

Review of the National Disability Advocacy Program Discussion Paper

April 2016

Introduction

Purpose of the paper

The Department of Social Services (DSS) is reviewing the National Disability Advocacy Program (NDAP). This paper aims to initiate discussion and generate ideas about what an updated NDAP should look like, and how it should work, in a National Disability Insurance Scheme (NDIS) environment.

The NDAP and advocacy at a glance

Responsibility for funding disability advocacy in Australia is currently shared between the Commonwealth and state and territory governments, with the exception of South Australia. There are also a small number of advocacy organisations that are not funded by government.

The objective of the NDAP is ensure people with disability are provided access to effective disability advocacy that promotes, protects and ensures their full and equal enjoyment of all human rights, enabling full community participation.

NDAP agencies receive funding under the *Disability Services Act 1986*, so they can provide disability advocacy support using a disability advocacy support model.

Disability advocacy support models are focused on individual advocacy, systemic advocacy, citizen advocacy, family advocacy, self-advocacy and legal advocacy.

In addition to providing one or more of these models of disability advocacy, NDAP agencies may also be funded to specialise in providing advocacy support to:

- people from Aboriginal and Torres Strait Island families or communities;
- people from diverse cultural and linguistic backgrounds; or
- people with a particular disability type, for example, an acquired brain injury.

In 2015-16, fifty-eight advocacy agencies in locations across Australia are funded in the vicinity of \$16.4 million under the NDAP. Approximately 12,000 people with disability are expected to receive individual support, and a broader group of people with disability will benefit from agency support in progressing systemic matters on their behalf.

Why review and update the NDAP?

Since the NDAP was established in the 1980s, there have been significant changes in the understanding and practice of disability advocacy and in the delivery of disability services in Australia. Although there have been some small reforms and improvements made to the NDAP since then, it has been a challenge for funding and policy to keep pace with the cultural and demographic changes. Further changes are expected with the rollout of the NDIS.

There are currently some large gaps in geographic coverage and some types of advocacy are not available to a large number of people with disability.

As an example, people who live in some local government areas and regions in NSW and Victoria have a choice of advocacy agencies, but people in remote areas of Australia have no easily accessible service options. Another example is that there are five organisations funded for legal advocacy in Australia through NDAP, with four in Victoria and one in NSW, and only two of those are general legal advocacy providers.

In order for the NDAP to meet the challenges of the NDIS environment, as well as address the remaining issues that have been identified in previous reviews and evaluations, it is likely that the advocacy sector will need to adjust in significant ways.

Depending on the results of the current review process, and on individual advocacy organisations, this may mean organisations need to consider changes in structure, partnerships, service delivery, target groups and coverage.

This review does not indicate a decreased focus on advocacy. The important role of independent advocacy has been affirmed by the Commonwealth Government in its commitment to maintain a strong and effective programme of independent advocacy for all people with disability, into the future. The Government recognises that outside of the NDIS, people with disability will continue to require access to advocacy.

The most significant reason for a review is the rollout of the NDIS. The new models of service delivery, market development, and change in opportunities for people with disability as a consequence of the roll-out, flow on to influence what elements of advocacy need to be provided within the NDAP, and what will be provided by the NDIS. It will also impact on the services to be provided through organisations and resources in our communities that are responsible for safeguarding the human rights of people with disability.

The rollout of the NDIS is also leading to change in the way disability advocacy is funded across Australia by states and territories.

The vision for NDAP

Our vision for a reformed NDAP is one that:

- Provides accessible, timely, appropriate and independent advocacy support to people with disability irrespective of their age, disability type, cultural background, or place of residence;
- Includes a data collection system that contributes to the evidence base and provides information on systemic issues to policy makers;
- Integrates with and complements the services provided within the NDIS, by states and territories, and by mainstream organisations; and
- Includes a consistent and equitable funding model.

Key issues

In order to achieve the above vision, a number of key issues need to be addressed. The following list of issues has been identified in earlier reviews, evaluations, submissions and research reports - as well as through informal discussions with stakeholders, and more formal arenas such as parliamentary hearings, roundtables and inquiries.

We recognise that there are other advocacy related issues that people will want to comment on and the Department welcomes input on these as well.

Below each issue are questions designed to prompt practical suggestions as to how they might be resolved.

1. Models of advocacy

NDAP agencies are currently funded for the model or models of advocacy they deliver.

We know that in some parts of Australia, people with disability needing advocacy supports cannot find the supports they need even when there are a number of advocacy agencies in their area. The model or type of advocacy supports that would suit them best is just not available.

A better situation would be that advocacy support is available in all locations to assist individuals with disability address their specific issues and needs. The exact manner in which that advocacy is provided will depend on each person's situation. Therefore, one person's need for advocacy may require the involvement of other family members, while another person may need support to self-advocate, and yet another may need a legal advocate. Some cases may involve all three types of advocacy, or more.

We think the focus should be on the human rights of the person with disability and their individual needs and not on what model of advocacy is available in their local area.

We would like feedback on the best way to address this situation.

Questions

- 1.1 How do people with disability, their families and carers benefit when agencies are funded to provide only one or two models of support?
- 1.2 What are the drawbacks?
- 1.3 How do we value and support the various models of advocacy while ensuring equitable access to individualised, fit-for-purpose advocacy, regardless of location?

2. Improving access to advocacy supports

We also know that some people with disability find it harder than most to access advocacy supports. The key barriers are geographical distance, social isolation, communication difficulties and a lack of culturally appropriate or accessible supports.

We would like to hear about practical strategies to make it easier for people experiencing a combination of barriers, to access the disability advocacy supports they need.

Questions

- 2.1 How do we improve access for:
 - people with disability from Aboriginal and Torres Strait Islander communities and their families?
 - people with disability from culturally and linguistically diverse communities and their families?
 - people with disability in rural, regional and remote locations?
 - people who are very socially isolated including those with communication difficulties and those in institutional care?
- 2.2 What are the strategies or models that have worked? What are the strategies that do not work?

3. Improving the advocacy evidence base and coordination on systemic issues

Collecting information from advocacy agencies on the number and type of people with disability they support, and the way they deliver that support is an important way for the Government to monitor how funding is being spent. It is vital to understand the need for

advocacy supports and how much of that need is being met. DSS is working on an improved data collection system in collaboration with advocacy agencies.

The question is what to do with the data once it is collected. What is the best way to make sure the information gathered by NDAP agencies and the information collected by other organisations interested in the rights of people with disability, is used to improve the lives of people with disability at a local and national level?

How do we collect information from a range of programmes and systems on a regular basis, and how do we make sure all key stakeholders discuss the findings?

Questions

3.1 What mechanisms could be used to ensure information on systemic issues gets to the right people and organisations?

3.2 How can we help disability advocacy organisations work with a wide range of other organisations with similar aims, such as:

- disabled people's organisations (DPOs)
- the Australian Human Rights Commission
- Ombudsman organisations
- aged care advocacy organisations
- state disability advocacy organisations
- peak bodies?

4. The interface with the NDIS and addressing conflict of interest

The NDAP will be funded and run independently of the NDIS. However, the NDIS may provide education, capacity building and decision-making supports as part of Individually-Funded Plans or Information, Linkages and Capacity-Building. This does not mean these services cannot continue to be provided by NDAP-funded advocates.

A number of organisations already deliver both advocacy supports and some services funded by the NDIS.

Some NDAP organisations may wish to provide certain services, such as plan management or decision-making supports within the NDIS, in addition to their NDAP-funded activities. The disability advocacy sector has raised concerns regarding conflict of interest and vested interest, where both NDIS and NDAP supports are provided.

The Council of Australian Governments' Disability Reform Council (DRC) has agreed that if organisations funded by the government to provide advocacy services, wish to become registered providers of individualised supports under the NDIS, they will need to demonstrate they have mechanisms in place to avoid potential conflict of interest and duplication of funding.

Questions

4.1 What steps or organisational structures should be put in place to ensure conflicts of interest do not arise, or are minimised?

- 4.2 How do we avoid gaps between supports provided by the NDIS and advocacy funded by the NDAP?
- 4.3 What policies and strategies do we need to protect the rights of people with disability?

5. Understanding and improving access to justice

People with disability can be highly vulnerable to a wide range of legal problems. They are also significantly over-represented in the criminal justice system both as offenders and victims. People with disability often experience barriers to justice, which prevent them from fully participating in legal and justice system processes.

Legal advocacy supports people going through legal processes and can lead to better and faster outcomes. With the changes associated with the rollout of the NDIS, DSS is seeking feedback on what types of legal advocacy are needed and if there are gaps in the supports available to help people with disability to get access to justice.

Questions

- 5.1 What forms of legal review and representation do people with disability need most?
- 5.2 What barriers prevent people with disability from accessing justice?
- 5.3 What models of legal advocacy are most effective?

Next steps

DSS would like your feedback in response to the specific questions identified in the paper. Please let us know if there are any other significant issues and ideas that you think would help us improve the future delivery of disability advocacy through the NDAP.

A submission template is available for download from engage.dss.gov.au.

DSS will use the suggestions and ideas provided in your submissions to the review to identify topics for a series of targeted stakeholder workshops. The objective of the workshops is to develop strategies and options to improve the delivery of advocacy through the NDAP. More information will be provided as it is available.

After the workshops DSS will develop a proposal for the Government on how the NDAP will work from 1 July 2017 and how we will get there.

We expect that the Government's decision will be made public in the second half of 2016.

Thank you for your time and assistance.