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Mr Robert Cornall AO
Veterans' Advocacy and Support Services Scoping Study
Department of Veterans' Affairs
advocacystudy@dva.gov.au

Dear Mr Cornall,

Please find our submission to the Veterans' Advocacy and Support Services Scoping Study.

As you will see, the thrust of our submission is that the existing network of accredited disability advocacy organisations across Australia would be a useful framework on which to build improved veterans' advocacy and support services.

While our organisation is based in NSW we have consulted widely with key advocacy organisations in all states and territories. We would like to thank Independent Advocacy North Queensland particularly for its assistance in preparing this submission.

ALA have also consulted with the Disability Advocacy Network Australia (DANA), which is the national association for disability advocacy services. Included with this submission is DANA's "Independent Cost Benefit Analysis of Australia's Independent Disability Advocacy Agencies".

This is an open submission and we would be happy answer further questions if required.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark Grierson', with a long horizontal line extending to the right.

Mark Grierson
Chief Executive Officer
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Ready, Willing and Able: Submission to the Veterans’ Advocacy and Support Services Scoping Study

This submission puts forward a case for using the existing expertise and capacity of the National Disability Advocacy Program (NDAP)—which includes NDIS Appeals Advocacy—for providing veterans’ advocacy and support. We feel the national disability advocacy sector model is worth considering as a cost-effective framework to provide quality advocacy support to veterans. We note that already disability advocacy services assist veterans with a disability. From our knowledge of the sector and through recent consultations with advocacy services in each state and territory our view is that the advocacy sector is ready, willing and able to take on this task.

This submission, in the main, focuses on the issues raised in sections 6 and 7 of the discussion paper.

The discussion paper notes the NDAP is a “comparable Australian government advocacy scheme”, which provides advocacy to people with a disability in all states and territories. Some NDAP advocacy services are also funded to provide advocacy support for NDIS appeals at the Administrative Appeals Tribunal. The NDAP, which is operated by the Department of Social Services (DSS), does this by contracting and funding, independent non-profit organisations across the country to provide local advocacy support. The NDAP has been operating since the mid-1980s but over the last 10 years advocacy organisations have moved towards greater professionalisation and independent accreditation against nationally recognised standards (see below).

We suggest that building on existing NDAP/NDIS Appeals Advocacy system for veterans’ advocacy would have a number of advantages:

Existing National Advocacy Scheme

The NDAP/NDIS Appeals scheme is coordinated by DSS who funds 58 organisations to provide independent advocacy across Australia. The Commonwealth has run this scheme since the mid-1980s, monitoring the performance of individual services and ensuring that each service is regularly audited against the National Standards for Disability Services (NSDS). This is done by independent, third-party auditors. NDIS Appeals Advocacy began with the start of the NDIS in 2013. Not all of the 58 organisations would be suitable given the different models of advocacy. However, the advocacy services that provide individual advocacy—which are in the majority—would be the best placed to take on this role of veterans’ advocacy and support.

The NDIS Appeals Advocacy Program more closely matches what is being considered for Veterans’ advocacy as advocates provide support at an early stage to clients (e.g. helping clients to understand the system, supporting them with internal appeals) to see if an issue can be resolved at an earlier stage and to reduce the stress of attending the Administrative Appeals Tribunal (AAT). However, advocates also have the training to support a client through the AAT process and the ability to aid lawyers to understand the specific disability aspects of the case. Attached is a document from Legal Aid Queensland the sets out the relationship between the lawyer and the NDIS Appeals Support Advocates.

DSS facilitates NDIS Appeals advocates meeting face to face at least once per year and NDIS appeals advocates from across Australia have regular teleconferences to share the latest practice and information.

Professional

Australian advocacy services have moved towards a professional approach to providing independent advocacy support. Underlying this is the belief that clients deserve consistent, quality and professional advocacy support. Advocates are paid employees of the services and are recruited with relevant tertiary qualifications (e.g. social work, social sciences, legal studies, disability studies) and experience. While there are no qualifications available that specifically focus on disability advocacy, most of the qualifications mentioned above contain a component of advocacy within its core skills. Advocates have ongoing competency training for core advocacy skills such as negotiation, research, communication, understanding legal processes particularly in administrative law, knowledge of a range of disabilities, including mental illness, as well as cultural competency.

NDIS Appeals Advocates have access to specialised online training webinars produced by DSS and experienced educators in partnership with experienced NDIS Appeals Advocacy services. These webinars and training modules provide specialist knowledge related to NDIS appeals and the Administrative Appeals Tribunal.

Advocates training standards are audited as part of organisations' regular third-party standards verification which is addressed below.

Standards

National advocacy services must meet the National Standards for Disability Service (NSDS). Independent third-party auditors conduct an extensive audit every 18 months. An NSDS overview is shown below and we suggest that the standards would be compatible for a service providing the veterans' advocacy, particularly in relation to encouraging professional standards, good management and governance, as well as service users having clearly defined rights. The management standards would also be a way of regularly verifying that a service has professional indemnity insurance to protect service users if a service provides incorrect advice. Appropriate levels of insurance are also be verified in contractual reports to DSS.

An overview of the National Standards

- 1. Rights: The service promotes individual rights to freedom of expression, self-determination and decision-making and actively prevents abuse, harm, neglect and violence.*
- 2. Participation and Inclusion: The service works with individuals and families, friends and carers to promote opportunities for meaningful participation and active inclusion in society.*
- 3. Individual Outcomes: Services and supports are assessed, planned, delivered and reviewed to build on individual strengths and enable individuals to reach their goals.*
- 4. Feedback and Complaints: Regular feedback is sought and used to inform individual and organisation-wide service reviews and improvement.*
- 5. Service Access: The service manages access, commencement and leaving a service in a transparent, fair, equal and responsive way.*
- 6. Service Management: The service has effective and accountable service management and leadership to maximise outcomes for individuals.*

Should Veterans Affairs wish to suggest further standards relevant to veterans, national advocacy service would assimilate, adapt and comply with these.

Ability to Adapt

National advocacy services, apart from providing advocacy support to individuals, are already able to manage a variety of programs. Apart from occasionally assisting veterans with a disability, some

advocacy services operate community legal centres, tenants' advocacy services, financial counsellors-advocates and older people's advocacy. Many advocacy organisations provide support at mental health tribunals and civil and administrative tribunals. Another example of adaptability is that some advocacy services are contracted by NSW iCare (lifetime care program for people severely injured in a motor accident) as independent advocates and negotiators for people who wish to raise complaints or concerns about the services they receive from the agency. Therefore there is a proven ability to use the underlying skills of advocacy and apply them to different target groups with success.

From our discussion with advocacy groups in each state, we believe that if special training related to veterans' advocacy was available advocacy groups would be happy to participate.

We note that a number of ESOs and veterans voluntarily assist with veterans' advocacy. While we believe that there will be benefits in using professional advocates; national advocacy services would seek networks with ESOs and potentially employ veterans with relevant skills and experience in advocacy roles in much the same manner that disability advocacy services seek to employ people with disability with relevant skills and experience.

Independence

Independence—perceived and actual— is important for advocacy, as it lets clients know that the advocate will be on their side. Advocates provide a range of well-researched options to clients to ensure that clients can make an informed decision about their matter. Having advocacy at arm's length from the government gives clients confidence that the advocate is acting on behalf of the client. The national advocacy services already have this built into their structure and practice.

Early Intervention

Non-legal advocacy assistance and support at an early stage can often stop the matter from escalating and get a better outcome earlier. This is borne out in NDIS Appeals Advocacy when advocates seek to provide assistance at the internal review stage to seek an early solution. That said, some matters will necessarily need to be resolved at a tribunal, and advocates have the skills to support and inform a solicitor who may become hurriedly involved in tribunal representation.

Cost-effective

We believe that the national network of disability advocacy services would be a cost-effective approach for veterans' advocacy for the following reasons:

- There would be initial and ongoing cost savings by not having to 'reinvent the wheel' and using an existing national system to provide localised advocacy support for veterans.
- The NDAP and NDIS Appeals schemes have the existing infrastructure (e.g. professional standards and regular audits, insurances, skills, management, and governance).
- There would be scalability with demand. For instance, veterans' advocacy could be trialled with a smaller number of services and expanded if demand increased or further geographical coverage was required.
- Advocacy organisations have an existing presence in regional, rural and remote areas.
- NDAP and NDIS Appeals advocacy services are all non-profit groups which have significantly lower operating costs than services directly operated by the government.

Working with the NDIS Appeals Support Advocate – CAP funded matters

NDIS Appeal Support Advocates (support advocates) are funded by the Department of Social Services to support to clients through the review process. Legal Aid Commissions are funded to provide legal representation to participants who seek an external review of an NDIA decision through the Administrative Appeals Tribunal where the matter is novel and complex.

Support advocates and lawyers are **not decision makers** (ie they are not legally appointed substitute or supported decision makers, carers, guardians, parents or nominees).

Not all clients will have the support of a support advocate, however, if a client is being supported by a support advocate the lawyer representing the client must work effectively and supportively with the support advocate.

The level of involvement of the support advocates will depend on:

- the instructions of the client,
- the vulnerability of the client,
- the level of ability of the client to manage and participate in the process,
- whether the client has a carer, guardian, parent or nominee and that person's ability to manage and participate in the process,
- the vulnerability of the client's carer, guardian, parent or nominee,
- where the client is located,
- any difficulties in communicating directly with the client.

Whilst the support advocate cannot provide legal advice the support advocate can support a client, in consultation with the lawyer, by:

- explaining and providing information about the NDIS, Pricing Guides, Operational Guidelines etc,
- explaining and providing information about the review process, including what is involved in appealing to the AAT,
- referring to the relevant Legal Aid Commission where legal issues are highlighted and an application has been made to the AAT, for a determination to be made as to whether legal services are warranted.

Upon CAP funding being approved, the support advocate will:

- notify the lawyer of the name and contact details of the support advocate who will be primarily responsible for supporting the client,
- in consultation with the lawyer, obtain the client's full instructions,
- brief the lawyer about the impact of the client's disability, social issues impacting the client and matters relating to the client's vulnerability,
- in any correspondence from the support advocate to the lawyer include the client or carer/guardian/parent/nominee,
- provide the lawyer with details of the dates (past and future) of all case conferences, conciliations and hearings and any other future critical dates.
- provide to the lawyer all relevant documentation in the support advocate's possession relating to the external review including:
 - all letters confirming decisions of the NDIA,
 - copy of the plan/original decision of the NDIA,
 - all relevant medical and other expert evidence,
 - all relevant invoices and quotes for disability support equipment etc,
 - Internal review application,

- Internal review decision,
- copy of application to the AAT.
- any other material relevant to the external review including but not limited to;
 - all orders, notices, letters and directions issued by the AAT in relation to an appeal,
 - all documents filed in the proceedings by the client and the NDIA,
 - copies of correspondence between the support advocate and the NDIA.
 - any documentation including statements, emails, letters etc which detail the client's instructions to the support advocate.
- Identify and provide contact details for the client's medical and other specialists,
- Identify and provide details of other relevant evidence required for the external review including – costings and quotes for equipment, services, items in the pricing guide etc
- Help manage client expectations in accordance with the lawyer's legal advice.
- Help to prepare documents and witness statements,
- Help to obtain client statements, reports from doctors, therapists and other experts,
- Help to obtain quotes for equipment and services, and
- Attend and provide support throughout the external review process at AAT conferences, conciliations and hearings.

The lawyer representing the client must:

- provide legal advice to the client,
- comply with all professional obligations under codes of ethics, regulations or other relevant industry standards,
- clarify the level of support the client, or the carer, guardian, parent, or nominee seeks from the support advocate and act on the client's instructions,
- always seek and obtain instructions from the client or, as appropriate, the carer/guardian/parent/nominee, and not the support advocate,
- if the client instructs that they no longer wish to be represented by the support advocate, act on those instructions,
- notify the support advocate of the name and contact details of the lawyers who will be primarily responsible for representing the client.
- consult, as appropriate, with the support advocate regarding the NDIS, Pricing Guides, Operational Guidelines etc
- in accordance with the client or the carer/guardian/parent/nominee's instructions:
 - keep the support advocate informed of all relevant conference, conciliation and hearing dates,
 - keep the support advocate informed of the progress of matter and where appropriate include and cc into all correspondence with client or the carer/guardian/parent/nominee,
 - manage the client's expectations,
 - work with the support advocate (as the client's or the carer, guardian, parent or nominee's support person) to:
 - Identify:
 - the relevant facts
 - the relevant legal issues, legislation and cases,
 - identify outcomes sought by the client,
 - prepare documents and statements,
 - obtain client statements, reports from doctors, therapists and other experts,
 - obtain quotes for equipment and services.
- Resolve any conflicts with the support advocate in a timely fashion and in accordance with the client's or carer/guardian/parent/nominee's instructions.

Independent Cost Benefit Analysis of Australia's Independent Disability Advocacy Agencies

*'Every dollar used by Australia's independent disability advocacy agencies delivers \$3.50 in benefits. This is an excellent result.'***

There are just over 24 600 000 people in Australia. Around 4 million Australians, or about one in six, have a disability. All Australians have the right to enjoy the same freedoms, rights, choices and quality of life. Yet people with a disability face numerous and significant barriers to achieving this.

What are some of the difficulties and disadvantages experienced by people with a disability?

- More than 70 per cent of women with disability have been the victim of violent sexual encounters
- 90 per cent of women with an intellectual disability have been subjected to sexual abuse.
- 53 per cent of people with disability of working age are in the labour force, compared with 83 per cent of people without disability.
- People with disability have nearly twice the unemployment rate of those without disability.
- 36 per cent of people with disability of working age have completed high school, compared with 60 per cent of people without disability.
- 35 per cent of people with disability report poor or fair health compared with 5 per cent of people without disability.
- People with disability in Australia are more likely to live in poverty. Their income is approximately 70 per cent of those without disability, the lowest of all 27 countries in the OECD.

What do independent advocates do for people with a disability?

Independent advocacy enables people with a disability to enjoy the same rights as other Australians, to make choices about the decisions that affect their lives, to pursue goals that are important to them and to live independent lives and participate fully in social and community life.

Who needs an independent advocate?

According to the most recent publically available National Disability Advocacy Program (NDAP) Annual Performance Analysis Report (2013–14), when primary, and other significant, disability totals are added together, people with intellectual disability were the most frequent consumers of advocacy support (47 per cent), followed by those with physical disability (38 per cent), and psychiatric disability (38 per cent). Disability discrimination matters account for the highest volume of complaints to the Australian Human Rights Commission.

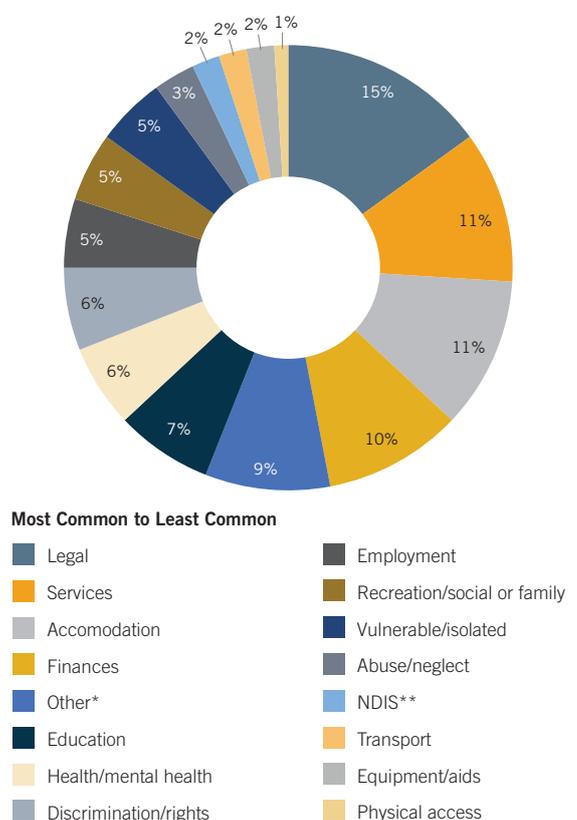
What sort of things do independent advocates deal with?

Independent advocates support people with a disability in a range of ways. They help people with a disability to negotiate appropriate and tailored service delivery in settings such as schools, hospitals,

accommodation services, shops, transport and in their dealings with government departments. They support people who might be caught up in the criminal justice system or in other legal processes such as care and protection, guardianship matters or who are trying to claim their human rights.

Independent advocates also write submissions and lobby government to make changes that promote and protect the rights of people with disability. They campaign for social change by speaking to the media to raise awareness and highlight situations where people with disability are treated unfairly.

The following figure shows the range of matters advocates dealt with in 2013–2014.



* Examples of 'Other' (9 per cent) issues included:

- independent living support;
- individualised funding;
- immigration; and
- family access and supports.

** At the time of the report there were only a few NDIS trial sites operating.

Source: National Disability Advocacy Program (NDAP) Annual Performance Analysis Report 2013–14.

Who funds Australia's independent advocacy services?

Nearly 60 advocacy services throughout Australia are funded through the Commonwealth Government's National Disability Advocacy Program (NDAP). Every state and territory government, except South Australia, also funds disability advocacy services.

But isn't the National Disability Insurance Scheme (NDIS) going to fix all these problems for people with a disability?

Of the 4 million Australians with some form of disability, only around 460 000 of them will be eligible for the NDIS. In other words, for every nine people with a disability, only one will be covered by the NDIS, eight will not.

Advocates provide support to people with a disability, wherever they might be experiencing a problem or a difficulty. The majority of matters that advocates deal with relate to matters outside the scope of the NDIS and while the NDIS is likely to become a greater focus as it is fully implemented, it is still likely to remain a small part of the total workload of advocates.

The Productivity Commission has also said that responsibility for advocacy should lie outside the NDIS. This is because of the potential conflict of interest that would arise were the NDIS to fund advocacy services whose role was to challenge the disability system overseen by the NDIS.

So, what is a Cost Benefit Analysis and why do one of independent advocacy?

Cost Benefit Analysis (CBA) works by placing monetary values on all the costs and benefits associated with a project, making it a useful tool to aid decisions about the allocation of resources. It does this by considering the impact of a project on the community as a whole, rather than just focusing on particular individuals or group. Where benefits are greater than costs then it makes good economic sense to invest in a project.

Government's resources are limited, so when it allocates them to a project those resources cannot be used for any other purpose. It is important to know if resources are being used on economically effective projects that benefit the whole community. Due to the uncertainty around funding for independent advocacy, Disability Advocacy Network Australia decided to commission an independent Cost Benefit Analysis to assess the range of economic costs and benefits associated with the work of independent advocates.

What did the CBA find?

Economists Professor Anne Daly and Greg Barrett took a rigorous approach to identifying and assigning values to the costs and benefits arising from the work of independent advocates. They found investing in independent advocacy leads to a range of benefits including improved educational and employment outcomes and that it frees up resources in the justice system, health and accommodation services and helps to relieve the load on carers and service providers.

How robust are the CBA results?

The CBA draws on a range of economic research and uses very conservative estimates of benefits. The economists also applied a sensitivity analysis to further address the risk that the benefits might have been overstated. This found that even assuming an unrealistically large 50% reduction in benefits there was still a significant positive return on investment and independent advocacy remains well worth supporting on economic grounds.

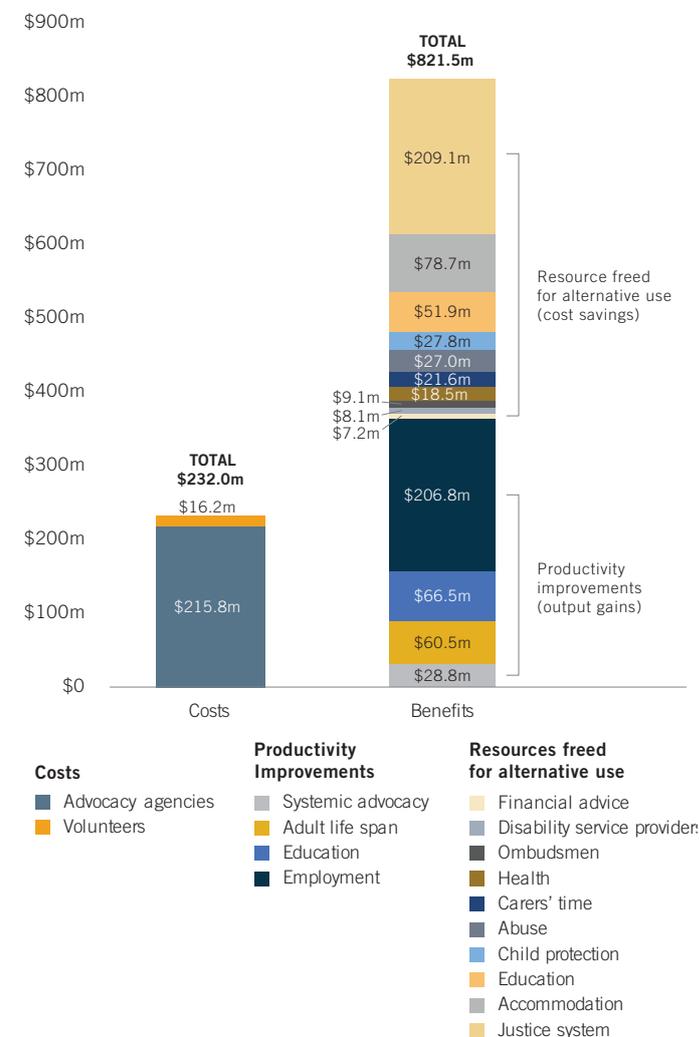
What does the graph show and why are the figures estimated 10 years into the future and discounted by 2%?

The following graph shows the costs and benefits associated with independent advocacy. They are shown as an estimate from 2017 to 2026, valued in 2017 dollars and discounted by 2%. Ten years is a good timeframe when considering costs and benefits because it gives sufficient time to analyse the future impacts of independent

advocacy. Because a dollar in the future usually buys less than a dollar today, the value of future costs and benefits are reduced by 2% per year.

Costs and Benefits

The following graph shows the economic costs and benefits of independent disability advocacy estimated from 2017 to 2026 and discounted by 2%. All individual cost and benefit totals have been rounded and this accounts for the \$0.1million difference between the individual benefit totals and the final total benefit.



Does independent disability advocacy represent good value for Australia?

The CBA found that independent advocacy delivers substantial economic benefits exceeding its costs. The Net Present Value of independent advocacy is \$589,498,000.00 in 2017 dollars.

This means that an estimated benefit of \$3.50 is returned for each dollar of cost.

Comparatively this is a very high ratio of benefits to costs and shows that independent advocacy represents a highly effective use of resources.¹

¹ *In a recent OECD publication "A ratio below 1 is considered poor, a ratio between 1 and 1½ low, a ratio between 1½ and 2 medium and a ratio above 2 high" (Persson & Song 2010:33). For comparison the World Bank (2011:4) estimates benefit cost ratios for Indonesian urban sanitation projects at 1.1 to 2.4, the Productivity Commission (2013:27) estimates the benefit cost ratio of smart electrical meters at 2.7 and the South Australian Centre for Economic Studies (2010:95) estimates a benefit cost ratio of Opal fuel at 3.7.