.pdf

Considering these factors, FECCA commends the efforts of the Government to improve and make the advocacy services more accessible for people with disability and thanks the Government for offering this opportunity to provide feedback and recommendations on the current advocacy framework.

Current advocacy framework in the NDIS environment

The NDIS is one of the most important social reforms in relation to welfare of people with disability in the recent history. The Scheme provides people with disability an invaluable opportunity to be independent and pursue their potential through an individually tailored and self-directed funding program. The NDIS creates a uniform system of disability services across Australia and increases the social and economic participation of people with disability.

FECCA reiterates that it is important for a government-funded disability advocacy body to remain separate and independent of the NDIS as recommended by the Productivity Commission in 2011. This structure will assist to avoid issues pertaining to bias and/or conflict of interest.

It is commendable that the current National Disability Advocacy Framework (the Framework) recognises and acknowledges that people with disability are experiencing multiple disadvantages based on ethnic and cultural backgrounds. However, this acknowledgment is not supported by outcomes and outputs detailed in the Framework. Given the absence of reference to multiple disadvantages based on ethnic and cultural backgrounds within the outputs of the Framework, it is arduous to achieve the objectives and outcomes stipulated therein. Considering the large proportion of CALD people with disability in Australia it is essential that the Framework revise the objective, outcomes and outputs to reflect the needs of this cohort.

The very first principle that guides the provision of advocacy for people with disability in Australia is that disability advocacy operate under the *United Nations Convention on the Rights of Persons with Disabilities* (CRPD) and Australia's other relevant international obligations. Article 30 of the CRPD stipulates that the state parties recognise the rights of a person with disabilities to engage in a cultural life. As a result, the principles of the Framework encompass the obligation to ensure that people with disability enjoy cultural rights on an equal basis with others.

Differentiating and discriminating people with disability based on their residential status are contrary to Article 5 and Article 28 of the CRPD, which protects equality and non-discrimination and the right to adequate standard of living and social protection respectively. Article 5 (iv) of the *Convention on Elimination of Racial Discrimination* (CERD) stipulates that state parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the [...] right to public health, medical care, social security and social services. Thus, any limitation or restriction on accessing services, including advocacy services, will be contrary to the protections guaranteed under these international instruments.

Eligibility for the NDIS is limited to those who hold Australian citizenship, permanent residency or hold a protected special category visa, excluding many CALD people with disabilities who have a different visa status. Additionally, the NDIS is expected to support 460,000 individuals, approximately 11% of the 4.2 million people with disability in Australia. Thus, it is vital for government agencies to identify and promote programs to assist people with disability who are not eligible to participate in the NDIS.

CALD people with disability are considerably under-represented in the NDIS. This lack of engagement of CALD people in the NDIS was highlighted in the *NDIA Annual Report 2013-14*, where the National Disability Insurance Agency (NDIS/the Agency) resolved that improving interaction with CALD communities and Indigenous communities was a priority in 2014-15.³ However, according to the *National Disability Insurance Agency Quarterly Report to COAG Disability Reform Council, 31 March 2015*,⁴ the CALD engagement was only 4% in the current trial sites, which is an increase of only 1% since 30 September 2014.⁵ This minimal participation within the NDIS could be a result of inadequate allocation of resources for advocacy services to engage people from CALD backgrounds.

Principles of the Framework and advocacy in a changing disability environment

Developments in technology, medical treatments and procedures, understanding of and education about various forms of disabilities positively impact people living with disabilities, their family members and carers. Advocacy services play a very prominent role in educating the public about these developments.

The Framework and advocacy service providers must understand different layers of identity without limiting the intersecting disadvantages to standard identity measures such as age and sex, as they should extend to ethnic, cultural, religious backgrounds and gender identity.

Social inclusion

The Productivity Commission recognised the importance to people of participation (not just in paid work, but in volunteering and social activities), relationships and of feeling connected to the community with regard to social inclusion.⁶ Promoting the interests and wellbeing of people with disability and promoting full and valued inclusion as contributing and participating members of the community are principles contained in the Framework. These aims can be achieved through measures enhancing economic participation and social inclusion of people with disability.

There are numerous gaps in relation to economic participation of people with disability from CALD backgrounds, including, barriers to enter the workforce, lack of knowledge about employment services such as JobAccess, Disability Employment services and JobActive, limited access or lack of awareness of government supports such as the Disability Support Pension and mobility allowance.⁷

Long periods of unemployment affect the employability of people with disability from CALD backgrounds. Amartya Sen explains the importance of employment:

People not only 'learn by doing', they also 'unlearn' by 'not doing', that is, by being out of work and out of practice. Also, in addition to the depreciation of skill through non-practice, unemployment may generate loss of cognitive abilities as a result of the unemployed person's loss of confidence and sense of control. In so far as this leads

³ National Disability Insurance Agency 2013-2014 Annual Report, 23.

⁴ National Disability Insurance Agency, Quarterly Report to COAG Disability Reform Council (31 March 2015).

⁵ National Disability Insurance Agency, Quarterly Report to COAG Disability Reform Council (30 June 2014) .

⁶ *Deep and Persistent Disadvantage in Australia*, Productivity Commission (2013), 175.

⁷ See further : FECCA submission for the National Disability Employment Framework 2015, 2-4, at: <http://fecca.org.au/wp-content/uploads/2015/07/Submission-for-the-National-Disability-Employment-Framework1.pdf>

to the emergence of a less skilled group — with merely a memory of good skill — there is a phenomenon here that can lead to a future social exclusion from the job market.⁸

Considering the strong nexus between employment and social inclusion, it is recommended that the Framework place more emphasis on workforce participation of people with disability with a special reference to people with disability from CALD backgrounds.

Capacity building and self-advocacy

Capacity building is extremely important for people with disability, especially because self-advocacy is considered to be the most effective form of advocacy. Educating individuals about their rights and entitlements plays a vital role. For example, a man was recently found guilty of abusing a minor with disabilities.⁹ The victim reported the offence four years after the abuse after she learnt about physical and sexual abuse at school. This example clearly demonstrates the sensitivities involved in working with vulnerable groups of the society and the need to educate people with disability about their rights, who they can approach for assistance, and reporting and complaint mechanisms.

Achieving successful outcomes through self-advocacy is dependent upon the capacity of an individual to practice it through effectively representing themselves. However, language barriers, cultural attitudes, limited experience of using complex service models in Australia and negative experiences prior to resettlement such as trauma may limit the capacity of people from CALD backgrounds to become effective self-advocates. Hence, it is important for the Framework to recognise the various barriers to self-advocacy and address them accordingly.

In certain countries making complaints against services rendered by other agencies, especially government agencies, is not a cultural norm. Thus, any measures adopted to educate the public should involve a thorough discussion of the right to complain about services and what complaint mechanisms are available to them. An effective advocacy framework plays a key role in empowering individuals to be proactive self-advocates, assisting individuals to navigate through the services available to them and educating them of rights, entitlements and complaint mechanisms. To assist with individuals who may have limited English language proficiency, information should also be provided about how to access the government's Translating and Interpreting Service (TIS National). This information should be easy to find and understand. It is necessary for the Framework to elaborate more on what measures can be utilised to build capacity and self-advocacy.

It is imperative for the advocacy framework to focus more on capacity building, self-advocacy and other advocacy tools which are key mechanisms of self-advocacy. People with disability from CALD backgrounds, their family members and carers must have a clear understanding about what amounts to an invasion of privacy, abuse and neglect, rights and entitlements, which can be achieved through targeted education and awareness programs.

⁸ A. Sen, 'Social exclusion: Concept, application and scrutiny', Social Development Papers No. 1 (June 2000), Office of Environment and Social Development, Asian Development Bank, as quoted in *Deep and Persistent Disadvantage in Australia*, Productivity Commission (2013), 19.

⁹ ABC News, 'Sydney Taxi Driver Osman Chamseddine found guilty of assaulting deaf schoolgirl' (28 May 2015), accessed at: <http://www.abc.net.au/news/2015-05-28/osman-chamseddine-taxi-driver-guilty-indecent-assault-charge/6487470>

Community awareness of disability issues

Technological advancements and the increasing availability of social media platforms can be utilised sensibly to enhance community awareness of issues that are affecting people with disability. However, all necessary measures must be adopted to ensure that the advocacy groups consult the peak bodies representing people with disability in order to deliver the message in a sensitive and an effective manner.

Recognition of diversity

There is some ambiguity within the Framework in relation to the principle that recognises and respects diversity. According to the Framework, 'disability advocacy recognises and respects the diversity of people with disability'.¹⁰ The document does not provide the description of *diversity* within the context of the Framework. Thus, the principle could be interpreted to connote diversity among different ethnic, religious or cultural groups or on the other hand, it could mean vast spectrum of diverse disabilities such as hearing or vision impairments, physical disabilities and the like. FECCA recommends that the Framework provides a clear explanation of the scope of diversity comprising of both cultural diversity as well as the diverse range of disabilities.

Principles of the Framework in light of the NDIS

The NDIS funds reasonable and necessary supports that help a participant to reach their goals, objectives and aspirations, and to undertake activities to enable the participant's social and economic participation.¹¹ Participants of the NDIS will be empowered to lead an independent life, engage with the community and pursue their potential.

Participants in the NDIS would immensely benefit from receiving assistance from an advocate at the planning stages, especially those from CALD backgrounds, who may experience language barriers and/or difficulties in understanding the complex processes. Advocacy services must extend beyond the initial stage of planning and provide assistance to the NDIS participants to identify most suitable service providers, change the chosen service provider if the participant is not satisfied with the services rendered and participate in community and cultural events to ensure that they are fully and actively engaged in the community.

Funding advocacy services

For many CALD individuals, Australian laws, regulations and processes are different to those in their country of origin. Hence, assistance of people who understand the system is invaluable to them in accessing services. Numerous community organisations provide advocacy services for CALD people with disability including advocacy with regard to homelessness, abuse, domestic violence. These organisations however, do not specifically focus on or provide advocacy services specifically on the NDIS. In this context, there is a possibility of NDIS related advocacy matters receiving a low priority as opposed to the emergency advocacy requirements such as abuse, violence and homelessness. Thus, it is important to identify the needs for advocacy services and provide further resources to adequately assist people with disabilities with a range of issues.

The Framework should make provisions for ensuring that advocacy bodies should appreciate and understand the demographics, social and cultural sensitivities in different

¹⁰ National Disability Advocacy Framework, Principles, 2[10 (g)].

¹¹ See further : <http://www.ndis.gov.au/document/1116>

States and Territories. FECCA believes that it is important for the Government to sufficiently fund State and Territory based disability advocacy bodies and other community organisations to ensure that hard to reach vulnerable communities are properly assisted and heard in the decision making process.

Building cultural competency among advocacy service providers will assist them to effectively engage with CALD communities in both individual and systematic advocacy processes. Thus, it would be beneficial for these advocacy bodies to have bilingual or multilingual employees and budgetary allocations to provide cultural competency and sensitivity training to advocacy service providers.

Special considerations in relation to CALD people with disability

The Framework stipulates that the Framework as a whole is subject to the provisions of the *National Disability Agreement (NDA)* and the *Intergovernmental Agreement on Federal Financial Relations* and should be read in conjunction with those Agreements and subsidiary schedules. The NDA between the Commonwealth and the States and Territories, provides the national framework and key areas of reform for the provision of government support to services for people with disabilities.¹² The reform and the policy direction of the NDA provides that consideration will be given to strategies specific to Indigenous Australians, *those from culturally and linguistically diverse backgrounds* [emphasis added], and those living in regional, rural and remote communities.¹³ The language used in this context is relatively generic and does not impose a binding obligation on the States and Territories to adopt specific measures in relation to CALD people with disability with regard to reform and policy direction. FECCA recommends adopting clear strategies with measurable outputs and outcomes with regard to policy development in order to accommodate the needs of these vulnerable groups of the society.

The importance of gathering specific data to understand and assess the effectiveness, accessibility and accountability of government services with regard to disadvantaged cohorts in the society has been highlighted by FECCA on a number of previous occasions. As per the NDA, subject to the development of the data and an agreed method of disaggregation, performance indicators will be disaggregated to show performance for people from CALD backgrounds with disabilities.¹⁴ The language used in this context is overly flexible, creates ambiguity and does not impose a concrete obligation on the parties to take proactive measures to ensure that data gathered on performance indicators are reflective of the people from CALD backgrounds.

Participants in FECCA's community consultations have expressed that people with disability from CALD backgrounds often need special assistance when accessing services. They receive assistance through organisations designed to provide formal advocacy services as well as informal advocacy through family members, friends, relatives and/or community members. These individuals also act as the interpreters for CALD people with disability who experience language barriers. Although it is encouraging to see people with disability from CALD backgrounds receiving informal advocacy as opposed to not receiving any assistance, there are inherent risks in relying on informal advocacy. An informal advocate may lack specific knowledge and understanding about technical and complex government services which may mislead or misinform the recipient. Thus, it is important for the advocacy

¹² The National Disability Agreement between the Commonwealth and the States and Territories, Intergovernmental agreement on Federal Financial Relations, accessed at: <http://www.federalfinancialrelations.gov.au/content/npa/disability/national-agreement.pdf>

¹³ *Ibid* 7

¹⁴ *Ibid* 5

framework to educate CALD people with disability as well as their family members, carers, friends and the broader community.

Lack of awareness of services and assumptions about costs attached to obtaining assistance of interpreters or advocacy services may preclude CALD people from obtaining services that they are entitled to receive. Government institutions already working closely with the community organisations such as Centrelink can be utilised as a vehicle to reach out to the communities to educate them about the availability of advocacy services.

Recommendations

- Adopt measures within the Framework to adequately fund existing State and Territory based advocacy bodies to provide advocacy services to CALD communities, including advocacy services in relation to NDIS. Specific budgetary measures must be adopted to accommodate the costs attached to translating and interpreting services.
- Clearly recognise the importance of cultural sensitivities and cultural appropriateness of advocacy service delivery in the Framework to alleviate or minimise the barriers faced by CALD people in accessing government services including advocacy services.
- Encourage States and Territories, through the Framework and/or the NDA, to adopt specifically targeted strategies to address the advocacy needs of vulnerable segments of the communities including CALD communities. These targeted strategies must include provision of advocacy services for NDIS participants from CALD backgrounds.
- Impose reporting and data collection obligations on States and Territories within the Framework and the NDA to measure the performance and responsiveness of services with regard to CALD specific service delivery.
- Within the Framework, recognise the importance of employment in terms of economic and social participation of people with disability and ensure that advocacy bodies adopt appropriate measures to assist CALD people with disability to overcome barriers in entering the workforce and promote community engagement.
- Place greater emphasis within the Framework on the importance of capacity building and self-advocacy among community groups that are facing multiple intersecting disadvantages.
- Focus on the importance of informal advocacy in the Framework, especially among CALD communities, and adopt measures to educate CALD community leaders, family members and carers of CALD people with disability about relevant services, rights and entitlements in general as well as in the context of the NDIS.
- Provide a clear explanation as to the scope of the term 'diversity' within the Framework as comprising of both cultural diversity as well as the diverse range of disabilities.