

Further below are questions. We have then provided our answers/comments relating to those questions: -

1.1 Question. How do people with disability, their families and carers benefit when agencies are funded to provide only one or two models of support?

Families and carers may not benefit by only one or two models of support. They are in fact more likely to be: -

- seriously disadvantaged because they do not have sufficient choices of models of advocacy that matches their needs;
- feel unfairly treated;
- not be accorded their basic human rights.

1.2 Question. What are the drawbacks?

They are more likely to: -

- be unable to cope emotionally;
- not receive justice;
- increased costs while unnecessarily in criminal justice system.

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

The easiest way to avoid a conflict of interest is to ensure a well resourced advocacy network is in place that is independent of the NDIS and remove advocacy from the NDIS. Disabled people and their families most need assistance in securing and maintaining relevant and appropriate support. By its nature the NDIS, like various before it will, perhaps not intentionally, withhold support from some people with a disability because they are too overloaded to spend the time to fully understand each individual's needs. Therefore models of Advocacy need to be outside not within or affiliated with the NDIS. By being outside of the NDIS the models of advocacy have a far greater opportunity to advocate objectively on behalf of intellectually disabled people to secure the supports required even those supports within the NDIS.

If the advocate is part of the NDIS conflicts will invariably arise. NDIS Advocates will not be sufficiently objective when working within their own organisation, nor will they vigorously pursue conflicts for fear of their own future.

4.2 How do we avoid gaps between supports provided by the NDIS and advocacy provided by the NDAP?

Simply fund all advocacy through the NDAP.

4.3 What policies and strategies do we need to protect the rights of people with disability?

Separate the functions of providing support and providing advocacy. They should be two completely separate and independent organisations, with very clear policy objectives, i.e. The NDIS providing programs and support and the NDAP providing advocacy.

5.1 Question. What forms of legal review and representation do people with disability need most?

People with a disability need a form of legal review & representation which works collaboratively with other models of advocacy while matching the individual needs of the person with the disability. Legal practitioners are not always experienced in providing services to the disabled and the disabled are usually not sufficiently aware of their legal rights. There is a need for an experienced “middle man”, someone who understands disabilities and who has an understanding of the legal system and its requirements.

5.2. Question. What barriers prevent people with disability from accessing justice?

The lack of choices of advocacy to satisfactorily match the individual needs of the person with disability. There is also a lack of suitable, experienced legal advocates.

Aspects of a person’s disability are often a significant barrier.

5.3 Question. What models of legal advocacy are most effective?

The models of legal advocacy which work most effectively are those that work collaboratively with other models of advocacy so they collectively match the needs of the disabled person, thus facilitating the desired outcomes.

In summary: - we have an intellectually disabled son whose physical age is 32 years but who, in some aspects of his development, has the mental age of an 8 year old. He had an allegation made against him by another person. We received a phone call from the local police to ask our son to attend the Police Station to explain his version of events. He went to the Police Station with an Advocate from an organisation which advocates for people with a disability. The Constable at the Police station read our son his Rights and ended by explaining where the toilets were located at the Police Station and also by explaining to our son that it was likely that he would be allowed to go home when his attendance was completed. Then the Constable asked our son to sign a form stating that he understood his rights as had been explained to him.

Our son suffers from anxiety as part of his intellectual disability. The fact that our son appeared to only remember the last two things mentioned to him by the Constable is directly related to aspects of his disability. The Advocate then asked our son if he could explain to her what he understood or remembered about what else had just been read out by the Constable. Our son said he understood nothing else other than the toilet and when he could go home. Our son was ready to sign his name, encouraged by the Police Constable. The Advocate explained to the Constable that our son could not sign something which he did not understand. Our son continued into the meeting with the Police Constable, in the company of the Advocate, and answered questions his way regardless of any thought of consequences. If it were not for the Advocate our son would have been charged and possibly detained that evening. It subsequently transpired that the charges were later dismissed having been falsely accused.

If the advocate had not attended with our son, then it is likely that I would have attended as I am his Mother. I consider myself a clear thinking person however, I lack the experience to advocate in a situation such as described above. It was important for justice and for the rights of our son that he had an experienced Advocate, who understood his disability.

Our son’s development continues to slowly improve so that he becomes an even more worthwhile member of society. In our daily lives we give a quiet “thank you” for the blessings of a suitable Advocate for our son.

This case involving our son is an example of the need for various different models of advocacy that closely match the needs of the person.