# RESPONSE TO THE NDAP REVIEW DISCUSSION PAPER

The Ethnic Disability Advocacy Centre (EDAC) appreciates the opportunity to provide feedback and recommendations to the Department of Social Service’s Review of the National Disability Advocacy Program Discussion Paper (NDAP) 2016.

**About EDAC**:

EDAC currently receives funding from the Australian Department of Social Services (DSS) and the WA Disability Services Commission (DSC). EDAC delivers advocacy services in the metropolitan, regional and remote areas of WA. This includes state-wide CaLD advocacy services and generalist individual advocacy to the North West region of WA (Kimberley and Pilbara).

Additional project funding is used to deliver human rights based self-advocacy training for people with disability and their families/carers. EDAC generates additional income from its cultural competency training for the disability services sector. This training is delivered in line with the National Disability Services Standards. EDAC also has a weekly radio programme where disability and ethnicity issues are discussed in terms of new and existing services, policies, legislation, etc.

**KEY ISSUES**

**1. Models of advocacy:**

Whilst the vision for National Disability Advocacy Program (NDAP) focuses on the human rights of the person with disability and their individual needs existing funded models of advocacy compartmentalise the way advocacy services are delivered. In particular, the outcome for people with disability and their families/carers depends on what models of advocacy is funded and available in their local area.

In the current NDAP funding model, no single NDAP agency is funded for all models of advocacy. We believe that the current funding arrangements disadvantages people with disability who require advocacy support for a range of issue types because (a) the closest model of advocacy supports available does not meet all their needs and (b) most of the advocacy services are based in metropolitan areas and large regional centres. In WA EDAC is the only agency providing individual advocacy support in rural and remote areas.

In some instances, based on the existing funding arrangements by the NDAP or State and territory governments, eligibility restrictions apply. Currently psycho-social disability is not covered by WA DSC unless the client lives in a WA NDIS Trial site.

Thus, the level of advocacy support required by people with disability and carers depends on how well the advocacy sector is funded and the actual support responses to the needs and rights of people with disability.

The majority of EDAC clients are of CaLD or ATSI background. Our working environment informs that people with disability, their families and carers are not aware of the types of advocacy services on offer nor do they care. What they require is support to have their issues resolved.

Given the specialist nature of EDAC services, whilst funding is provided for an individual advocacy model, there is an element of legal (e.g. AAT and SAT; EOC and HRC), self-advocacy and family advocacy support in the work undertaken.

Systemic advocacy issues arise as an outcome individual advocacy work undertaken. Currently peak national advocacy bodies are funded to undertake high level systemic advocacy work at national level. However, a large percentage of the systemic advocacy work undertaken needs to be done at state or regional level. This systemic advocacy work is across all levels of government and regional services.

EDAC would recommend that specialist, independent advocacy services in each state and territory should be appropriately resourced to provide self-advocacy support, individual advocacy, legal advocacy and systemic advocacy to people with disability and information on the importance and value in participating in the NDIS to get continuous supports and services to meet each individual’s and their families/carers specific needs.

This would ensure equitable access to individualised, fit-for-purpose advocacy, regardless of location. Ready access by people with disability to independent advocacy support is a necessary system element for achieving the vision of NDAP and meeting Australia’s international obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

## 2. Improving access to advocacy supports:

People with disability, whether they are NDIS participants or not, require advocacy support to address issues that may be outside the NDIS environment; for example accessing inclusive education, lodging consumer complaints, addressing employment discrimination, negotiating for appropriate and accessible housing, responding to violence and abuse, accessing the justice system or many other issues.

For NDAP to be effective and improve access to advocacy supports, the principles of Substantive Equality need to be applied. This would subsequently reduce / eliminate systemic discrimination in legislation, policies, programs and services 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 as well as individuals who are very socially isolated including those with communication difficulties.

Substantive equality recognises that

* Rights, opportunities, entitlements and access are not always distributed equally throughout the community;
* Equal application of rules to unequal groups may produce unequal outcomes;
* If the services are tailored for the dominant, majority group then the people in disadvantaged minority groups who are not part of the majority group may miss out on the essential services;
* Systemic discrimination occurs when practises, policies, programs, services and legislation discriminate unfairly on the impact or outcome irrespective of the intention.

Substantive equality requires achieving equitable outcomes and equal opportunity by promoting sensitivity to the different and unique needs of people from CaLD, Aboriginal and other disadvantaged backgrounds with disability and by eliminating systemic discrimination in legislation, policy, programs, services and practice.

Therefore, practise and services must be tailored to the individual needs; should be culturally responsive, free from discrimination and developed in partnership with CaLD, Aboriginal and other disadvantaged people with disability, their families and carers and be provided by staff who understand, value and respect cultural diversity.

These cohorts commonly face similar barriers such as geographical distance, social isolation, communication difficulties and a lack of culturally appropriate or accessible supports.

In the case for CaLD people with disability, sometimes they are denied supports and services by the mainstream service providers due to:

* lack of English language proficiency;
* lack of knowledge of what supports and services are available for them as those supports and services may or may not have been available in their country of origin;
* cultural and religious barriers that their own families and ethnic communities may put on them or they put on themselves as disability is perceived negatively in some cultures;
* gender issues.

It is important that CaLD and ATSI people with disability and their families/carers are provided a safe environment in which to address their issues. This work should also be undertaken in the language of choice. In rural and remote settings it is important that advocacy services provide outreach; i.e. given the lack of public transport and reliable, inexpensive taxi services and reliance on informal supports to attend appointments advocacy services should be adequately funded to visit remote locations on a needs basis.

Any agency funded to provide advocacy services must be able to demonstrate current relationships working in CaLD and ATSI communities (evidenced with adequate data and support from the communities). The service must also be able to demonstrate an understanding of the complex issues facing CaLD and ATSI people with disability. ‘Mainstreaming’ of advocacy services will continue reinforcing their invisibility, their under-representation in the service system resulting in further marginalisation.

In particular there is a need for advocacy support in rural and remote settings where there is a lack of disability services and barriers to accessing mainstream services.

In order to meet the needs of CaLD and ATSI people with disability advocacy needs, any future NDAP needs to ensure:

* Tenders being awarded to CaLD and ATSI independent disability advocacy organisations or;
* ONLY in the absence of these disability advocacy organisation, a disability advocacy organisation who have the demonstrated ability to deliver quality advocacy services to these communities

Individuals requiring access to independent advocacy services should not be disadvantaged or face barriers due to their location, ethnicity, culture or language.

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

Currently collection of NDAP data is about numbers not actions and outcomes. Although this data is important, it is meaningless if it is not linked to barriers to resolving issues and levels of negotiation within services to resolve the same. Information on number of clients, disability type and issues addressed is usually collected by individual government agencies. This information remains within the agency for its own operational purposes and not to improve the advocacy evidence base by DSS or other instrumentalities to develop social policies that would benefit people with disability.

It is important that both individual and systemic advocacy data collection provide more story-based narrative that effectively describes what is happening to the people accessing services and identifying the human rights issues that are at stake.

These two data types complements each other and provides relevant information to multiple agencies about people with disability’s specific experiences and challenges and how they are engaging with particular services funded by the NDAP. The information gathered would be a powerful tool in informing government to ensure mitigation of human rights abuses and improving the lives of persons with disability.

## Due to the nature of the advocacy work undertaken, NDAP funded agencies such as EDAC have regular contact /strong links with DPOs, AHRC, EOCs, Ombudsman organisation (e.g. Fair Work, Commonwealth, Banking), aged care advocacy, etc. EDAC, as a systemic advocacy funded agency submit responses to inquiries and meet with relevant parties from these agencies from time to time. What would be more useful is if DSS, using NDAP gathered data brought agencies together to discuss emerging issues and find solutions to the same.

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

EDAC strongly believes that advocacy should not be provided by the NDIS as was recommended by the Productivity Commission 2011 and should be a separate line item through another Commonwealth government agency such as Department of Social Services to avoid any potential conflict of interest.

‘Independent’ means freedom from influence by agencies or government entities with responsibility for the provision of supports and services to people with disabilities.

In this case, Disability Support Organisation and NDAP funded agents need to have clear demarcation of service provision under the NDIS environment as demonstrated below:

Disability Support Organisations working under the NDIS:

* Help clients think more broadly about the supports required, and their life aspirations that would allow individuals with disabilities to approach the NDIA assessment better prepared;
* Assist with short and longer-term planning, focusing on life possibilities, succession planning which may require creative solutions;
* Provide brokerage service if the NDIA approves and;
* Accept individual clients hire on fee for- service basis in case person wants self-directed management.

NDAP funded Advocacy agents under NDIS:

* Provides support (independent and partisan) to the person to express their needs and wishes during the NDIS assessment process;
* Supports (with advocacy skills and knowledge) the person to challenge the validity or merits of an assessment;
* Supports the person to express their views in NDIA Quality Improvement processes;
* Provide systemic advocacy to improve the assessment process and outcomes for people with disabilities and;
* Provide Self-Advocacy and Information Advocacy support to build the capacity of people with disabilities.

The types of activities envisaged under the ILC Commissioning Framework are already undertaken by some advocacy services. EDAC already conducts self-advocacy training for people with disability and their families/carers, provides support for set-up of and ongoing support to peer-support groups, human rights based information to CaLD people with disability and their families/carers through a weekly radio programme and community based information sessions, cultural competency training for disability support organisations. All of this activity is funded from sources other than NDIS. However, all of this activity is directly linked to advocacy support.

There will always be a perception of conflict. The onus should be on the funding agency and not the support agency to demonstrate ‘no conflict’ in who the funding is provided to. Specific protocol should be in place that restricts conflict of interest. The work of independent advocacy agencies should not be compromised.

EDAC strongly support that advocacy to be effective it needs to be perceived by others as well as to actually be free of conflict or potential conflict of interest. Otherwise, the perception of conflict has a tendency to weaken the potency of the advocacy and the quality of service.

The perceived conflict creates an opportunity to regard the arguments made in favour of the person/people with disability as somehow less valid and diminished in strength. Thus, the vital importance of independence from service provision need to continuously recognised under the NDAP Program.

## 5. Understanding and improving access to justice:

EDAC works with some of the most marginalised group of people with disability. In some instances CaLD clients with intellectual disability with limited functional English and no understanding of the legal process have been incarcerated due to lack of advocacy support. We recognise that some the clients we work with that have come into contact with the criminal justice system require specialised legal advocacy support. At present there is no agency funded in WA specifically to provide this type of service. Clients are reliant on community legal services and pro-bono lawyers for assistance. However, these services do not necessarily employ staff (in particular para-legal) with the necessary skills and experience. They also do not have the mandate to provide legal advocacy support as defined by the NDAP. It is vitally important that funding is provided for legal advocacy support.

## Conclusion:

It is important that advocacy is recognised as being a key driver for the success of the National Disability Strategy in delivering on its vision of creating an inclusive Australian society that enables people with disability to fulfil their potential as equal citizens.

Without adequate advocacy funded support many people with disability, already made vulnerable by the circumstances of their lives, will not be in a position to take advantage of the opportunities available. They will not necessarily know or understand about their rights, the choices that could be available to them or the policy that should be implemented in their favour. Nor will they necessarily have the tools to complain or the knowledge to suggest an alternative approach or way forward.

Currently funded advocacy services provide amazing support on very small budgets to their client cohorts. The introduction of the NDIS just adds another layer to the work already being undertaken. Currently the NDAP programme is metro-centric in its funding arrangements. In order for NDAP to achieve its objectives and the desired human rights outcomes for all people with disability in Australia, it needs to ensure that people with disability, regardless of where they live in Australia, have the same level of access to advocacy support. Above all, it should ensure that funding is provided to independent advocacy services.

**20 JUNE, 2016**