Justice Health and Forensic Mental Health Network Submission to the Review of the National Disability Advocacy Framework

July 2015

**Introduction**

Justice Health & Forensic Mental Health Network (JH&FMHN) is a Statutory Health Corporation established under the Health Services Act (NSW) 1997 and is funded by NSW Ministry of Health.

Justice Health & Forensic Mental Health Network provides health care in a complex environment to people in the adult correctional environment, to those in courts and police cells, to juvenile detainees and to those within the NSW forensic mental health system and in the community.

People with psychiatric and/or cognitive disability are significantly over represented in the criminal justice and forensic mental health systems. They are an exceptionally marginalised population who rarely have either self advocacy skills or family and/or informal advocacy support. Their disability needs are often over-shadowed and over-looked and their enmeshment in the criminal justice and forensic mental health systems is often (at least in part) due to their inability to access services to meet their disability requirements.

1. **Do you believe the current Framework encompasses your vision of advocacy in the NDIS environment? If not, what changes are required?**

**Advocacy needed to successfully access the NDIS**

The current National Disability Advocacy Framework (the Framework) does not acknowledge the specific advocacy needs that will occur with the introduction of the NDIS. Accessing the NDIS requires a proactive approach from people with disability. There appears to be an underlying assumption in the design of the NDIS that all people with disability will either have sufficient self advocacy skills or will have family or other informal support networks with the capacity to assist with the complex process of accessing the NDIS. Many people with cognitive or psychiatric disability will not have the skills or the supports required to know about the NDIS, go through the process of becoming a participant and adequately represent their needs in a planning meeting.

The Framework needs to explicitly acknowledge the need for advocacy supports to be readily available in order for some people with disability to have access to the NDIS.

In addition the Framework needs to identify that advocacy services need to have the resources and capacity for an outreach model; to seek out, target and proactively engage some marginalised people with disability, including people in, or at risk of, contact with the criminal justice and forensic mental health systems.

**Advocacy needed in times of crisis**

Many people with cognitive and/or psychiatric disability in, or at risk of, contact with the criminal justice and forensic mental health systems need intensive support at very short notice in times of crisis. Appropriate support at this time can decrease the likelihood of the person entering a more restrictive environment and becoming entrenched in the criminal justice and forensic mental health systems. However, the nature of the crisis can lead organisations to be reluctant to provide support. Independent advocacy, that is easily accessible and can respond at short notice, is essential at such times.

It is often at such times of crisis that the extent of a person’s need for disability and other support becomes evident. In additional to accessing crisis support the person may need ongoing assistance to access the NDIS. One example of this is when a person presents at court. It may become clear that diversion from the justice system to the human service system is appropriate, however, a solicitor will not have the capacity to assist a person with a disability through the complex eligibility process in order to become an NDIS participant.

**Advocacy must be independent**

The Discussion Paper: Review of the National Disability Advocacy framework, June 2015 identifies that some advocacy supports may occur within the NDIS, through the NDIS Quality and Safeguarding Framework and the NDIS Information, Linkages and Capacity Building Framework. It also identifies that that the NDIS will fund decision supports, safeguard supports and capacity building for participants.. Whilst these will provide useful supports to people with disability must not be funded in lieu of advocacy supports and cannot take the place of independent advocacy support.

JH&FMHN supports the Productivity Commission’s position:

*Advocacy plays an important role in the disability system. Systemic advocacy pushes for broad policy and social change, while individual advocacy promotes the interests of particular individuals by acting on their behalf to resolve specific issues. These functions should lie outside the NDIS, reflecting the potential conflict of interest that would arise were the NDIS to fund advocacy bodies whose role was to challenge the disability system overseen by the NDIS. Current funding arrangements through FaHCSIA and various state and territory governments should continue.*

**Advocacy supports currently funded by NSW State Government**

The future of advocacy services currently funded by the NSW government is uncertain as the NSW government has agreed to provide all of its disability resources to the Commonwealth in the transition to the NDIS. It is essential that all NSW resources that are currently provided to advocacy organisations continue to be directed specifically to advocacy funding.

1. Are the [**principles**](#_Principles)of the Framework appropriate for guiding the delivery of advocacy for people with disability in a changing disability environment, including in the context of the NDIS? If not, what changes are required?

In general the principles of the Framework are appropriate. However in the context of the NDIS there needs to be a specific principle that ensures that disability advocacy promotes access for people with disability to Federal and State based resources as required.

People with disability have a wide range of support needs and will frequently be accessing both NDIS funded supports and State funded services. It is essential that people with disability are not disadvantaged by any jurisdictional disputes that can occur when both Federal and State funding sources are required. This must be the focus of systemic and individual advocacy.

Within NSW there are specific issues that need to be addressed in the context of the role of the State government and the NDIS. The NSW government has made a determination not to be a provider of disability supports under the NDIS. Systemic disability advocacy is required in NSW to ensure that the State Government retains sufficient focus on “*positive systemic changes in legislation, policy and service practice and works towards promoting inclusive communities and awareness of disability issues*” when there is no government department with a specific focus on the needs of people with disability.

1. Are the[**outcomes**](#_Outcomes)of the Framework still relevant or should different ones be included? If so, what should be included?

The outcomes of the Framework are still relevant.

It is unclear how the achievement of these outcomes will be monitored and measured.

This is essential for the Framework to be effective.

1. Are the [**outputs**](#_Outputs)of the Framework still relevant or should different outputs be included?

The outputs of the Framework are still relevant.

It is unclear how the achievement of these outputs will be monitored and measured.

This is essential for the Framework to be effective.

1. Does the Framework identify what is needed in the current and future disability environment? If not, what changes are required?

The disability sector is undergoing a vast change. At times of significant change people who are already vulnerable and marginalised are at greater risk of being left behind. This is the case for people with cognitive and/or psychiatric disability in, or at risk of, contact with the criminal justice and forensic mental health systems. The Productivity Commission identified that people with cognitive and psychiatric disability are over-represented in the justice system and that the NDIS has the potential to make savings in the justice system through better community support of these people. These vulnerable groups of people are less likely to benefit as envisaged without appropriately targeted advocacy support.

1. Do you have any other comments, thoughts or ideas about the Framework?

Thank you for the opportunity to comment. If you would like further information regarding this submission please contact Melinda Smith, Coordinator Cognitive Disability Services, Justice Health & Forensic Mental Health Network.

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