

National Disability Advocacy Framework 2022-25

**Submission by
Capricorn Citizen Advocacy Inc. (CCA)**



Department of Social Services

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ABOUT CAPRICORN CITIZEN ADVOCACY (CCA)

CCA is a small, non-for-profit advocacy organisation based in Rockhampton, Central Queensland, operating in the Livingstone and Rockhampton LGAs since 1999. We work on behalf of people with cognitive and intellectual disabilities whose wellbeing is at risk, by facilitating and supporting one-to-one, unpaid relationships between a person with disability with significant unmet needs and who is often isolated and vulnerable (the Protégé), and a concerned, resourceful and competent member of the community (the Citizen Advocate) who has everyday skills relevant to the needs of the Protégé.

It is important to emphasise that CCA carefully recruits, screens, matches and supports Citizen Advocates whose role it is to promote, protect, and represent the interests of their Protégé. CCA staff **do not** undertake Citizen Advocacy themselves. Some of the specific roles of individual Citizen Advocates include those of spokesperson, protector, assistant, mentor, and friend. Many Citizen Advocacy relationships have both a practical and an emotional dimension to them, and all Citizen Advocacy relationships have strong elements of both prevention and protection – on an ongoing basis – sometimes for life! Citizen Advocates do not receive any payment for their role, and are independent of other parties and agencies involved with their Protégé, such as accommodation, NDIS or employment services. The Citizen Advocacy office provides preparatory orientation to all advocates, as well as ongoing support and access to specialist advice, but it does not control their advocacy relationships.

Since the beginning of 2022, CCA now also provides an individual advocacy service for people with disabilities who live in one of 12 Local Government Areas within Central Queensland. This is a free, short-term, non-legal advocacy advice service that supports people with disabilities to safeguard their rights, experience equality and overcome barriers. Information, advice, and onwards referral (where relevant) is provided either face to face, via phone or other communication mode at a mutually suitable time.

RESPONSE TO THE NATIONAL DISABILITY ADVOCACY FRAMEWORK

1. *Does the new NDAF encompass our vision of advocacy? If not, what changes are required?*

- The NDAF is primarily focussed on “transactional” advocacy that is issues based and time limited. It makes no mention of Citizen Advocacy which has a strong preventative and protective focus. The reality is that disability advocacy is about much more than simply upholding rights and giving people a voice. There is a massive array of circumstances and situations that advocates deal with, and these don’t always occur neatly within a system that has clear mechanisms to be followed to navigate a positive outcome.
- The vision of advocacy in the NDAF needs to be explicitly broadened to highlight the role of independent advocacy in specifically addressing the full community inclusion of people with disabilities and citing the importance of positive and valued roles within the community.
- The current vision is weighted towards services and supports. People with disabilities are much more than consumers of mainstream and/or NDIS funded supports – and are often ineligible for either! Independent advocacy addresses the entire spectrum of people’s unmet needs, including the fundamental need of all humans to have positive, unpaid, freely given relationships. The work of Citizen Advocacy programs specifically addresses this need. Citizen Advocacy includes fostering strong safeguarding mechanisms within supportive Citizen Advocacy relationships that may prevail long after short term individual advocacy is concluded.
- For a strong “buy in” of the vision, strong clear definitions need to be provided. Those provided in the NDAF document are poor at best. A reasonable starting place would be the definitions provided at the DSS website, but these too require an update. Those definitions can be found here: <https://www.dss.gov.au/our-responsibilities/disability-and-carers/program-services/for-people-with-disability/national-disability-advocacy-program-ndap> The re-write of definitions should be a major priority and should ONLY be undertaken with consultation with experienced disability advocacy providers and practitioners of all forms of disability advocacy, who understand the nuance and significance of the language used. Having clear definitions for and examples of “vulnerability”, “inclusion”, “intersectionality” and “participation” would be helpful as these words can be interpreted very widely.

2. Are the principles of the NDAF appropriate for guiding the delivery of advocacy for people with disability in a changing disability environment, including in the context of the NDIS? If not, what changes are required?

- The “Presumption of Rights and Capacity” principle unintentionally fails to recognise the fundamental need for advocacy and decision-making support for people with profound intellectual disability or cognitive impairments. The presumption of capacity needs broadening to specifically address the most vulnerable of people with disability i.e. those who do actually lack capacity to enforce their rights, as they may be nonverbal in communication and perhaps also have profound physical disabilities. This principle sounds good, but it is essentially a feel good and simplistic statement that fails to protect the most at-risk people in our community. Stating that "All adults have an equal right to make decisions that affect their lives, and to have those decisions respected" - doesn't make sense as clearly in law, they don't if they have a cognitive impairment and have had that “right” conferred upon another entity or person as part of a Guardianship (or similar) process. It's also important to note that to "have those decisions respected" doesn't mean their decisions will always go unchallenged; that someone (such as a family member, friend, colleague or advocate) can't challenge the person's decision. For example, there might be concerns they were not provided with adequate information, or may not have fully understood the information they used to make their decision/s. They could also be presented with alternative viewpoints of their actions, especially if those actions are clearly not in the person's interests. No advocate nor loving supporter would say “Oh well, if you want to kill yourself, that's your decision, you've got to do what you think is right for you and I will respect that”. There is no way that a loving, or responsible person would leave such a decision unchallenged.
- The “safeguards” principle could be re-worded to “Individuals are supported to identify and understand when they have been subject to violence, abuse, neglect and exploitation and to explore what actions they can take in response to what they have experienced, and make sound decisions as to what actions, if any, they choose to take.
- The NDAF framework must ensure that bodies charged with safeguarding the rights of vulnerable people with disability, including the NDIS Commission, the various Public Guardians and their investigation arms, Public Trustees and the prosecution arms of the nation's police services are specifically mentioned in this principle as having a fundamental and joint responsibility to safeguard people with disability against violence, abuse neglect and exploitation. The principle needs to be fleshed out with a Targeted Action Plan which aims to breakdown the silo operation of the current safeguarding organisations, the insufficiency of funding for these bodies and the restrictions on them working together in a seamless way to respond in a timely manner to vulnerable people who experience urgent situations that require an urgent.
- The “access to supports” principle states that “The will, preferences and rights of people with disability who may require decision-making supports, must direct the decisions that affect their lives”. What if their preferences are illegal? What if their preferences negatively impact another person? What if the person's will is going to result in definite harm to themselves? These questions are intended to urge a rethink of the of principles, given the practical realities that might flow from their literal implementation without some discerning thinking and/or action.
- Under the principle of “Justice” we would content that the wording be very slightly amended to reflect reality: “Disability advocacy is inclusive of will include the capacity to access legal advice and representation where it is required to assist people with disability to exercise their rights.
- In respect of the principle of “Person-Centred Approach”, we agree that "nothing about us, without us" is a fantastic pledge (and demand) but unfortunately whilst it's a critical principle, that alone won't capture the views those who are most vulnerable i.e. those without a voice, those who can't get to a podium, those who don't know what a podium is, and importantly, those who are prevented from taking part in the discourse either through systemic failings or through deliberate actions of others in positions of power or control.
- Under the principles associated with “Aboriginal and Torres Strait Islander People with Disability”, the statement “the community controlled sector is strengthened to deliver advocacy” requires some explanation, to ensure the meaning is understood, and not misinterpreted. Does this refer to strengthening discrete Aboriginal communities' capacity to deliver advocacy, or does it refer to any

organisation that is community controlled, such as not-for-profit incorporated associations for example?

- Under the principle of “Respect for Intersectionality and Diversity”, we feel it is important to improve the wording to achieve greater clarity that it specifically refers to providers of disability advocacy respecting additional forms of discrimination and disadvantage being experienced, but that this won’t mean that they are entitled to expect that all other people will automatically respect their intersectionality or diversity.
 - Still on “Respect for Intersectionality and Diversity”, we believe that the list of discrimination grounds should be the same as under the Rationale section, and in alphabetical order. It’s great to see that "faith" is included here and it should also be added to the list in the Rationale section.
 - Currently, legal advice and representation fails to assist all people with disability to exercise their rights – particularly those who have intellectual disability. The right to legal advocacy should not be limited to those people with disability who can express themselves verbally and readily make their wishes and preferences known. In Queensland, there is currently very limited possibility of any legal practitioner accepting the responsibility of representing such a client. This includes guardianship hearings at the Qld Civil and Administrative Tribunal and other similar bodies in Australia.
 - The principles currently fail to mention the NDIS Act, specifically sections 6 and 9, which recognise the importance of disability advocacy and define independent advocacy as being separate from the NDIS.
 - Astonishingly, there is no mention of a separate principle of independence. This should include independence from all levels of government, service providers and any other party with potentially conflicting loyalties. This principle should ensure that people with disability are able to access robust advocacy that is free from actual or perceived conflicts of interest.
- 3. *Are the outcomes of the NDAF clear and achievable? Should different ones be included? If so, what should be included?***
- The stated outcomes seem more than reasonable, however CCA is highly conscious that point four “Regardless of where they live, people with disability can access quality and independent advocacy support” will never become an achievable outcome without adequate levels of funding to achieve the specific deliverables of service agreements. It is an outcome that no reasonable person could object to, but unless a significant inflow of new funding is forthcoming, this will remain a pipe dream, and no more than a good intention without any intention to have it become a reality.
 - The final outcome is crucial: “There is increased community awareness of barriers to people with disability, the stigma associated with disability and the presence and value of advocacy supports”. This needs to be fleshed out more with a Targeted Action Plan which addresses the lack of standing of disability advocates, the lack of understanding of their role at the frontline of the NDIS, Centrelink, many disability support providers, Offices of the Public Guardian and Public Trustees. This outcome needs a major piece of public policy work and consultation with the entire disability sector. Individual Advocacy programs (Citizen Advocacy programs in particular) have deep experience of dealing with these barriers and the need for life-long, independent advocacy for many vulnerable people with disabilities.
- 4. *Are the responsibilities, reform and policy directions of the NDAF relevant or should different ones be included?***
- Again, the responsibilities, reform and policy directions appear fine on the surface of things. However, bringing these to fruition will require much more than good intentions.
 - The fourth bullet point under the third dot point “Ensuring the funding of disability advocacy is transparent, equitable and accountable, and geographical coverage and services gaps are identified and addressed” will require a major budgetary commitment, the likes of which no level of government has for the past three decades seen fit to provide. This will require a major re-think on the importance of disability advocacy and the interface it has with major systems, and the cost saving elements rather than the funding commitment per se. Like the NDIS, disability advocacy is actually an investment that produces returns, but to date, all levels of government seem to have

begrudgingly distributed what they perceive to be “just enough” funding to demonstrate their social justice credentials. The continuation of the current funding standoff between the states, territories and the federal government will allow the funding issue to continue into perpetuity. The lack of any agreed and comprehensive funding formula has bedevilled the entire sector for several years and the NDAF must address the problem clearly. Again, a Targeted Action Plan is needed along with a working group of state, territory and federal ministers and staff to address this quickly, as there is no doubt that the Disability Royal Commission will require this issue to be addressed through its recommendations which it will hand down upon its conclusion in September 2023.

- Stating that “How each advocacy program is developed, funded and managed is the decision and subsequent responsibility of the funding government” seems to indicate that it is ONLY organisations that emerge from some kind of government-led process, that will ever be eligible for government funding. This interpretation is at loggerheads with probably every single advocacy agency in the country, most of which will have sprung from a grassroots, community development type effort. The fundamental principle that guides disability advocacy is independence. Being in a position of requiring government funding to continue to deliver their good work is difficult enough, but to suggest that disability advocacy has (or perhaps always was) a government responsibility to determine how disability advocacy agencies are “developed, funded and managed” just doesn’t make sense.
- For the principle that “Adults with disability are presumed to have capacity to make and take part in decisions affecting all aspects of their life” to become a reality, it should also be stated that “and where necessary, will be provided with decision support strategies and/or advocates to ensure this occurs”. Not having these strategies or advocacy support would potentially render this principle null and void.

5. *Does the NDAF identify what is needed in the current and future disability environment? If not, what changes are required?*

- The major focus of the NDAF is on rights and does not include enough focus on vulnerability: defining it, measuring it, and responding to it, nor even identifying what kind of advocacy might be required to simply access supports required for typical and valued lives. One could conclude that the NDAF asserts that having rights upheld will be the panacea to somehow produce a good and meaningful life. That would be a very simplistic view of the reality of living with disability. It can take a heck of a lot more to keep people safe than to simply promote and protect people’s rights!
- There is a lack of recognition that it is supportive relationships that keep people safe and that these can stave off the need for formal, paid advocacy. This should be a fundamental acknowledgement in the framework!
- Advocacy also assists people to participate effectively within systems that have a significant impact on their lives – systems such as justice, corrections, health, education, consumer law, migration law, abuse, neglect etc.

6. *Do you have any other comments, thoughts or ideas about the NDAF?*

- The scope of the framework is very simple and we would contend is not all that helpful for those who are most disabled in our community. It seems to use a very superficial view of advocacy as just helping someone who feels they are being discriminated against, aren’t having their rights recognised or can’t access a building/service. What about advocacy for someone who has done the wrong thing? What about the advocacy of “standing with someone for the long haul” i.e. over a period of years, addressing multiple different issues as they arise, and just as importantly, fending off crises merely by their presence or by lower order action that has been taken to avert the need for a more formal or vigorous approach?
- We infer from the NDAF that the revision of the 2012 Framework has been limited to people with disabilities exclusively, which implies that advocates, advocacy organisations and their representative bodies have not contributed to the re-write. Is that correct? If so, why?
- The use of the term "enjoy equality before the law" in paragraph 4 in the Introduction seems a bit patronising. Language can be a powerful tool for bringing people together and keeping them apart.
- We would contend that the matter of “appearance”, whilst not currently recognised as a ground for discrimination, should be included as an area that may warrant the involvement of a disability advocate.

- At the second dot point in the Responsibilities, Reform and Policy Directions section of the NDAF, we would like to check that this is not locking disability advocacy agencies into “one size fits all” advocacy approaches, and will not result in stifling creativity and ingenuity in advocacy efforts, bearing in mind that the case may arise where an advocacy effort may end up being against the very hand that feeds it!!
- Under Rationale at the top of page 2 – the statement that “Advocacy provides people with disability support and capacity to make and participate in decisions that impact their lives to ensure their rights are promoted and protected” doesn’t account for people with disability who have communication impairment needing a great deal more support with improving their communication, or others understanding their communication, than can usually be accomplished by a short episode of Individual Advocacy. Also, advocacy is not just helping with "decisions" - this again is too narrow. What about advocating to help them navigate life, or at the very least some of the bigger life decisions?

Capricorn Citizen Advocacy Inc. sincerely appreciates the opportunity to submit our response to the National Disability Advocacy Framework, and we do so in good faith, and in the hope that our commentary and suggestions will be given serious consideration.

We would welcome any request for further information or clarification.



Jennifer Smith
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