

6 July 2022

Dear Disability Advocacy secretariat,

Re: Draft National Disability Advocacy Framework 2022-2025

We appreciate the opportunity to contribute to this consultation on the draft for a new National Disability Advocacy Framework 2022-2025 (the Framework).

As an advocacy organisation working with people with disability, people with mental ill health, older people and carers, we at ADACAS would like to add our support to the submission by Disability Advocacy Network Australia (DANA) on the draft Framework<sup>1</sup> and what is needed to realise its intended Outcomes.

In our view – “Nothing about us without us” co-design and human-rights focused approaches, and sufficient funding to meet demand for advocacy assistance (especially beyond crisis, into the preventative/capability building space), are of fundamental importance to achieving the Outcomes of the Framework.

### **1. About ADACAS and advocacy**

The ACT Disability Aged and Carer Advocacy Service (ADACAS) is a human-rights focused organisation, which provides:

- Individual advocacy for and with people with disability, people experiencing mental ill health (or psychosocial disability), older people, and carers.
- Support to people making submissions to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.
- Assistance with National Disability Insurance Scheme (NDIS) related appeals to the Administrative Appeals Tribunal
- Redress Scheme support services to people who are survivors of institutional child sexual abuse
- Aged Care Navigator assistance to older people seeking assistance to understand the aged care systems
- Systemic advocacy and engagement designed to contribute to improved systems, policies and procedures that impact on the experience of the cohorts with whom we work.

ADACAS additionally has over time delivered projects to embed supported decision-making approaches in service systems and explores practical responses to issues arising through individual advocacy and supported decision making. ADACAS staff prepare and deliver fee-for-service training on aged, mental health and disability related topics.

ADACAS is based in Canberra and has been providing free individual advocacy in this region for 30 years. (Whilst ADACAS is a non-legal advocacy service, ADACAS staff often work together with lawyers in support of our clients, as required. ADACAS also has staff based in and working across the Murrumbidgee, Southern NSW and Illawarra-Shoalhaven Local Health Districts, specifically assisting people with disability to access services and supports funded or delivered by the NSW

Government. ADACAS is a member of DANA, the Disabled Persons Advocacy Network, and OPAN, the Older Persons Advocacy Network.

Advocacy is about **protecting the human rights and improving the wellbeing of people in the most challenging of circumstances in the ACT community**. Advocates focus on advocacy topics identified by each person as having negative impacts for them, and work in tailored and constructive ways with that person, their family/friends and other stakeholders as needed, to progress feedback/ find resolutions/ seek to ensure the person's rights are upheld in challenging situations. ADACAS offers issues-based non-legal advocacy, and the topics of advocacy are multiple and varied, ranging from housing, to access to justice, to psychiatric treatment order hearings, to quality-of-service issues, to child protection processes, to restrictive practice/ restraint/ seclusion, to substitute decision-making, to aged care service issues, to NDIS and NDIS appeals etc. The majority of ADACAS' focus is on individual advocacy (support for a particular person, with a particular issue).

Advocacy is a **safeguard** working to improve experiences of people with disability, people with mental ill health, older people and carers. ADACAS also emphasises the **importance of addressing the compounding impacts of intersectional disadvantage**. ADACAS works with people with disability, people with mental ill health, older people, and carers, with a very diverse array of life experiences, including those who are additionally (one or more) Aboriginal or Torres Strait Islanders, from a Culturally and Linguistically diverse background/s and/or from LGBTQI+ populations etc.

## **2. Response to Draft National Disability Advocacy Framework 2022-2025**

Alongside DANA - we welcome especially the recognition of the social model of disability, the clear connections with the UNCRPD, and also the section on intersectionality.

We highlight however, that the current disability advocacy framework is written in such a way that it appears to assume that the rights of people with disability are already currently being adequately and consistently upheld at individual, community and systemic levels. This is absolutely not the case. We strongly recommend additional acknowledgement of this context (and the extent of discrimination, harm and abuse being experienced by people with disability) in the advocacy framework.

### **a. Rationale:**

In our view, the rationale should acknowledge that there are more forms of discrimination than those explicitly named, by adding "and more", or "etc" or something similar at the end of this sentence.

The Framework recognises all members of the community can experience discrimination based on gender, age, education, employment, sexuality, geographic location, socio-economic group, ethnicity and cultural background.

Additionally, the rationale should mention intersectionality, and the compounding impacts that multiple intersecting forms of discrimination can have. We welcome the person-centred, and rights based approach. The mention of individual needs and aspirations should be expanded to include individual and community needs and aspirations (in recognition that amongst the diversity of people with disability, are those with both individual and more collectivist approaches/worldviews, and the approach to delivering advocacy can vary accordingly).

## **b. Principles**

We would like to add particular emphasis to the call from DANA to update the list of conventions that the framework is informed by to include other relevant international human rights treaties and endorse the list that they have proposed.

Presumption of Rights and Capacity:

- Under the section in relation to Presumption of rights and capacity – we ask that there be explicit mention that people have the right to have support with decision-making if required – as highlighted in Article 12.3 of the UNCRPD “States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.”<sup>ii</sup>

Access to supports:

- Whilst we agree with regards to the importance of facilitating effective and appropriate communication – we suggest that this should be “with” not “for”

Justice:

- Please add: “Both non-legal and legal advocacy can be needed in partnership, in support of people exercising their rights.”
- Whilst we recognize that this heading is intended to cover legal access across all types of issues, and has been named “Justice” accordingly – we observe that all areas of advocacy are important and the breadth and depth of topics recognized, whether it be in relation to housing, child protection, health, quality of goods/services, upholding of rights on other topics etc.

Person-Centred approach:

- We agree with the importance of ensuring the voices of individuals and communities are understood and heard (we include communities, as being person-centred can also mean being community-centred).
- Whilst we strongly agree with the importance of a strengths-based approach and in maximizing involvement in decisions and outcomes, we suggest removing the word “empower”.
- Whilst we also agree with the importance of self-advocacy, and supporting development of self-advocacy, we enquire whether there is another way that the phrase “foster independence through educating individuals in self advocacy” can be phrased, in recognition of the fact that whilst there is definitely a role for advocates in education around self-advocacy, that many people also self-educate or have learnt self-advocacy skills through life experiences.

Aboriginal and Torres Strait Islander People with Disability

- We strongly support reference to the Closing the gap National Agreement, and the principles highlighted.

Respect for Intersectionality and Diversity:

- We suggest including recognition that barriers can be compounded in situations where people are being affected by multiple interacting forms of discrimination and disadvantage. We welcome the acknowledgement that there are factors beyond those listed.
- We endorse the comment in DANA’s submission about the need to recognize that social isolation increases the risks, and thus that additional outreach efforts to reach socially isolated individuals, and/or those in closed environments, are warranted.

Safeguards:

- We ask that there be an additional point around recognition of role of people with disability, families, carers, representative organisations, service providers and the entire community in working towards safeguards that take account of human rights, including dignity of risk, whilst also seeking to reduce prevalence of violence, abuse, neglect and exploitation.

**c. Outcomes:**

With regards to the outcome:

“People with disability have a range of ways to express their views and wishes about supports and services, play an active role in working out how things will improve, and can access a complaints mechanism and independent support and advice when providing feedback or making a complaint in relation to the supports and services they purchase or engage.”

We agree. In addition to the points that DANA has made on this clause, we also add – we would suggest that they should be able to access a complaints mechanism, and independent support advice also when providing feedback or making a complaint also with regards to issues that impact on their rights or wellbeing (regardless of whether it is related to goods and services).

ADACAS endorses the points DANA has made also about the shortcomings of the SCORE approach. In particular, we emphasise our agreement with DANA’s point that “it is inappropriate [to be asking advocates] to ask for personal information when the person is distressed, in the middle of explaining their advocacy issue, or scared about the repercussions of speaking out”<sup>iii</sup>.

We also strongly endorse the need for there to be an outcome related to systemic advocacy, given that good systemic advocacy can reduce the need for individual advocacy by resolving issues that affect many people simultaneously.

**d. Definitions:**

We endorse DANA’s call for the definitions to include six types of disability advocacy, and to be updated in accordance with their suggested wording.

We note that new models of advocacy are emerging with communities that prefer collectivist approaches, and that advocacy definitions should also be sufficiently broad to allow advocacy agencies to innovate in line with advocacy values and community wishes/needs.

**e. Responsibilities, Reform and Policy Directions:**

The first point should acknowledge a commitment by both Commonwealth, State and Territory governments to fund advocacy at levels that are adequate to meet the demand for advocacy assistance, and in ways that strengthen the capability of the advocacy sector to meet demand.

Whilst recognizing where national consistency in guidelines and processes can be useful, we note also the limitations of “one-size fits all” approaches and emphasise the need to not lose the diversity of responses which have grown from grass-roots initiatives to meet the diverse needs of particular communities.

In terms of the term “reform” - ADACAS concurs with DANA’s recommended to strengthen, develop and expand the provision of disability advocacy so there are strong outcomes for individuals and groups and wider systemic levels rather than request to reform disability advocacy.

ADACAS is also aligned with DANA in putting forward that there needs to be an active, ongoing and funded efforts to outreach to the community, particularly to those who are in closed environments, to those who are isolated, and/or otherwise at risk of abuse, violence, neglect and exploitation. People with disability are diverse, have different strengths/abilities, are in a range of circumstances and can be experiencing many barriers to having their rights known, understood and upheld. It is not OK for the system to be relying solely on all people with disability to have the knowledge and capability to firstly: recognize that they are being badly treated, nor to know what they can do about the fact that this is occurring. Whilst many people with disability are active advocates themselves, not everyone can always do this. When funded to do so: advocates can play a vitally important role in terms of educating individuals, families and communities about rights, and how to seek to ensure that they are promoted, protected and upheld. As mentioned earlier – advocacy is an important safeguard – but to sufficiently undertake this role, needs to be adequately funded. With regards to commitments listed, specifically the one about funding – we suggest that the phrase "and at levels adequate to meet the demand for advocacy" be added at the end of the following sentence, as follows:

- Ensuring the funding of disability advocacy is transparent, equitable and accountable, [and at levels adequate to meet the demand for advocacy]. Ensure also geographical coverage and services gaps are identified and addressed.

We also endorse DANA's call for an added funding stream to assist with decision support in situations where this is needed.

In conclusion:

We urge the Disability Reform Ministers and their respective governments to prioritise and make strong commitments on disability advocacy funding and collaboration to help realise the vision of Australia's Disability Strategy 2021-31 and the National Disability Insurance Scheme: an Australia that includes and values people with disability and respects human rights for all.

Please do not hesitate to contact us, should you have any questions about this response.

Sincerely



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#### **Acknowledgement of country**

ADACAS acknowledges the language groups and Traditional Owners of the various lands on which we work, including: the Ngunnawal communities for our work in the Canberra area and the peoples from Dharawal, Yuin and Wiradjuri communities for our work across at the NSW South Coast and other areas of NSW. We pay our respects to their Elders, past present and emerging and to all Aboriginal and Torres Strait Islanders in our communities. Sovereignty was never ceded.

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<sup>i</sup> Disability Advocacy Network of Australia DANA (2022), Submission on the National Disability Advocacy Framework 2022. Copy provided by DANA.

<sup>ii</sup> UN General Assembly, *Convention on the Rights of Persons with Disabilities : resolution / adopted by the General Assembly*, 24 January 2007, available at: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-12-equal-recognition-before-the-law.html>, accessed in July 2022.

<sup>iii</sup> Disability Advocacy Network of Australia DANA (2022), Submission on the National Disability Advocacy Framework 2022. Copy provided by DANA.