



Physical Disability Council of NSW
Ordinary People Ordinary Lives

**Submission for Australian Government,
Department of Social Services**

**Review of National Disability
Advocacy Framework
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Who is the Physical Disability Council of NSW?

The Physical Disability Council of NSW (PDCN) is the peak body representing people with physical disabilities across New South Wales. This includes people with a range of physical disability issues, from young children and their representatives to aged people, who are from a wide range of socio-economic circumstances and live in metropolitan, rural and regional areas of NSW

The objectives of PDCN are:

- To educate, inform and assist people with physical disabilities in NSW about the range of services, structure and programs available that enable their full participation, equality of opportunity and equality of citizenship
- To develop the capacity of people with physical disability in NSW to identify their own goals, and the confidence to develop a pathway to achieving their goals (ie: self-advocate).
- To educate and inform stakeholders (ie: about the needs of people with a physical disability) so they are able to achieve and maintain full participation, equality of opportunity and equality of citizenship.

Overview

The Physical Disability Council of NSW appreciates the opportunity to consider, and make comment to the Australian Government's discussion paper on *the Review of the National Disability Advocacy Framework (the Framework.)*

PDCN believe the Framework itself is sound, and identifies most features of disability advocacy, however would seek to comment on the need to clarify and protect all forms of advocacy at both State and Commonwealth levels, and address where the different types of advocacy will be funded, especially those that fall outside of the NDIS scheme.

Introduction

The Productivity Commission Inquiry Report into Disability Care and Support (2011) identifies that both individual and systemic advocacy should continue to play an important role in the disability sector under the NDIS, and should be sufficiently funded to do so. In order to ensure its independence (from the NDIA) and effective provision, PDCN believes that advocacy should be funded by the Commonwealth Department of Family, Housing, Community Services and Indigenous Australians (FaHCSIA) and also by state and territory governments. ¹

Additionally it was recommended that systemic advocacy, legal review and representation be funded and provided outside of the National Disability Insurance Scheme (NDIS) as this provides a mechanism where people with disability can speak and be heard impartially, free from government departments and service providers whom may have a vested interest. The importance of this consideration is highlighted by the Victorian Ombudsman, who states that:

¹ Australian Government- Productivity Commission (2011) Disability Support and Care

*Advocacy services, and the funding of advocacy, should be independent of all agencies involved in funding, regulating, or providing services to ensure they can be truly fearless when standing up for the vulnerable.*²

PDCN considers it unreasonable that funding for the investigation and implementation of an issue identified systemically be funded directly from an individual's 'funded package' by the individual person seeking assistance, as the outcome will not only benefit the person seeking assistance, but will potentially benefit the community as a whole. It would also be impossible to know when/if a person requires advocacy and to therefore include for this in a individual's yearly funded package arrangements, unless this was addressed as a set cost on a yearly basis.

Recommendation 1

That systemic advocacy is funded outside of the NDIS, at both Commonwealth and State levels, ensuring an independent, impartial mechanism free from any conflict of interest.

Advocacy within the NDIS

The Physical Disability Council of NSW (PDCN) understands that the Disability Reform Council has recommended that the NDIS fund the following individual advocacy supports: decision supports, safeguard supports, and capacity building for participants, including supports to approach and interact with disability supports and access mainstream services.

With the implementation of the NDIS and the introduction of the NSW Disability Inclusion Act 2014 there will be substantial changes in funding and the provision of both individual and systemic advocacy supports. These changes in funding arrangements will impact on how advocacy supports are to be provided and governed. Along with these changes the NSW Government has committed to handing over 100% of the funds it currently spends on disability supports by 2018 to the Commonwealth National Disability Insurance Agency (NDIA). The NSW Government currently spends \$10 million p.a. on advocacy. To ensure the success of the NDIS and National Disability Strategy, it is critical that at a minimum, the Commonwealth adds that amount to the existing allocation for NSW advocacy services when funding is transferred.

Recommendation 2

That the Australian Government ensure a minimum of \$10 million p.a. (in addition to the existing allocation for NSW advocacy services) after NSW funding is transferred to the Commonwealth, back into NSW advocacy supports.

² Victorian Ombudsman, (2015) "Reporting and investigation of allegations of abuse in the disability sector: Phase 1 - the effectiveness of statutory oversight", at [523], available at https://ombudsman.vic.gov.au/VO/media/VO/Parliamentary%20Reports/HTML/web_VO-Report_Disability-P1.html#nExecutiveSummary

PDCN is concerned that when the NDIS is implemented the need for independent and systemic advocacy will initially increase. Furthermore it concerns PDCN that people with the following needs may be at added risk:

- People with disability and their carers who may be unfamiliar with the additional responsibilities of individualised funding, particularly in a market economy;
- People with disability and their families who may be appealing decisions based on eligibility to the NDIS where they had thought that they would be eligible for tier 3 NDIS funding but fail to qualify;
- Families who are receiving disability supports for a newly diagnosed child;
- People with disability living in rural communities where disability supports may be more limited or not available at all, preventing the ability to compare service types and to select the appropriate services; and
- People with disabilities from CALD or ATSI backgrounds.

In addition to empowering people with disability through support and information, it will also be vital to make sure there are adequate protections in place. This may be necessary for some time, and will be particularly important in the early stages of the scheme as the market grows and subsequently changes in structure. Independent advocacy can assist people with disabilities to take the necessary actions to deal with issues or concerns in order to get the best out of the new system, or, where they are unable to do so themselves, providing an experienced voice to identify barriers and opportunities for improvement.

Whilst it is recognised that the outcome of systemic advocacy will have overall benefits to the wider community it concerns PDCN that the Framework only considers the needs of 'Tier 3 people with disability' but excludes people with disability not in receipt of NDIS funding.

Advocacy outside of the NDIS

Systemic Advocacy as defined in the glossary of the National Disability Advocacy Framework and throughout the framework document, places emphasis on its importance as a tool for change that benefits people with disability who do not engage in the sphere of service or advocacy provision that the framework is being developed for.

PDCN believe that systemic advocacy is an advocacy tool that ensures a uniform benefit to the broader community and society at large including people with disability who may not engage with formal advocacy or service provision. For example, those who do not qualify for the NDIS and other supports, but have a disability.

Without systemic advocacy, a large proportion of the population would continue to not be heard. Systemic advocacy ensures that they too benefit from any improvements to an evolving and inclusive society. The definitions, principles and objectives of the framework could benefit from an acknowledgement that people

with disability that are outside the NDIS framework are part of the core group that systemic advocacy continues to represent regardless of the changing policy landscape.

This time of transition is a time when systemic advocacy best empowers those whose voices would otherwise not be heard. It can raise awareness, as well as empower those whom are unaware of their right to express their views.

Recommendation 3

That systemic advocacy remains an important part of the Framework, and is addressed at a State level to address the idiosyncratic needs of that jurisdiction.

As part of operational changes to the delivery of systemic advocacy it is fundamental that all levels of government understand the scope of peak systemic advocacy disability organisations such as PDCN. The organisational objects of PDCN illustrate and highlight the importance of social inclusion:

- To educate, inform and assist people with physical disabilities in New South Wales regarding the range of services, structures and programs available that enable their full participation, equality of opportunity and equality of citizenship;
- To develop the capacity of people with physical disabilities in New South Wales to advocate for themselves (ie identify their own goals and the confidence to identify a pathway to achieve their goals);
- To educate and inform all stakeholders about the needs of people with physical disabilities so they are able to achieve and maintain full participation, equality of opportunity and equality of citizenship.

The broad scope of issues and activities conducted by PDCN, all aimed at community inclusion can best be demonstrated in the following programs and initiatives:

Programs aimed at improving best practice of service providers:

- Words Matters Workshops
- Disability and Dementia Workshops
- Disability Inclusion Action Planning Workshops

The preparation of submissions to inform a range of government departments about issues concerning people with disability (June 2014 - July 2015):

- Review of Disability (Access to Premises – Building) Standards 2010
- Information, Linkages and Capacity Building policy Framework
- Adequacy of existing residential care arrangements available for young people with severe physical, mental or intellectual disabilities in Australia
- North West Rail Link (NWRL) - Epping to Chatswood Temporary Transport Plan

- Creative City: Draft Cultural Policy and Action Plan
- Equality, Capacity and Disability in Commonwealth Legislation
- NDIS and Safeguarding Framework
- National Disability Employment Framework Issues paper
- NDIA Assistive Technology Discussion paper

Innovative research and Publications

- Report on the Impact of Ageing on People with Disability – 2014 ³

The Report on the Impact of Ageing on People with Disability - 2014 is a second edition to a report prepared in 2011 and it reinforces current community need. This study highlights gaps in community need and identifies changes in need, including a reduction in the number of respondents with access to a private vehicle, a subsequent increase in need for accessible public transport, provision of community transport, availability of accessible taxis and for the Taxi Transport Subsidy Scheme.

- The Shrinking Cycle – 2013 ⁴ (A number of non - government organisations were involved in the preparation of this document which discusses the results of a survey targeting people with disability who use the Taxi Transport Subsidy Scheme)
- Report on Access to Height Adjustable Examination Tables for People with Disabilities at General Practitioners – 2009 ⁵

Case Study:

As a result of undertaking the Report on Access to Height Adjustable Examination Table at General Practitioners (GP) services, PDCN was able to work in collaboration with the Royal Australian College of General Practitioners (RACGP) to implement into the Nationwide Standards a minimum of one height adjustable table in every RACGP registered GP surgery in Australia. Initially this need to have a height adjustable examination table was seen by the RACGP as desirable but not mandatory, but more recently as a result of requests from advocacy organisations and the Australian Human Rights Commission, it is now considered as mandatory. This provision has made a significant difference to people with disability when visiting their GP, and ensuring good Workplace Health and Safety (WHS) outcomes for the GP's at the same time, a win-win outcome for both sides of the issue.

Specific Issue Consultations

- Private vehicle access, modification, and trip planning by people with disability
- Information on Emergency Egress for the Australian Building Code Board
- Impact of Ageing on the Needs of People with Physical Disability

³ Physical Disability Council of NSW (2014) Report on the Impact of Ageing on People with Disability 2nd Edition

⁴ Council for Social Services of NSW (2013) The Shrinking Cycle
<http://www.ncoss.org.au/resources/130515-The-Shrinking-Circle-Report.pdf>

⁵ Physical Disability Council of NSW (2013) Online Guide – Health - Improved health for all

- Department of Attorney General and Justice study
- Access to Commonwealth Bank facilities

Recommendation 4

That projects conducted by systemic advocacy continue to be considered as a necessary part of the Framework by identifying and investigating issues that reinforce social exclusion.

Comment on the National Disability Advocacy Framework

Principles

Overall PDCN supports the Principles, Outcomes and Outputs identified the draft framework. The framework identifies the principles, outcomes and outcomes to be used to meet the six priority areas of the National Disability Strategy (NDS). The goal of the NDS is to facilitate change in mainstream services and community infrastructure aimed at improving the lives of people with disability, and includes the following priority areas:

- Inclusive and accessible communities
- Rights protection, justice and legislation
- Economic security
- Personal and community support
- Learning and skills
- Health and wellbeing

These focus areas relate to the interaction of people with disability with mainstream services as a whole, not just within the NDIS. The majority of the work undertaken by individual advocates is to assist in navigating mainstream services such as the education, justice, health, housing and other systems, as opposed to specific disability services; and systemic advocacy addresses systemic change to these same systems, suggesting ways in which they can be more responsive, inclusive or accessible to people with disability as a whole.

A significant factor in ensuring this is achieved now and into the future is a distinct lack of funding for advocacy as a whole. This can be seen in the significant numbers of people on waiting lists for individual advocacy assistance, in PDCN and other like organisations having to reduce staffing levels, and areas of advocacy work being decreased, or stopped altogether due to funding cuts.

Recommendation 5

Ensure advocacy is sufficiently funded both at Commonwealth and State levels, to allow for adequate and timely handling of issues, and increase the scope of coverage available to manage all areas of advocacy work.

Principal g) Disability advocacy recognises and respects the diversity of people with disability

Due to the significance and the added impact that may result from diversity, PDCN believes that it is essential for the Framework to consider a related Output or Outcome within the framework, in order for people with disability from diverse backgrounds to be truly recognised.

Recommendation 6

That based on the impact and incidence of diversity that this Principal has a specific related outcome or output written into the Framework.

Comment on National Disability Advocacy Framework Outcomes

Outcome g) People with disability are actively involved in all aspects of the development, delivery and evaluation of disability and broader government policies, programs and services that impact them.

PDCN believes that the Framework needs to include the needs of people with disability in all mainstream ABS surveys and integrated into all mainstream services included in the Productivity Commission Report on Government Services.

Recommendation 7

That the needs of people with a disability be included as part of all statistical data.

Comment on National Disability Advocacy Framework Outputs

Output c) Disability advocacy that is planned and delivered in a coordinated manner and supports communication between disability advocacy support, disability services, mainstream services and governments;

As mentioned previously in this submission, PDCN highlights the need for this to occur at a State level, with State based advocacy organisations playing a useful and important role in identifying State specific issues, and providing solutions through inherent and longstanding knowledge of local jurisdictions, services, supports and links to other organisations.

Recommendation 8

That advocacy is delivered by State based organisations whom are uniquely able to address State specific issues, have local knowledge and links to local services and supports