



9 Chippendall Street, Milton Q 4064

phone 07 3369 2500 *fax* 07 3369 2511

email info@amparo.org.au

web www.amparo.org.au

ABN: 56 876 279 925

SUBMISSION

JULY 2015

Department of Social Services

Review of National Disability Advocacy Framework

Via www.engage.dss.gov.au

Contents

THE ORGANISATION	3
THE NEED FOR INDEPENDENT ADVOCACY	3
SUPPORT FOR INDEPENDENT ADVOCACY	4
THE NDIS AND ADVOCACY	4
DISCUSSION PAPER: Feedback.....	4
FUNDING OF INDEPENDENT ADVOCACY OUTSIDE OF THE NDIS.....	4
RESPONSE TO QUESTIONS 1.....	5
DEFINITION OF INDEPENDENT ADVOCACY	5
GUIDING PRINCIPLES.....	6
AMPARO ADVOCACY BELIEVES:.....	6
OUR MANDATE	6
OUR APPROACH	6
RESPONSE TO QUESTIONS 2.....	7
PRINCIPLES OF INDEPENDENT ADVOCACY	7
MULTICULTURAL ACCESS AND EQUITY POLICY AND INDEPENDENT ADVOCACY	7
RESPONSE TO QUESTIONS 3.....	8
RESPONSE TO QUESTIONS 4.....	9
RESPONSE TO QUESTIONS 5.....	9
RESPONSE TO QUESTIONS 6.....	10
INDEPENDENT ADVOCACY SUPPORT IS A CRUCIAL FORM OF EARLY INTERVENTION	10

THE ORGANISATION

AMPARO Advocacy is a small non-profit community based organisation which is funded by the Department of Communities, Child Safety and Disability Services to provide individual and systemic advocacy on behalf of vulnerable people from a non-English speaking backgrounds (NESB) with disability.

AMPARO Advocacy welcomes this opportunity to contribute to the review of the National Disability Advocacy Framework and the intention of Commonwealth, State and Territory governments to “*make it easier for people with disability to get the advocacy they need...*”.

THE NEED FOR INDEPENDENT ADVOCACY

Many Queenslanders with disability are significantly disadvantaged and marginalized, however those from culturally and linguistically diverse backgrounds (CALD) frequently encounter additional barriers that restrict their access to information, services and supports. Our independent advocacy and support provided in a way that respects and meets the language, cultural and religious needs of the person and is guided by the principles of human rights, social justice and inclusion

AMPARO Advocacy works closely with migrants and refugees with disability and their families who are experiencing social and economic marginalisation, to assist them to negotiate services and systems and to access appropriate information, services and supports. Through our work we are able to address issues of significant disadvantage and individuals and their families are able to access essential mainstream and disability specific supports and programs that they otherwise would not receive to address issues of disadvantage.

Through our work with individuals they are able to understand information, make informed indecisions, communicate their needs and influence the direction of their own lives or those of their family member with disability.

We know there is strong evidence that people from a NESB with disability are particularly underrepresented in accessing disability specific services and experience additional barriers to having their fundamental needs met.

The COAG Reform Council report **Disability 2011-2012: Comparing performance across Australia** showed lower and decreasing economic participation by people with disability and their carers across Australia. The report highlighted that: **“*These inequalities are even more acutely experienced by people with disability who are Indigenous or who were born in non-English speaking countries.*”**

The report also cites rates of service use for people from a NESB are only 11.7%, less than half of that of the national rate of 34.9%.

According to the National Disability Insurance Agency (NDIA) while Australia wide 25% of people with disability are from a non-English speaking background, only about 5% are accessing services for people with disability.

The most recent NDIS Quarterly Report for March 2015 shows that only **4%** of people with disability in receipt of packages are from culturally and linguistically diverse (CALD) backgrounds.

SUPPORT FOR INDEPENDENT ADVOCACY

All sides of Government have recognised the importance of independent advocacy, and funded independent advocacy programs have existed since the 80's with the Federal Government establishing the *National Advocacy Program* in the same year as the Disability Services Act of 1986.

- ❖ The *National Disability Strategy* commits to and promotes the importance of independent advocacy “ensuring that people with disability have their rights promoted, upheld and protected”¹.
- ❖ The *Convention of the Rights of Persons with Disabilities* acknowledges in Article 4 that “advocacy organisations have an important role to play in the implementation of the CRPD”.
- ❖ The *General Principles guiding the NDIS* also articulate a commitment to “support the role of advocacy in representing the interests of people with disability.”

THE NDIS AND ADVOCACY

Whilst the NDIS will go a long way in addressing the inequities of the current disability service system it will not be a perfect system, as no system can be. Inevitably some people will fall through the gaps and many will not be entitled to access the scheme. People with disability can struggle in many areas of life and as a result can require independent advocacy support to access timely and effective medical treatment, quality educational support, responsive lifestyle support, safe affordable housing, appropriate income support and so on.

The **Shut Out Report** supports this in its statement that “people with disabilities and their families, ... face discrimination in all areas including education, employment, health care and housing.”

DISCUSSION PAPER: Feedback

It is timely to review the National Disability Advocacy Framework and AMPARO Advocacy welcomes this opportunity to provide feedback on the discussion paper provided by the Department of Social Services.

FUNDING OF INDEPENDENT ADVOCACY OUTSIDE OF THE NDIS

In regards to the funding of independent advocacy, reference is made to the Productivity Commission Inquiry Report into Disability Care and Support which recommended advocacy be funded and provided outside the NDIS.

Whilst this is correct, the Productivity Commission referred to both individual and systemic advocacy being “sufficiently funded.....” and “...to ensure its independence (from the NDIA) and

¹ Commonwealth Government, (2012) *The National Disability Strategy 2010-2020, Report to the Council of Australian Governments 2012 The National Disability Strategy 2010-2020.*

effective provision advocacy should be funded by FaHCSIA and from state and territory governments.”²

However the discussion papers suggests that only systemic advocacy will be funded outside of the NDIA, which is contrary to the recommendations of the Productivity Commission.

The agreement by the Council of Australian Government Disability Reform Council to fund decision and safeguard supports and capacity-building for participants is welcomed by AMPARO Advocacy. Whilst these functions are key aspects of independent individual advocacy, the suggestion that these functions and individual advocacy be funded under the NDIS is disappointing and not as recommended by the Productivity Commission with “no involvement by the National Disability Insurance Agency in this funding role.”³

RESPONSE TO QUESTIONS 1.

Question 1. Do you believe the current Framework encompasses your vision of advocacy in the NDIS environment? If not, what changes are required?

What is disability advocacy, as explained in the Discussion paper, is a very limited and inaccurate definition of advocacy.

DEFINITION OF INDEPENDENT ADVOCACY

AMPARO Advocacy uses the following definition of social advocacy to describe our individual and systemic advocacy work:

Advocacy is speaking out, acting or writing with minimal conflict of interest, on behalf of the sincerely perceived interests of a disadvantaged person or group to promote, protect and defend their welfare and justice (Adopted by Combined Advocacy Groups of Qld Charter, 2002).

We do this by:

- Taking positive, ethical action
- Being on the side of the person with disability
- Understanding the life experiences and vulnerability of the person
- Remaining loyal and accountable over time
- Being independent with minimised conflicts of interest
- Focusing on the fundamental needs, welfare and best interests of the person
- Doing advocacy with vigour and a sense of urgency.

² Australian Government, (2011). Disability Care and Support, Productivity Commission Inquiry Report Vol.1.

³ Australian Government, (2011). Disability Care and Support, Productivity Commission Inquiry Report Vol.1.

GUIDING PRINCIPLES

AMPARO Advocacy independent advocacy is guided by the principles of:

- ❖ Human Rights
- ❖ Social Justice and
- ❖ Inclusive living.

AMPARO ADVOCACY BELIEVES:

People from a non-English speaking background with disability have a rightful place in community where they:

- are respected and valued;
- can experience valued relationships with friends and family;
- have access to interpreters and information in their preferred language;
- have supports and services provided in a culturally sensitive and responsive way;
- have their gifts and strengths recognised;
- have natural authority to influence the direction of their own lives, or where they have limited capacity, that their family if possible retains this authority;
- are welcomed and have opportunities to live an ordinary life;
- are participating and contributing members in the social, economic and political life of broader Australian society.

OUR MANDATE

AMPARO Advocacy takes our mandate from important declarations, laws and principles which promote the rights of all people, as well as expectations for the lives of people from a non-English speaking background with disability, most importantly the Convention on the Rights of Persons with Disabilities, 2006.

OUR APPROACH

Our approach is one of developing respectful professional relationships with all stakeholders and working towards positive outcomes for individuals with disability and their families. AMPARO believes that independent advocacy support is most effective when the advocacy adds value to situations, challenges situations but responsibly so; celebrates resolution and not conflict, with its primary obligation being to protect the well-being and interest of people with disability who are vulnerable.

AMPARO Advocacy endorses the current National Advocacy Framework which defines advocacy services and would strongly support the continued use of this Framework to guide the provision of advocacy across Australia.

RESPONSE TO QUESTIONS 2.

Are the principles of the Framework appropriate for guiding the delivery of advocacy for people with disability in a changing?

PRINCIPLES OF INDEPENDENT ADVOCACY

It is important that principles that are to guide the delivery of independent advocacy are broad enough to apply to all funded advocacy undertaken on behalf of people with disability and should reflect the General Principles of the United Nations Convention on the Rights of Persons with Disabilities and aim to promote, protect and defend the rights contained in the Convention.

▪ **Convention on the Rights of Persons with Disabilities. Article 3 - General Principles**

- a. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of person
- b. Non-discrimination
- c. Full and effective participation and inclusion in society
- d. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
- e. Equality of opportunity;
- f. Accessibility
- g. Equality between men and women
- h. Respect for the evolving capacity of children with disabilities and respect for the right of children with disabilities to preserve their identities.

MULTICULTURAL ACCESS AND EQUITY POLICY AND INDEPENDENT ADVOCACY

It is important that the new Advocacy Framework incorporates a commitment to the **Australian Government's Multicultural Access and Equity Policy** to ensure advocacy if available and effective in meeting the needs and protecting the rights and interests of people with disability from non-English speaking backgrounds.

➤ **Add the following to the current framework principles:**

- Disability advocacy is accessible to culturally and linguistically diverse Australians, responsive to their needs and delivers equitable outcomes for them.

Generally the principles in the current framework are appropriate to guiding the delivery of advocacy in the context of the NDIS. However Principle (c) is a descriptions of a type of advocacy rather than a guiding principle:

(c) Disability advocacy seeks to influence positive systemic changes in legislation, policy and service practice and works toward promoting inclusive communities and awareness of disability issues.

This statement is a description of Systemic Advocacy rather than a guiding principle and should be removed.

➤ **Add principles of ‘independence’ and ‘minimise conflict of interests’ to new framework**

Advocacy needs to be apolitical, independent and distinct from service provision with the aim to minimise and prevent potential or real conflicts of interests that can compromise the advocacy efforts and weaken or limit the outcomes for people with disability.

The following could be added:

- Disability Advocacy is **independent** from service provision and must minimise conflict of interest so the interests of the individual with disability remain paramount.

➤ **Add principle of ‘best interest’ to new framework**

The principle of best interests is an important principle that is missing from the current framework that should be included as it guides the advocacy efforts and primary responsibility to the person with disability. People with impaired capacity even with significant decision making support, may not always be able to make decisions about what that need and they may not always have family who can do this on their behalf. Acting in the long term best interests of a person with disability who is not able to make decisions themselves if often necessary. This is particularly relevant when advocacy efforts are focused on the most vulnerable and marginalised people with disability.

RESPONSE TO QUESTIONS 3.

**Are the outcomes of the Framework still relevant or should difference ones be included?
If so what should be included?**

AMPARO Advocacy is satisfied that the outcomes listed in the current framework continue to be relevant to the outcomes of effective independent advocacy with and on behalf of people with disability. Whilst these outcomes will continue to be relevant for people with disability accessing the NDIS and for those who may not be eligible to do so the following outcomes are important and necessary.

➤ **An important outcome to add to the Framework would be that:**

- *People with disability receive any necessary support and access to information, to enable them to as much as possible participate in decisions that affect their lives.⁴*
- Independent advocacy delivers equitable outcomes for people with disability who are indigenous Australians or from culturally and linguistically diverse backgrounds.

⁴ Queensland Government (2005). *Strategic Framework: Advocacy for People with a Disability in Queensland Project*. Draft Document.

RESPONSE TO QUESTIONS 4.

Are the Outputs of the Framework still relevant or should different outputs be included?

AMPARO Advocacy believes that the outputs in the current framework are still appropriate and should be included in the new Framework.

- However to strengthen the contribution the Framework can make to address the underrepresentation of people with disability from indigenous and CALD backgrounds accessing disability specific advocacy the following should be added:
 - The numbers of people with disability receiving individual advocacy is reflective of the diversity of the communities that agencies are operating within.
 - Data collected by advocacy agencies meets the obligations contained in the Convention of Persons with Disabilities (CRPD) and can be “disaggregated as appropriate to identify and address barriers faced by person with disabilities in exercising their rights.”

The collection of this information is important so governments can develop policies to ensure the effective implementation of the CRPD.

The following data, which has not been previously been collected, should be included:

- the main language spoken at home,
- proficiency of spoken English for individual and key family members,
- preferred spoken language,
- country of origin and
- country of birth⁵

RESPONSE TO QUESTIONS 5.

Does the Framework identify what is needed in the current and future disability environment? If not, what changes are required?

The proposed Quality and Safeguarding framework for the NDIS articulated a strong commitment to the United Nations CRPD and the need for informal and formal advocacy to safeguard these rights for people with disability living in Australia.

Whilst efforts to build the capacity of NDIS participants for self-advocacy are important, many vulnerable people with disability whose rights are not being met and who are experiencing unfair treatment, abuse and discrimination will need access to other forms of independent advocacy to work with them to address serious issues of disadvantage.

People with disability and their families from CALD communities are particularly disadvantaged in understanding their rights and knowing how to make a complaint. Language and cultural differences can make it more difficult to understand information and to negotiate and access complex systems of support.

Access to independent advocacy support is an important safeguard for all people with disability whether they are eligible to access the NDIS or not.

⁵ AMPARO Advocacy, *LANGUAGE AND CULTURE MATTER: REMOVE THE BARRIERS NOW. Addressing the needs of people from a non-English speaking background with a disability, (2007).*

RESPONSE TO QUESTIONS 6.

Do you have any other comments, thoughts or ideas about the Framework?

Sometimes it is important to state what independent advocacy is not.

Independent social advocacy is **NOT**:

- **Case management:** Case management is about coordinating the broad provision of services. While case managers can and sometimes do challenge service systems, potential or real conflicts of interests tend to limit this important work.
- **Mediation:** The advocate's role is not that of a mediator, they are not impartial, but clearly on the side of the person with a disability and safeguarding their rights and interests.
- **Service provision:** Individual advocacy whilst working directly with individuals is different from service provision. AMPARO Advocacy does not provide or coordinate services, our role is to influence those whose business it is to provide appropriate, timely and appropriate information, supports and services as necessary.

INDEPENDENT ADVOCACY SUPPORT IS A CRUCIAL FORM OF EARLY INTERVENTION

Independent advocacy support is crucial form of early intervention that undertakes activities included in the Information, Linking and Capacity Building of the NDIS by:

- Providing accessible **information** to individuals with disability and their families so they can understand information and make informed choices and decisions that set the direction for how they live their lives.
- Acting as a bridge **linking** vulnerable people with disability and their families to important mainstream, multicultural and disability specific information, services and supports. Including access to **early intervention** to prevent an escalation of the person's issues and an increase in their vulnerability.
- **Building the capacity** of people and service systems within community and government to respond effectively to the language and cultural needs of people with disability and their families through education and information.

AMPARO Advocacy's assistance enables individuals with disability to have a good life with access to opportunities and supports that enable them to participate, engage and contribute as full citizens to family and community life. Our involvement enables people with disability and their families to access **mainstream, multicultural and disability specific services** in relation to employment, disability support, English language classes, appropriate medical treatment, inclusive education, safe affordable housing, and income support.