



## Disability Council NSW

Submission to

Review of the National Disability Advocacy Program

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## Disability Council NSW

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The Disability Council NSW (also known as 'the Council') was established under the *Community Welfare Act 1987* (NSW), and was re-constituted under the *Disability Inclusion Act 2014* (NSW) on 3 December 2014. The *Disability Inclusion Act 2014* provides a rights-based legislation framework for the Council.

The Council's main responsibilities under the *Disability Inclusion Act 2014* are to:

- Monitor the implementation of Government policy;
- Advise the Minister on emerging issues relating to people with disability, and about the content and implementation of the NSW State Disability Inclusion Plan and Disability Inclusion Action Plans;
- Advise public authorities about the content and implementation of Disability Inclusion Action Plans;
- Promote the inclusion of people with disability in the community and promote community awareness of matters concerning the interests of people with disability and their families;
- Consult with similar councils and bodies, and people with disability; and
- Conduct research about matters relating to people with disability.

The Council has 12 members, including a Chairperson and Deputy Chairperson. Each member is appointed for up to four years by the Governor of NSW on the recommendation of the Minister for Disability Services.

Members are selected to be on Council because:

- They live with a disability
- They are an expert on disability
- They want to improve the lives of people with disability.

The Council's members have a variety of disabilities and backgrounds. Members include people from Aboriginal or cultural and linguistically diverse backgrounds (CALD), young people and also people from rural and regional NSW. In addition, the Council includes members who are carers or family members of people with disability.

The Council is funded and resourced by the NSW Government through the NSW Department of Family and Community Services (FACS) and is supported by a secretariat team within FACS.

The Council members meet bi-monthly.

## Executive Summary

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The importance of a strong, independent, professional and adequately resourced advocacy sector cannot be overstated. Representation, independent advocacy and independent information are infinitely valuable to people with disability. The role of advocacy is crucial in ensuring people with disability, particularly people who have in the past been disempowered or marginalised by service systems, can effectively navigate the complex system of National Disability Insurance Scheme (NDIS) supports in order to make informed decisions. However, all people, whether they receive support under the NDIS or not, require effective and independent advocacy so they can enjoy their right to support to make decisions and choices in all aspects of their lives, and the need for systemic advocacy will continue as governments endeavour to overcome structural and ongoing discrimination and disadvantage of people with disability.

The Council has considered the current advocacy landscape and identified changes that may be required to the NDAP to ensure it achieves its objective of upholding the human rights and enabling the full participation of people with disability. In particular, the Council would like to see:

- A less prescriptive approach to funding different models of advocacy, to ensure that advocacy support can be tailored to individual needs
- A vibrant and diverse advocacy sector
- Funding to build the capacity of user-led organisations to provide advocacy supports
- Funding to facilitate co-ordination and collaboration between advocacy organisations to ensure individual advocacy needs are more holistically met
- Representation, independent advocacy and independent information for all people who need it
- Funding for systemic advocacy and opportunities for advocacy organisations to collaborate on systemic issues
- A comprehensive communication and engagement strategy for CALD communities to increase awareness about the availability and benefits of advocacy supports
- Funding for the development of culturally or language specific peer networks for people with disability from CALD communities to build capacity and enhance self advocacy in these communities.
- Funding for Aboriginal and Torres Strait Islander specific advocacy organisations to provide advocacy supports to Aboriginal and Torres Strait Islander people
- A requirement for organisations to adopt an outreach approach to providing advocacy supports so organisations engage with different communities about what supports are available and their benefits.
- Funding to assist advocacy organisations to manage conflicts of interest
- Funding for specialist legal advocacy for people with disability to help them overcome the many barriers they face to accessing justice.

Underscoring the Council's recommendations is the fundamental need for equitable access to advocacy supports, regardless of type of disability, cultural background, where a person lives or whether or not they are receiving supports under the NDIS. The success of the NDIS and improvements to the lives of people with disability will be greatly enhanced by an adequately resourced NDAP that ensures equal access to high quality advocacy supports.

## List of Recommendations

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**Recommendation 1:** The overall approach to funding models of advocacy under the NDAP should be based on upholding the rights of people with disability to actively participate in decisions that impact on their lives and to enjoy access to justice on an equal basis with others.

**Recommendation 2:** The NDAP should fund a diverse range of organisations linked to different disability demographics to offer advocacy support that is tailored to individual needs.

**Recommendation 3:** The NDAP should provide funding to build the capacity of user-led organisations to provide advocacy supports.

**Recommendation 4:** The NDAP should fund and require co-ordination and collaboration between advocacy organisations to ensure individual advocacy needs are more holistically met.

**Recommendation 5:** The NDAP should provide adequate funding to enable a diverse range of organisations to undertake systemic advocacy activities in addition to the funding received for individual advocacy activities.

**Recommendation 6:** The NDAP should fund a comprehensive communication and engagement strategy for CALD communities to increase awareness about the availability and benefits of advocacy supports.

**Recommendation 7:** All people who receive advocacy supports under the NDAP should have free access to the Translating and Interpreting Service (TIS).

**Recommendation 8:** The NDAP should fund the development of culturally or language specific peer networks for people with disability from CALD communities to build capacity and enhance self advocacy in these communities.

**Recommendation 9:** The NDAP should fund Aboriginal and Torres Strait Islander specific advocacy organisations to provide advocacy supports to Aboriginal and Torres Strait Islander people.

**Recommendation 10:** The NDAP should fund capacity building of advocacy organisations to ensure cultural competence and ensure that employees that can provide culturally appropriate advocacy supports.

**Recommendation 11:** The NDAP should require that organisations adopt an outreach approach to providing advocacy supports so organisations engage with different communities about what supports are available and their benefits.

**Recommendation 12:** The NDAP should fund activities that use technological advancements to improve access to advocacy support for people in rural and remote locations.

**Recommendation 13:** Recommendation 13: The NDAP should fund advocacy organisations to provide face-to-face outreach advocacy supports and capacity building for

smaller local based organisations to improve their ability to provide the range of advocacy supports that may be required to meet different individuals' needs and uphold their rights, recognising that the cost of providing support can be higher in rural, regional and remote locations.

**Recommendation 14:** The NDAP should fund the establishment of networks for similar advocacy organisations and roundtables to bring together advocacy organisations and other relevant bodies to discuss systemic issues.

**Recommendation 15:** The NDAP should adequately fund representation, independent advocacy and independent information for people with disability as these will not be funded by the NDIS.

**Recommendation 16:** The NDAP should fund capacity building for organisations to assist them to manage potential conflicts of interest where they are a NDAP provider and NDIS provider, including funding and assistance to update conflict of interest management procedures in line with best practice.

**Recommendation 17:** The NDAP should recognise the contribution of specialist legal advocacy in providing better access to justice for people with disability, and appropriately fund a range of organisations to deliver this. This will not only overcome many of the barriers people with disability face in accessing justice, but also assist in developing more responsive systems through policy advice derived from personal advocacy work.

## Introduction

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The Council welcomes the opportunity to make a submission to the review of the National Disability Advocacy Program (NDAP). The Council strongly supports the objective of the NDAP to ensure that people with disability are provided access to effective disability advocacy that promotes, protects and ensures their full and equal enjoyment of all human rights, enabling full community participation. This encompasses the Council's vision of advocacy in the National Disability Insurance Scheme (NDIS) environment; however, inadequate resourcing remains a key inhibitor preventing the advocacy sector from achieving this objective. Some States and Territories, including NSW are discontinuing funding for all forms of independent advocacy and representation, and this will affect the ability of advocacy organisations to deliver individual and systemic advocacy, will lead to a loss of local advocacy expertise and create inequity in advocacy support between states.

The importance of a strong, independent, professional and adequately resourced advocacy sector cannot be overstated. Representation, independent advocacy and independent information are infinitely valuable to people with disability. The role of advocacy is crucial in ensuring people with disability, particularly people who have in the past been disempowered or marginalised by service systems, can effectively navigate the complex system of NDIS supports in order to make informed decisions. However, the NDIS is only a small, though significant, part of the National Disability Strategy (NDS), which expresses the intent of the Australian Government to implement the *United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)*. The majority of people with disability will not access the NDIS. They, as well as those that do access it, will continue to depend on the day-to-day services supplied by agencies, businesses and community organisations.

The NDS outlines how those services are to be made accessible to ALL people, including those with disability. People will still have to negotiate bureaucratic mazes, they will still have to access their local council buildings, they will still have to go shopping, visit websites, go to hospital, enrol in school – in short, they will still do all the tasks of daily living, irrespective that they now have some control over the personal supports that they receive through the NDIS. All people, whether they receive support under the NDIS or not, require effective and independent advocacy so they can enjoy their right to support to make decisions and choices in all aspects of their lives, and the need for systemic advocacy will continue as governments endeavour to overcome structural and ongoing discrimination and disadvantage of people with disability.

The Council has considered the current advocacy landscape and identified changes that may be required to the NDAP to ensure it achieves its objective of upholding the human rights and enabling the full participation of people with disability. In particular, The NDAP should ensure a range of advocacy supports are available to people who need them when they need them, including legal advocacy that will provide improved access to justice. Advocacy should not be rationed - there should be adequate funding available to enable both avenues for individual advocacy support and avenues for effective systemic advocacy. There should also be appropriate mechanisms in place to secure the independence of all types of advocacy and ensure advocacy organisations avoid conflicts of interest.

Underscoring the Council's recommendations is the fundamental need for equitable access to advocacy supports, regardless of type of disability, cultural background, where a person lives or whether or not they are receiving supports under the NDIS. The success of the NDIS and improvements to the lives of people with disability will be greatly enhanced by an adequately resourced NDAP that ensures equal access to high quality advocacy supports.

## Models of advocacy

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1.1 How do people with disability, their families and carers benefit when agencies are funded to provide only one or two models of support?

1.2 What are the drawbacks?

1.3 How do we value and support the various models of advocacy while ensuring equitable access to individualised, fit-for-purpose advocacy, regardless of location?

### Importance of a rights based approach to provision of advocacy support

The funding of advocacy organisations under the NDAP must overall be based on upholding the right of people with disability to actively participate in decisions that impact on their lives, including decisions that are made by Governments about issues that affect all people with disability.<sup>1</sup> The *United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)*, signed and ratified by Australia, makes it clear that, at a minimum, there must be appropriate supports and measures in place to:

- Ensure people with disability are actively involved in decision-making processes about policies and programmes<sup>2</sup>
- Promote and protect the rights of all people with disability, including those who might require more intensive support<sup>3</sup>
- Provide access to support that may be required to enable people with disability to exercise their legal capacity<sup>4</sup>
- Ensure effective access to justice for people with disability on an equal basis with others<sup>5</sup>
- Ensure people with disability and their representative organisations are actively involved in the development and implementation of legislation and policies<sup>6</sup>
- Ensure people with people with disability have accessible information about forms of assistance, support services, facilities and technologies that are available<sup>7</sup>

If a rights based approach is adopted, the prescriptive advocacy support models become less significant as it is clear all of the models have a role to play in ensuring that the rights of people with disability under the *UNCRPD* are upheld. The NDAP is strengthened by the availability of multiple types of advocacy support as each model of advocacy contributes to important outcomes for people with disability.

**Recommendation 1: The overall approach to funding models of advocacy under the NDAP should be based on upholding the rights of people with disability to actively participate in decisions that impact on their lives and to enjoy access to justice on an equal basis with others.**

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<sup>1</sup> *United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)* (2008) available at <http://www.refworld.org/docid/45f973632.html>) articles 3, 4, 12

<sup>2</sup> *UNCRPD* Preamble

<sup>3</sup> *UNCRPD* Preamble

<sup>4</sup> *UNCRPD* Article 12

<sup>5</sup> *UNCRPD* Article 13

<sup>6</sup> *UNCRPD* Article 4(3)

<sup>7</sup> *UNCRPD* Article 4(1) (h)



### Need to fund a diverse range of organisations, including user-led organisations

The success of the NDAP in upholding the rights of people with disability is linked to the existence of a range of advocacy supports that meet the diverse needs of the diverse community of people with disability. It is crucial, particularly in a NDIS environment, that choice and control extends to choice in who provides advocacy support. People with disability should not be forced to use a particular advocacy organisation or a particular advocacy model because it is all that is available to them.

Many people with disability may choose to refer back to an organisation related to their type of disability or personal background for advocacy support as, to quote Disability Council member Mark Tonga “people like to speak to people who get it.” Information and support that comes from a source that is immersed in the experiences and issues specific to a particular disability demographic is arguably far more valuable than information and support from a generic source. It would benefit many people with disability if advocacy organisations had capacity to tailor advocacy support to individual needs and were not limited by resources and funding to be able to only provide one model of advocacy support. This highlights the importance of funding a diverse range of organisations to offer a range of advocacy supports.

It is also important that the NDAP allocates funding to build the capacity of user-led organisations to provide advocacy supports. This is consistent with the aims of the NDIS and the objective of the NDAP to enable people with disability to enjoy their rights and exercise choice and control over all aspects of their life. In the Council’s experience, one of the key benefits of the self-advocacy model and peer-led advocacy is that it can build strong peer networks and capital between people with disability. The funding of user-led organisations is strongly encouraged as a way to improve access to fit-for-purpose advocacy regardless of location.

**Recommendation 2: The NDAP should fund a diverse range of organisations linked to different disability demographics to offer advocacy support that is tailored to individual needs.**

**Recommendation 3: The NDAP should provide funding to build the capacity of user-led organisations to provide advocacy supports.**

### Need for collaboration and co-ordination between advocacy organisations

To overcome some of the challenges of organisations having limited capacity to provide individualised, fit-for-purpose advocacy support that may draw from a range of advocacy models, it is important to encourage networking and collaboration between advocacy organisations. This is particularly important when people require legal advocacy support as many advocacy organisations may lack specialist knowledge and skill to provide this kind of support.

In a system where advocacy organisations are competing for limited funds, collaboration does not always occur organically. The NDAP should fund co-ordination between different organisations so organisations link with other organisations and ensure individual needs are more holistically met. This may overcome the current fragmentation of advocacy supports and gaps in the types of advocacy supports that are available. Better co-ordination and

collaboration could be achieved by the requirement that organisations report on how they work collaboratively with other organisations to meet individual needs, and by a requirement that a certain amount of the funding must be applied to developing partnerships with other organisations. Collaboration and co-ordination between organisations that provide advocacy supports will help to reduce duplication and fragmentation, and ensure people's advocacy needs are more holistically met.

**Recommendation 4: The NDAP should fund and require co-ordination and collaboration between advocacy organisations to ensure individual advocacy needs are more holistically met.**

#### Need for designated funding for systemic advocacy activities

Systemic advocacy is fundamentally important to ensuring that the diverse voices of people with disability are heard in the development and implementation of policies and programs that affect their lives. In NSW, the critical role of systemic advocacy in informing government policy has been confirmed by the requirement in the *Disability Inclusion Act 2014 (NSW)* that people with disability are consulted in the preparation of the state Disability Inclusion Plan and agency specific Disability Inclusion Action Plans.<sup>8</sup> To date, funding for systemic advocacy has unfortunately been rationed and limited, leading to many organisations undertaking systemic advocacy using whatever funds and time are leftover from providing individual advocacy supports. It is imperative that the NDAP acknowledges the nexus that exists between the cumulative knowledge derived from delivering individual advocacy and systemic advocacy, and provides adequate funding to enable a diverse range of organisations to undertake systemic advocacy in addition to individual advocacy activities. This will ground the advocacy sector in the experience of people dependent on the systems that serve them.

Systemic advocacy provides valuable contributions to policy development and is an effective pathway to feed issues to decision makers. The NDAP must adequately resource organisations to continue systemic advocacy activities, particularly for the benefit of those people who will not be eligible for the NDIS but will continue to experience systemic disadvantage and discrimination because of their disability.

**Recommendation 5: The NDAP should provide adequate funding to enable a diverse range of organisations to undertake systemic advocacy activities in addition to the funding received for individual advocacy activities.**

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<sup>8</sup> *Disability Inclusion Act 2014 (NSW)* s 12

## Improving access to advocacy supports

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### 2.1 How do we improve access for:

- people with disability from Aboriginal and Torres Strait Islander communities and their families?
- people with disability from culturally and linguistically diverse communities and their families?
- people with disability in rural, regional and remote locations?
- people who are very socially isolated including those with communication difficulties and those in institutional care?

### 2.2 *What are the strategies or models that have worked? What are the strategies that do not work?*

All people, regardless of their background, where they live or their disability have the right to equal access to advocacy supports. Certain groups of people with disability, including people with disability from Aboriginal and Torres Strait Islander communities, culturally and linguistically diverse (CALD) communities, rural, regional and remote areas and people and people who are socially isolated may require specialised advocacy supports to meet their needs and ensure their rights are upheld. A one-size-fits-all approach to advocacy will not ensure that all people with disability have their rights upheld and protected. Specialist knowledge, resources and skills are required to engage these groups of people and inform them about the advocacy supports that are available, and to provide these advocacy supports.

#### Improving access for people with disability from CALD Communities

The historic underrepresentation of people with disability from CALD communities in the disability service system, and their low engagement levels with the NDIS to date<sup>9</sup> highlight the importance of improving access to advocacy support for people with disability from CALD communities. Twenty-five per cent of people with disability are from CALD backgrounds, yet only five per cent of the disability service users are from CALD backgrounds.<sup>10</sup> Many people in these communities may not be aware of the advocacy supports that exist, and may be reluctant to obtain advocacy services because of assumptions about cost, or for some people, because making complaints against government agencies is not a cultural norm in their country of origin.

A comprehensive communication and engagement strategy is required for CALD communities to increase awareness about the availability and benefits of advocacy supports. This strategy must disseminate information in community languages, and in easy read formats in community languages. It must adopt measures to educate CALD community

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<sup>9</sup> National Disability Insurance Agency, *8<sup>th</sup> Quarterly Report to COAG Disability Reform Council* (30 June 2015) available at <http://www.ndis.gov.au/sites/default/files/Q4-Report-to-COAG-Disability-Reform%20Council.pdf>

<sup>10</sup> Zhou, Q. (2015). Accessing disability services by people from culturally and linguistically diverse backgrounds in Australia. *Disability and rehabilitation*, 1-9.

leaders, family members and carers of people with disability from CALD communities about the relevant supports available and their rights and entitlements, and must engage ethno-specific community groups to roll out information to CALD communities. It must also disseminate stories about individuals and how advocacy supports have helped them in community languages, which can provide culturally and linguistically appropriate role models for people with disability in CALD communities. Additionally, mainstream and disability services must be used as a vehicle to reach out to CALD communities and should provide translated information about available advocacy supports.

In addition to a comprehensive communication and engagement strategy to increase awareness about advocacy, all people who receive advocacy supports under the NDAP should have free access to the Translating and Interpreting Service (TIS). It is also important to build cultural competency amongst all advocacy organisations to assist them to effectively engage with people from CALD communities in individual and systemic advocacy processes, and this can be done by cultural competency training and the employment and retention of bilingual or multilingual people from different cultural backgrounds.

Another strategy that can improve access to advocacy for people from CALD communities is to fund the development of culturally or language specific peer networks for people with disability from CALD communities. Peer networks build capacity in these communities and are particularly useful for enhancing self-advocacy skills and overcoming barriers of limited experience and understanding of rights and the complex service system. This will be even more important and necessary with the transition to the NDIS.

**Recommendation 6: The NDAP should fund a comprehensive communication and engagement strategy for CALD communities to increase awareness about the availability and benefits of advocacy supports**

**Recommendation 7: All people who receive advocacy supports under the NDAP should have free access to the Translating and Interpreting Service (TIS).**

**Recommendation 8: The NDAP should fund the development of culturally or language specific peer networks for people with disability from CALD communities to build capacity and enhance self advocacy in these communities.**

#### Improving access for people with disability from Aboriginal and Torres Strait Islander communities

For advocacy supports to be meaningful to Aboriginal and Torres Strait Islander people they must be provided by organisations with the skills and expertise to understand and interact with Aboriginal and Torres Strait Islander people and their different concepts and understandings of disability. It is particularly important that organisations understand notions of community, family and kinship and how significant these are to Aboriginal and Torres Strait Islander communities as these can change the way advocacy supports are provided. Funding is necessary to build the capacity of Aboriginal and Torres Strait Islander specific advocacy organisations to provide Aboriginal and Torres Strait Islander led advocacy supports.

In addition to funding to build the capacity of Aboriginal and Torres Strait Islander led advocacy organisations, there is a need for all advocacy services to build cultural competence and train employees on culturally appropriate advocacy support for Aboriginal and Torres Strait Islander communities. There is also a need for organisations to adopt an

outreach approach to the provision of advocacy supports, engaging with Aboriginal and Torres Strait Islander people to educate them about what supports are available and providing them with information relevant to their needs.

**Recommendation 9: The NDAP should fund Aboriginal and Torres Strait Islander specific advocacy organisations to provide advocacy supports to Aboriginal and Torres Strait Islander people.**

**Recommendation 10: The NDAP should fund capacity building of advocacy organisations to ensure cultural competence and ensure that employees that can provide culturally appropriate advocacy supports.**

**Recommendation 11: The NDAP should require that organisations adopt an outreach approach to providing advocacy supports so organisations engage with different communities about what supports are available and their benefits.**

#### Improving access for people with disability in rural, regional and remote locations

People with disability in rural, regional and remote locations are often unable to access a range of quality advocacy supports. The higher cost of providing advocacy supports in these locations should be recognised when determining the appropriate funding for organisations that provide advocacy support in rural, regional and remote locations.

It is important that the NDAP considers funding activities that use technological advancements to improve access to advocacy support for people in rural and remote locations. For example, online chat forums can be used to facilitate conversation between people with disability and individual advocates, or to build peer networks between people with disability in different locations and enhance their self advocacy skills. However, not all people with disability will have access to Wi-Fi or a computer. This presents an argument for continuing to fund face-to-face outreach of advocacy organisations and capacity building for smaller local based organisations to improve their ability to provide the range of advocacy supports that may be required to meet different individuals' needs and uphold their rights.

**Recommendation 12: The NDAP should fund activities that use technological advancements to improve access to advocacy support for people in rural and remote locations**

**Recommendation 13: The NDAP should fund advocacy organisations to provide face-to-face outreach advocacy supports and capacity building for smaller local based organisations to improve their ability to provide the range of advocacy supports that may be required to meet different individuals' needs and uphold their rights, recognising that the cost of providing support can be higher in rural, regional and remote locations.**

## Improving the advocacy evidence base and coordination on systemic issues

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3.1 *What mechanisms could be used to ensure information on systemic issues gets to the right people and organisations?*

3.2 *How can we help disability advocacy organisations work with a wide range of other organisations with similar aims, such as:*

- *disabled people's organisations (DPOs)*
- *the Australian Human Rights Commission*
- *Ombudsman organisations*
- *aged care advocacy organisations*
- *state disability advocacy organisations*
- *peak bodies?*

It is imperative that qualitative and quantitative insights about the impact of different supports, policies and programs on people with disability are used to enhance the effectiveness of these supports, policies and programs and contribute to overall improvements to the lives of people with disability. Systemic advocacy works best when organisations collaborate to make systems work better for people with disability.

One mechanism that has been effective in NSW is the establishment of a network for similar advocacy organisations. Initiated in June 2011, the NSW Disability Network Forum comprises non-government, non-provider peak representative, advocacy and information groups whose primary aim is to promote the interests of people with disability. The aim is to build capacity within and across all organisations and groups so that the interests of people with disability are advanced through policy and systemic advocacy. Each of the member organisations provides different advocacy supports to different groups of people, and thus the NSW Disability Network's Forum's advice and recommendations on systemic issues are informed and enriched by a diverse range of perspectives. This is a good example of how collaboration between organisations with similar aims can lead to more informed advice and recommendations on systemic issues.

Another example of ways different organisations can work together on systemic issues is through roundtables where different organisations come together to discuss systemic issues. These can encourage collaboration between different organisations and if run effectively can produce unparalleled insights into key systemic issues affecting people with disability. Funding should be provided under the NDAP to regularly hold roundtables or similar events to ensure insights on systemic issues can be heard, collated and fed back to the relevant agencies or organisations.

**Recommendation 14: The NDAP should fund the establishment of networks for similar advocacy organisations and roundtables to bring together advocacy organisations and other relevant bodies to discuss systemic issues**

## **The interface with the NDIS and addressing conflict of interest**

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*4.1 What steps or organisational structures should be put in place to ensure conflicts of interest do not arise, or are minimised?*

*4.2 How do we avoid gaps between supports provided by the NDIS and advocacy funded by the NDAP?*

*4.3 What policies and strategies do we need to protect the rights of people with disability?*

### **Need to fund representation, independent advocacy and independent information as these are not funded by the NDIS**

It has been confirmed that representation, independent advocacy, independent information and systemic advocacy sit outside the NDIS,<sup>11</sup> and thus it is imperative that the NDAP provides adequate funding for the supports people need to exercise choice and control that the NDIS will not provide. Planners and Local Area Coordinators are not the same as independent advocates and are in no way substitutes for independent advocacy. Adequate funding at a national level through the NDAP is even more imperative given that states like NSW will hand over 100% of funding for people with disability to the Commonwealth once the NDIS has reached full scheme and will no longer provide funding for representation, independent advocacy and independent information.

Good quality, professional and independent advocacy and access to independent information are important parts of a successful and sustainable NDIS, and are equally important to people who will not have access to the NDIS. Similarly, representative organisations provide a voice to people with disability and identify systemic issues and solutions, as well as advocate for systemic reform to promote, uphold and protect the rights of people with disability. These organisations are a rich resource that build the capacity of and empower people with disability and advocate for protection of their rights at a systemic level.

The cost of funding representation, independent advocacy and independent information are low compared to the savings they deliver to time, resources and effort for people and systems.

**Recommendation 15: The NDAP should adequately fund representation, independent advocacy and independent information for people with disability as these will not be funded by the NDIS**

### **Conflicts of interest**

The Productivity Commission recommended that to avoid conflicts of interest organisations funded to provide advocacy should not also be funded through the NDIS.<sup>12</sup> However, some organisations may be well placed to offer both NDIS planning and plan management support and advocacy support. For example, disability type specific organisations like Spinal

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<sup>11</sup> Council of Australian Governments, *Disability Reform Council Communiqué* (April 2015) available at: <http://www.ncoss.org.au/resources/DNF/eupdates/150429-COAGCommunique.pdf>

<sup>12</sup> Productivity Commission 2011, *Disability Care and Support*, Report no. 54, Canberra

Cord Injury Australia may have the specialist knowledge to help people with Spinal Cord Injuries develop and manage their NDIS plans but that same knowledge may also be useful to provide independent advocacy support to people with spinal cord injuries.

The NDAP should recognise that there is some value for people with disability if NDAP funded organisations are also able to provide NDIS supports, particularly organisations with specialist knowledge. It should fund capacity building for organisations to assist them to manage potential conflicts of interest, including funding and assistance to update conflict of interest management procedures in line with best practice.

**Recommendation 16: The NDAP should fund capacity building for organisations to assist them to manage potential conflicts of interest where they are a NDAP provider and NDIS provider, including funding and assistance to update conflict of interest management procedures in line with best practice.**



## Understanding and improving access to justice

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5.1 What forms of legal review and representation do people with disability need most?

5.2 What barriers prevent people with disability from accessing justice?

5.3 What models of legal advocacy are most effective?

Negative assumptions and attitudes about people with disability, compounded by a lack of readily available support services for people with disability in contact with the criminal justice system and limited understanding and provision of adjustments often means that people with disability face significant barriers to accessing justice. The high cost of legal services, inadequate funding of specialist legal advocacy organisations, inaccessibility of legal information, difficulties in communication with legal practitioners and lack of knowledge of available options for legal assistance or that representation may be necessary are just some of the barriers to accessing justice that people with disability must overcome.

Equal access to justice for people with disability, as indicated by the *UNCRPD*, includes accommodations to facilitate their effective role as direct and indirect participants in all legal proceedings, including at investigative and other preliminary stages, as well as training for those in the administration of justice.<sup>13</sup> It is clear that in order to overcome the barriers that prevent people with disability from accessing justice, general or mainstream legal advocacy supports are insufficient. People with disability need access to legal advocacy that is specific to their needs and the barriers they face to accessing justice. This is also important because legal advocacy is often very effective in contributing to systemic change, both by the impact of successful cases and negotiations on government departments and service providers, and through the policy and law reform work that legal advocacy organisations undertake. It is imperative that this function and contribution to systemic change is not lost, and that people with disability are not forced to compete with other groups for the limited general pool of legal advocacy support that exists.

For legal advocacy to truly be effective, it must be implemented simultaneously with strategies to address the factors which increase the risk of people with disability coming into contact with the criminal justice system, and training for all involved in the criminal justice system to raise awareness about people with disability and their rights and ensure greater understanding and more appropriate responses by everyone involved in this system.

**Recommendation 17: The NDAP should recognise the contribution of specialist legal advocacy in providing better access to justice for people with disability, and appropriately fund a range of organisations to deliver this. This will not only overcome many of the barriers people with disability face in accessing justice, but also assist in developing more responsive systems through policy advice derived from personal advocacy work.**

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<sup>13</sup> *UNCRPD* Article 13

## Reference List

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Council of Australian Governments, *Disability Reform Council Communiqué* (April 2015) available at: <http://www.ncoss.org.au/resources/DNF/eupdates/150429-COAGCommunique.pdf>

*Disability Inclusion Act 2014* (NSW)

National Disability Insurance Agency, *8<sup>th</sup> Quarterly Report to COAG Disability Reform Council* (30 June 2015) available at <http://www.ndis.gov.au/sites/default/files/Q4-Report-to-COAG-Disability-Reform%20Council.pdf>

Productivity Commission 2011, *Disability Care and Support*, Report no. 54, Canberra

*United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)* (2008) available at <http://www.refworld.org/docid/45f973632.html>

Zhou, Q. (2015). Accessing disability services by people from culturally and linguistically diverse backgrounds in Australia. *Disability and rehabilitation*, 1-9