# REVIEW OF NATIONAL DISABILITY ADVOCACY PROGRAM DISCUSSION PAPER

Ability Incorporated Advocacy Service (AIAS) has delivered independent person centred advocacy for the past 25yrs.

We are located in the regional area in the Northern Rivers of NSW.

AIAS has received funding from both the federal and state governments. Our concerns are that the NSW funding for advocacy and information is being handed over to the NDIS. This will impact on the number of people we provide advocacy for.

We have been assured that funding levels of the NDAP will not be increased, where then will the shortfall from the state funding come from?

The individual and self advocacy programs we provide meet the needs of people whatever their disability. This has been reflected by the many successful outcomes that have been achieved.

AIAS is the only advocacy service on the North Coast of NSW. We provide advocacy support, information, referral and self advocacy training. As we do not provide any other services, there is no issue with conflict of interest.

As a stand alone advocacy service we support people with all disabilities

Concerns were raised in the discussion paper regarding NDAP funded advocacy agencies resorting to providing certain services under the NDIS. We believe this is a potential conflict of interest.

We have concerns about future funding and state funding being absorbed into the NDIS.

The National Disability Strategy, an initiative of the Council of Australian Government (COAG), sets out a 10 year plan for improving the lives of Australians with Disability, their families and carers. The Strategy outlines the importance of advocacy services in enabling and supporting people with disability to safeguard their rights and overcome barriers that impact on their ability to participate in the community. Future Action 2.11 of the Strategy is “Support independent advocacy to protect the rights of people with disability” Governments must now facilitate support for independent advocacy rather than reduce funding for advocacy to people with disability.[[1]](#footnote-1)

# The Vision of NDAP.

# AIAS agrees with the vision in general. However, it is essential that the proposed funding model be made public. As an advocacy organisation we are well placed to inform on what a consistent and equitable funding model is. We urge that we be given the opportunity to comment on the proposed model.

# 1. Models of Advocacy

* 1. **The benefits when agencies are funded to provide only 1 or 2 models of support**?

The benefits of Advocacy agencies being funded to provide advocacy support, it allows the advocacy service to provide advocates to assist individual’s PWD to raise complaints or concerns, speaking on behalf of people when asked to support people with self advocacy.

Our organisation is funded to provide independent, family and self advocacy. Funding allows us to provide a free service which is accessible to all people with disabilities. The benefit of funding to provide only 1 or 2 models or support, allows for specialisation and detailed knowledge, resulting in finely tuned strategies. As well, funding dollars are not stretched over various models.

* 1. **What are the drawbacks?**

The drawbacks are that this creates gaps within service delivery offered by advocacy services.

AIAS is funded to deliver 3 models of support; individual, family and self advocacy. If we were only funded for 1 or 2 models, the service we provide will not be as effective. For example, a consumer may initially require individual advocacy assistance at a meeting with a service provider, but are able to advocate for themselves when given self advocacy training. Many of our consumers, through our self advocacy get together, are empowered with information and activities that enable them to assert their rights.

Being restricted to one or two models of advocacy support creates gaps in the AIAS’s service delivery i.e.

* Lack of legal advocacy support
* Lack of citizen support, which would assist people with disabilities in self advocacy.
* Lack of systemic advocacy

If advocacy agencies are flexibly funded, then advocacy services can support all forms of advocacy matters, including systemic and legal. This would eliminate gaps in service and support.

* 1. **How do we value and support various models of advocacy while ensuring equitable access to individualised, fit for purpose advocacy, regardless of location?**

AIAS provides individual advocacy, family advocacy and self advocacy to people in remote locations though our outreach service. We accept referrals from all our networks and from individuals. The intake process is the same for all consumers of our service and is based on and given priority, according to need, urgency and available resources.

(We also make referrals to the appropriate peak services-i.e. CRRS, NSW ombudsman, AHRC, state disability advocacy organisations.)

To ensure the best outcome for our consumers it is essential that good networking and referral systems exist to capture the knowledge and maintain the relationships with systemic advocacy organisations.

# 2. Improving access to advocacy supports

**2.1 How do we improve access for:**

* **People with disability for Aboriginal and Torres Strait Islander communities and their families?**

Place-based strategies (such as those that address the needs or rural communities), and not just generic approaches, should be adopted to ensure the participation of Aboriginal and CALD people;

* **People with disability from culturally and linguistically diverse communities and their families?**

Outreach and information initiatives that involve face-to-face engagement should be employed in engaging with Aboriginal and CALD people.

* **People with disability in rural, regional and remote locations?**

Services can ensure that they are accessible and easy to navigate by removing requirements to complete excessive paperwork (or providing support to complete it) and integrating referral processes. This can reduce the burden on a person to tell their story repeatedly to different agencies and providers each time they attempt to access specific supports.

* **People who are very socially isolated including those with communication difficulties and those in institutional care?**

People who are incarcerated in prison, and marginalised persons living in boarding houses must also be accepted as socially isolated.

Where there is ineligibility for services, additional resourcing and planning is required to ensure that people can access at least some level of service provision.

**2.2 What are the strategies or models that have worked? What are the strategies that do not work?**

What has worked:

* Offering outreach services
* Attending disability forums
* Referrals via good networks, from disability service providers and from former service users.

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

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

Although AIAS is not funded to conduct systemic advocacy, we can raise systemic issues at forums, interagency meetings and workshops. We can also refer consumers of our service to local MPs.

Listing systemic information sharing and collaborative action in an organisation’s key performance indicators would encourage these activities to be prioritised. A peak advocacy body could also highlight opportunities for systemic change, co ordinate systemic change, notice emerging trends and link into and commission research on best practice that will benefit people with disability.

Funding systemic advocacy at different levels ie local, regional, state/territory, as well as retaining current systemic advocacy organisations will ensure that systemic issues get to the right people.

Systemic advocacy focuses on influencing and changing the systems-including government laws and policies, departmental procedures, generic community and disability service practices-which maybe adversely affects people with disability and their families.

Preparing and submitting submissions to the appropriate government authorities.

**3.2 How can we help disability advocacy organisations work with a wide range of other organisations with similar aims.**

* **Disabled people’s organisations (DPO’s)**
* **The Australian Human Rights Commission**
* **Ombudsman organisations**
* **Aged care advocacy organisations**
* **State disability advocacy organisations**
* **Peak bodies?**

Collaborative practice is the key. Collaborative practice involves community service organisations working together to achieve shared goals.

In the community services delivery system, collaboration is achieved when organisations develop mechanisms – structures, processes and skills – for bridging organisational and interpersonal differences, and together arrive at outcomes that they value.

Community service organisations generally collaborate to:

* Improve the quality or scope of service to their clients, and/or
* Provide administrative or service delivery efficiencies.

Working with other organisations, either through informal networks or more formal partnerships can provide:

* Greater efficiency and less duplicated effort. For example, a consortia approach to a competitive funding round can deliver integrated service models, achieve broader geographic coverage or reduced costs
* Access to additional resources or lower costs through sharing resources such as office space, administration or other aspects of an organisation’s operation
* Improved service coordination across agencies, with better or more efficient access to the range of services required, improved quality and consistency of service and greater responsiveness to needs
* Organisational knowledge and improved service system capability
* Greater innovation and flexibility to respond to changing, emerging or more complex client needs and changing operations and operational environments
* Access to up-to-date information, new ideas and strategic thinking
* Improved capacity to demonstrate best practice
* Political and lobbying strength
* Increased capacity to successfully submit tenders or expressions of interest and to delivery projects, and
* Additional expertise, support or legal protection for small, new or struggling organisations.

Over time, the combined benefits of collaboration create new opportunities for partnering with others to build strong, safe, healthy and vital communities and a sustainable future together.

Peak bodies need to properly resourced for communication to and from government to be done effectively. Research bodies like universities, being properly resourced, will also indicate emerging advocacy issues.

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

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

Independence from service systems and disability support agencies is critical to ensuring that advocacy support is free from conflicts of interest and always puts the rights, will and preference of people with disability at the forefront.

In the NDIS context, it is critical that independent advocacy is not viewed as being superseded by NDIS roles, such as the roles played by NDIS planners and Local Area Coordinators (LAC’s). While these roles are important, and may include aspects of information provision, advice and service system linkages, this is not an independent advocacy role.

The advocacy sector is the one that fully understands conflict of interest. Therefore it is essential that advocacy services are funded outside the NDIS.

**4.2 A collaborative approach to identifying service gaps.**

Service gaps should be identified based on the unmet needs of people with disability. It should be recommended that the NDIA and the Dept of Social Services conduct a needs analysis of advocacy service, by identifying the gaps and unmet needs of people with disability. (PWD). This could be done through consultation committees and consulting directly with PWD, their families and carers, to ascertain a true understanding of areas of unmet need. Collaboration between the Government, advocacy organisations and people with disability.

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

A stringent accreditation process, conducted by the NDIA, for organisations who intend to deliver services to people with disability.

Organisations must adhere to the National Standards for Disability Services and this should be reflected in their policies and procedures.

National Disability Strategy: Australian Human Rights Commission prepared a submission to the Australian Government in response to their Discussion paper on a National Disability Strategy.**[[2]](#footnote-2)**

**Summary**

The Commission welcomes the Government's decision to pursue a National Disability Strategy based on the Convention on the Rights of Persons with Disabilities.

The Commission endorses the importance of a National Disability Strategy as part of the Government's Social Inclusion Agenda, noting that:

at present people with disability and their families face many barriers to full and equal inclusion and participation in and contribution to Australian society and these barriers in many cases are compounded by other sources of exclusion and disadvantage, including for Aboriginal and Torres Strait Islander people and people from culturally and linguistically diverse backgrounds.

The Commission agrees that a National Disability Strategy should be pursued in partnership with State and Territory Governments rather than the Commonwealth alone, with the Commonwealth having however major leadership and co-ordination roles to contribute.

A National Disability Strategy should include development and implementation of more detailed disability strategies for all areas and levels of government, including through each Ministerial Council; each Commonwealth department and agency; and each State and Territory department and agency.

Establishment of a co-ordination mechanism and monitoring framework.

Substantially enhanced resourcing for disability representative, advocacy and advisory bodies to ensure they are able to provide the input governments will require.

A National Disability Strategy, while able to contain some immediate measures, will in large part necessarily set a framework for further processes of policy and program development, implementation and monitoring.

This submission recommends a series of commitments to be made to further action by reference to the Articles of the Convention. These recommendations are not intended to be exhaustive as inevitably further areas for action will be identified in the course of the consultations being conducted by the Government.

The Strategy will be revised and updated over its ten year life span in response to reviews of progress.

Australia ratified the United Nations Convention on the Rights of persons with disability (CRpD) in 2008. The Strategy will play an important role in protecting, promoting and fulfilling the human rights of people with disability. It will help ensure that the principles underpinning the Convention are incorporated into policies and programs affecting people with disability, their families and carers. It will contribute to Australia’s reporting responsibilities under the Convention.[[3]](#footnote-3)

# 5. Understanding and improving access to justice

**5.1 What forms of legal review and representation do People with Disability (PWD) need most?**

PWDare anextremely vulnerable group in terms of their legal need. There has been a review conducted by the ALRC (Australian Law Reform Commission) into the gaps and barriers that PWD encounter and our current legal framework may be preventing access. This may include the lack of specialist advocacy and advice services, gaps in the law, inaccessible government services, and lack of awareness within the legal profession who don’t consider the needs of PWD and may passively discriminate against them.

People with Intellectual disability have significant difficulties accessing justice. There are some specific consequences of intellectual i.e. lack of capacity, unreliability of evidence, and guardianship matters are very common. Having access to advocacy, both legal and non legal is an essential component for this group of people.

Many People with intellectual disability are significantly disadvantaged and this is evident in our criminal justice system, as both victims and prisoner [[4]](#footnote-4). Many incidents go unreported, especially incidents which occur in group home settings or within the disability sector.

**5.2 What Barriers prevent PWD from accessing justice?**

A majority of PWD can’t afford legal assistance or are unaware of their legal rights. PWD often experience many forms of social exclusion and forms of disadvantage. DANA have submitted that improved access to disability advocacy, including models of non-legal advocacy, would provide crucial support for PWD, which may result in fewer legal issues[[5]](#footnote-5).

Social and economic disadvantage also has an effect on access to legal services through direct and indirect discrimination. Ignorance of the processes and awareness of legal support is a barrier to accessing justice. Lack of communication skills and lack of appropriate advocacy and support services, both legal and non-legal contributes to this barrier to accessing justice.

Our legal profession are not adequately trained to assist a person with cognitive impairment and that they need to explain in simple terms to the PWD the legal process. In this instance it is critical that they have access to either an advocate, or family to assist them.

**5.3 What models of legal advocacy are most effective?**

PWD are generally unable to afford legal representation and may depend on Legal Aid or the Community Legal Centres, and both of these community legal services are severely underfunded. An independent free and confidential, non legal and/or legal advocacy service to people in major cities and regional areas, which includes an outreach services would be extremely beneficial.[[6]](#footnote-6)

Legal and non legal assistance provided by advocacy services is vital, as they directly work with other service providers, carers and tribunals. Advocates can also work alongside a PWD and their lawyers to ensure that their legal issues are being addressed adequately within the legal system. The advocate can speak on the PWD behalf and represent their needs, reducing costs and expensive interventions. This should sustain better outcomes for the PWD.

**Closing statement:**

The above demonstrates the importance of additional resources being invested into the NDAP and NDIA if advocacy is to meet the increased demand, continue to safeguard PWD and provide an insight to Governments regarding the unmet needs of PWD. A division of current funds among more organisations will not address the issue of increasing unmet demand for advocacy services. By continuing to fund our existing advocacy model, which is currently fully funded, will ensure that advocacy can continue to be offered free of charge to the most vulnerable people in our community. Advocacy should remain free and accessible to all PWD within Australia.

**Further information:**

**Development of National Disability Strategy welcomed**

We commend the Government for its decision to commence development of a National Disability Strategy.

It is clearly correct, as stated by Jenny Macklin MP and Bill Shorten MP in their Foreword to the National Disability Strategy Discussion Paper, that people with disability encounter continuing discrimination and significant systemic barriers to full inclusion and participation in Australian communities and the social, economic and cultural life of the nation. This is clear notwithstanding significant limitations in current data collection and monitoring regarding the rights of people with disability.

The Commission endorses the importance of locating a National Disability Strategy within a broader Social Inclusion Agenda, noting that the barriers which people with disability and their families face to full and equal inclusion and participation in and contribution to Australian society are in many cases compounded by other sources of exclusion and disadvantage, including those for Aboriginal and Torres Strait Islander people, and people from culturally and linguistically diverse backgrounds.

1. National Disability Strategy 2010-2020 page 17. [↑](#footnote-ref-1)
2. National Disability Strategy: Human Rights Commission Submission Nov 2008 [↑](#footnote-ref-2)
3. National Disability Strategy 2010-2020 https://www.coag.gov.au/sites/default/files/national\_disability\_strategy\_2010-2020.pdf [↑](#footnote-ref-3)
4. NSW Law Reform Commission Report No 80 – *People with an Intellectual Disability and the Criminal Justice*

   *System. Sydney* [↑](#footnote-ref-4)
5. DANA Comments on the Productivity Commission’s draft report on access to Justice Arrangements [↑](#footnote-ref-5)
6. Community Legal Centres NSW – *Ensure people with disability have free legal advice*. Media release 3 Dec 15. [↑](#footnote-ref-6)