



# ***Review of the National Disability Advocacy Framework***

COMMONWEALTH OMBUDSMAN

24 July 2015

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The office of the Commonwealth Ombudsman welcomes the opportunity to respond to the *Review of the National Disability Advocacy Framework* (the NDAF) discussion paper.

## THE COMMONWEALTH OMBUDSMAN'S ROLE

The Commonwealth Ombudsman has broad jurisdiction to investigate the administrative actions and decisions of most Australian Government agencies, including the actions and decisions of private providers contracted to deliver services on behalf of those agencies. Some of the most common types of complaints to the Commonwealth Ombudsman are about:

- the delivery of payments and services under social security and family assistance law (the Department of Human Services' Centrelink programme)
- the assessment and collection of child maintenance liabilities (the Department of Human Services' Child Support programme)
- the administration of Medicare payments (the Department of Human Services)
- services delivered by Australia Post
- people's experience of job services programs (oversighted by the Department of Employment ("Jobactive" or mainstream job services), the Department of Social Services (disability employment services), and the Department of Prime Minister and Cabinet ("Community Development Programme" or indigenous employment services).

Additionally, the Commonwealth Ombudsman has jurisdiction to investigate the administrative decisions and actions of the National Disability Insurance Agency (NDIA).

Most people with disability are likely to engage with some or all of these agencies and programmes in their life. For many people, including some people with disability, interacting with these agencies and programmes can be complex, confusing, or intimidating. This confusion and complexity is likely to be even more present where the person receiving the service believes it is inadequate, or considers a decision is incorrect or unfair.

Some people with disability will seek resolution of difficulties or errors that arise in these interactions by contacting the department or making a complaint to this office. However, many others will not feel equipped to do so in the absence of assistance or support from another person or organisation

## THE IMPORTANCE OF ADVOCACY

As outlined in this office's submission to the *Proposal for a National Disability Insurance Scheme Quality and Safeguarding Framework*,<sup>1</sup> we consider that any safeguarding system in the disability environment cannot operate optimally in the absence of a robust and dynamic advocacy system.

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<sup>1</sup> <https://engage.dss.gov.au/ndis-qsf-submissions/1432615332/>

Even where government agencies and complaints bodies make every effort to be visible and approachable, there will likely remain instances where people are unwilling or unable to make a complaint in the absence of a trusted source of support. This is a reality in many of the areas of our work where the most vulnerable people impacted by government administration are also the least likely to complain. We find that the issues in these areas often only become apparent through the hard work of advocacy organisations, who either make complaints on behalf of individuals or bring broader systemic issues to us for analysis.

More generally, people with disability benefit from advocacy in a number of areas of their life, including in navigating their interactions with services and supports, such as education, health, housing, finance and telecommunications, that may be delivered by different state, commonwealth and commercial institutions.

## **ADVOCACY AND THE NDIS**

Many peak disability bodies have suggested that broader ‘whole-of-life’ advocacy should be the government’s focus, as it looks to revise the NDAF and that National Disability Advocacy Plan (NDAP). This office agrees it would be preferable to ensure that people with disability have access to advocacy as and when they need it, to assist in whichever aspects of their life they require.

We also welcome the government’s review of the NDAF and the NDAP, as the National Disability Insurance Scheme (NDIS) moves toward national rollout. We consider that people with disability are likely to need particular support in engaging with the NDIS. This is especially the case given it is a new scheme trialled in limited sites and the fact that – in order to gain the most benefit – people with disability are encouraged to think more about how the disability supports they wish to receive relate to their goals, rather than simply what they ‘need’.

The challenges posed by this shift in thinking are demonstrated by recent feedback to our office from people with disability, their families and advocates to the effect that participants who are assisted by an informed advocate in the planning process often receive more comprehensive plans. Early indications are that this may be explained by the fact that advocates often better understand the broad range of supports that are available (particularly regarding capacity building activities, like development of interpersonal and financial management skills). Advocates are more readily able to articulate how those supports tie into the participant’s goals and will be more comfortable seeking an internal review in the event that the initial plan is unsatisfactory.

It is pleasing to note that many participants are receiving detailed and well-funded individual packages of supports. On the other hand, it is concerning that others entering the Scheme without the benefit of advocacy may not receive the most beneficial plan. This may be simply because they do not fully appreciate the range of choices that are available to them including the opportunity to think about goals (rather than only needs), or feel unable to clearly articulate the types and amounts of supports they should be entitled to access.

There are a number of avenues through which Government is seeking to inform current and prospective NDIS participants about their options for support. However, we suggest that advocacy must form a central and significant part of that information and support framework. We also consider that a strong advocacy programme, which

amongst other things, assists people with complaints and provides feedback on systemic issues, should form part of the quality and safeguarding framework for the national roll out of the NDIS.

## **REVISING THE NDAF AND THE NDAP**

We are aware that systemic advocacy and legal review and representation is currently available via the NDAP, including to appeal decisions made by the NDIA. However, we consider that, going forward, particular consideration should be given in the NDAF and the NDAP to ensuring that advocacy arrangements are fostered and funded, from the earliest possible opportunity in people's engagement with the NDIS and continued right through the internal review, external review and complaints mechanisms.

We suggest that an effective whole-of-life' disability advocacy framework should foster the delivery, and funding of advocacy in all of its forms:

- self-advocacy
- individual advocacy; whether delivered by family or friends, or by an advocacy organisation
- systemic advocacy.

Finally, we suggest that the focus of the NDAF and NDAP should be on ensuring that advocacy is readily available at the times people with disability require it, and from the people or organisations they feel most confident receiving it from.