

Independent Advocacy in the Tropics Inc.
trading as



"To stand with vulnerable people with a disability through vigorous, independent advocacy."

Submission:

**Review of the National Disability
Advocacy Program Discussion Paper**

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Date: **June 2016**

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CERTIFICATION

AS/NZS ISO 9001:2008
QUALITY CERTIFIED
ORGANISATION

Introduction

Independent Advocacy in the Tropics Inc. trading as Independent Advocacy Townsville (IAT) is a community organisation formed in 1989 and incorporated in 1991, to provide advocacy support for people with disability no matter what age or nationality.

We provide a quality service accredited under the Human Services Quality Standards and the National Disability Advocacy Standards for both Individual and Systemic Advocacy.

The Objectives of IAT are to:

- provide solutions through the application of advocacy principles, to enable people with disability to redress unjust circumstances, and to make positive and equitable changes for a quality life;
- provide confidential and high-quality advocacy that strives for people with disability to achieve personal goals without harmful effect;
- analyse critically and respond to community attitudes, practices and service models that create dependency and segregation from the community and that impact negatively on people with disability by undertaking systemic advocacy that pro-actively and assertively seeks to influence positive change to policies and procedures that affects the lives of people with disability.

IAT Advocacy and Funding:

IAT have adopted and based our Advocacy Framework on that of the National Disability Advocacy Program. We deliver this Framework for advocacy that covers individual and systemic advocacy through our common definitions and desired outcomes along with data collection that is evidence based and transparent and accountable in all that we do.

We like a number of other organisations receive funding from various sources. Our funding for advocacy is provided by the following Departments:

- Department of Social Services
 - NDAP
 - Townsville LGA
 - Burdekin / Cassowary Coast / Charters Towers / Flinders / Hinchinbrook ; Palm Island LGAs
- Department of Communities Child Safety and Disability Services
 - Criminal Justice Program
 - Townsville Hospital AMHU/SMHU
 - Local Community
 - Residential Care Services
 - Rural and Remote Extension
 - Systemic Projects
- Queensland Health (Community-Managed Mental Health Program)
 - Townsville Hospital and Health Service Area – Mental Health Patients

As with the variation in our funding, we deliver disability advocacy services across a number of service areas including but not limited to:

- Legal/Justice proceedings (including Correctional Facilities);
- Administrative Appeals Tribunal as well as other national tribunals;
- Queensland Civil and Administrative Tribunal; and
- Mental Health Review Tribunal and Court

LGA Service Areas – Advocacy:

Unlike many organisations, our service area covers regional, remote and very remote locations across North Queensland and covers an area of 126,255.3 km².

- > Burdekin
- > Flinders
- > Townsville
- > Cassowary
- > Hinchinbrook
- > Charters Towers
- > Palm Island

LGA Statistics **

In the IAT Service Region as at 30 June 2014, 20.4% of persons were aged 0 to 14 years, 66.8% were aged 15 to 64 years and 12.8% were aged 65 years and over.

4.4% of Aboriginal and Torres Strait Islander people had a profound or severe disability.

4.5% of non-Indigenous persons had a profound or severe disability.

As at 30 June 2015, the estimated resident population (ERP) for IAT Service Region was 268,714 persons. The annual growth rate between 2014r and 2015p was 0.6% which was half of the State's annual growth rate. The unemployment rate in IAT Service Region in the March 2016 quarter was 8.3 %. ** ([Queensland Government](#))

External Merits Review Support Component

As an NDAP funded organisation, in May 2016 we were appointed by the Department of Social Services to deliver the External Merits Review Support Component. Our funded service area is initially for the following LGAs currently under the NDIA's Townsville Region and covers an area of 113,687 km²:

LGA Areas:

- > Charters Towers
- > Townsville
- > Flinders
- > Palm Island

*Not everyone is born free
Free to grab their rights with both hands
Some need to fight
Fight for basic freedom
Fight for the same rights everyone else takes as assumed
There are those impassioned to support us
They become freedom fighters
They may look ordinary
But they are extraordinary
They never take no for an answer
They are Advocates
(Anon)*

Why review and update the NDAP?

ⁱAs an organisation, we agree with the objectives for and the fundamental vision of a reformed NDAP and agree that there are a number of key issues and areas that need to be addressed by this Review.

A number of key areas of concern are ensuring that only those organisations that hold Advocacy Accreditation are funded. This is to ensure that those with a disability have the fundamental rights and expectations of accessing services by reputable and qualified organisations.

Those with disability are already in a vulnerable state and for them to perhaps be subject to a lesser standard of service that others in the community are able to access is again their basic Human Right. IAT believes all people have the right to:

- Be treated with respect and dignity;
- Be valued as individuals;
- Participate in the decisions and choices that effect their lives;
- Be involved in and contribute to their community;
- Safety and protection from abuse, neglect and exploitation; and
- Live the life they choose.

1. Models of advocacy

Without an accredited model of service delivery, those with disability can and will be open to abuse and exploitation. As stated in this Discussion Paper:

A better situation would be that advocacy support is available in all locations to assist individuals with disability, address their specific issues and needs. The exact manner in which that advocacy is provided will depend on each person's situation. Therefore, one person's need for advocacy may require the involvement of other family members, while another person may need support to self-advocate, and yet another may need a legal advocate. Some cases may involve all three types of advocacy, or more.

We think the focus should be on the human rights of the person with disability and their individual needs and not on what model of advocacy is available in their local area.

IAT is one such organisation that delivers Individual, Systemic, Legal and Self-Advocacy in regional, remote and very remote locations. One of our main aims and objectives is to teach self-advocacy to individuals and assisting in setting up Groups. To enable us to do this and reach people throughout our area is a very geographically and financially challenging exercise but one that is fundamentally important. Advocacy for all people let alone those with disability is usually undertaken during their most vulnerable time and is something that requires a great amount of trust, empathy, rapport and confidence to be built and this can only be done face to face. No one is going to build rapport and trust on the end of a phone or even through Skype type services (if they are even available). Some clients we advocate for do not even have access to regular phone service let alone internet or emails.

Questions/Answers

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?

Tailored specialised support could be delivered. Consumers and associated supports benefit knowing that advocacy is performed and modelled a limited number of ways which allows for consistency of standards and consistency of service delivery.

1.2 What are the drawbacks?

People who live in regional, remote and very remote locations already have limited access to professional services. An agency that limits itself to only one or two services will mean other services need to be sourced. People with disability like continuity in service, why have to go to two or three agencies for advocacy? This is a personalised service based on trust and confidence and at times knowing a lengthy history of service. Shopping around for services for many is too hard, or they are unavailable and ultimately would turn people away from seeking help. Another issue which has been identified, is when there are no formal supports, the support is then being provided by family/friends. This can then affect those relationships where it can be seen the relationship is more a work role than a loving role. It has also been identified that when the family/friend take on the role in a support capacity, there has been incidences of abuse, and the person requiring support tolerate the abuse in order to keep their supports.

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?

Accreditation and set standard/KPI's for different models to be used based on statistical results and service delivery coverage area. Adequate funding is paramount and must be provided that allows for agencies to employ sufficient staff for each model to be delivered, provide funding for training to allow people to be trained and qualified to undertake this sort of work. A number one funding priority is for adequately funded travel (and associated costs) to deliver services in all regional, remote and very remote locations as it is the right of all people in those areas to have access to quality services.

2. Improving access to advocacy supports

As no doubt other advocacy organisations have pointed out, there was a recommendation from the 2006 Evaluation Paper which has not been implemented nor mentioned in this Discussion Paper. This Recommendation if implemented would empower people by knowing that there are agencies that can and will advocate for them, that can teach them to self-advocate and assist them in meeting their full potential and be part of an inclusive community. That recommendation was:

That the Australian Government in collaboration with States and Territories instigate a public awareness campaign targeted at people with disabilities, on all advocacy options available to them to uphold their rights.

Questions/Answers

2.1 How do we improve access for:

- people with disability from Aboriginal and Torres Strait Islander communities and their families? Improve access with indigenous communities by seeking out an identified position that would work with the community to build a relationship of trust. Adequate and relevant cultural training for agency staff.
- people with disability from culturally and linguistically diverse communities and their families? Improved access with CALD communities by linking with CALD agencies that have more exposure in these communities. As with all services, the maintaining of a regular presence and service is paramount. Increasing the awareness of, and the amount of funding to agencies to produce CALD publications.
- people with disability in rural, regional and remote locations? Rural, regional and remote – a presence in the community needs to be maintained – rural and remote/regional communities foster a culture of looking after one another outside of the “big smoke” – maintain a presence in that community and the community will trust the agency in

terms of being reliable, useful, and helpful, of benefit to the community. Word of mouth is the best way to get the message out with small towns.

- people who are very socially isolated including those with communication difficulties and those in institutional care?

Resources and information needs to be relayed using a number of mediums such as:

- Easy Read Versions (English, Indigenous and CALD)
- Audio Files
- Braille
- Text to Speech translation programme
- Social Media
- Print Media

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

Models that have worked: maintaining a presence in the community to establish your agency as being included in that community

Models that have not worked: agencies railroading their way in, promoting the amount of money they have been funded, and offering a service – this does not instil any confidence in a small community. Small communities need to see longitudinal consistency to instil trust – once this is gained by the community then community will utilise the service.

3. Improving the advocacy evidence base and coordination on systemic issues

Too often an agency's needs to report either the same type or similar information to a number of government departments. Having a central collection point with the differing departments able to access **only** the information they require would streamline not only collection but distribution of the data and statistical information.

The collection of client data is also a major cost factor not only in terms of the cost of data collection tools but also in manpower. Some small agencies may not be able to afford suitable IT software to streamline data collection and it then proves to be a very time consuming and the chance of critical data being missed or categorised incorrectly is greatly increased. Government departments change the collection methods and usually do not assist agencies by providing funding to cater for these changes again both in terms of technology and training of staff both in terms of time and training resources.

Questions/Answers

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

Utilising community leaders in a useful capacity e.g., local members of parliament need to be pushing the agenda of the towns they represent, not pushing their political party's agendas. MPs could be the ones going back to an advocacy agency saying they've identified some potential systemic issues that the community want to focus on – the advocacy service can then jump in and assist the community with that project.

Having a national register of systemic projects undertaken and outcomes obtained.

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?

Provide funding for these agencies under a departmental banner – Department of Human Rights – amalgamate service standards, provide sector funding, audit against standards, open opportunities for government organisations to be willing to work alongside NGO’s rather than continuing to cultivate an attitude of departmental jobs being more valuable, better paid, better supported, better funded etc than NGO jobs. Our focus needs to be upholding basic human rights of all people in Australia, injecting tax dollars into things that matter, give us a purpose to join together rather than working adjacent to, or in direct opposition with each other.

4. The interface with the NDIS and addressing conflict of interest

Ideally government needs to fund more advocacy centres (and/or increase funding for current agencies to cover more areas) to not only improve accessibility to the service, but as a means to educate the community in an ongoing capacity. It would be ideal to see advocacy continue to be funded by the government as a method of ensuring that anyone has the right to advocacy, not just those who are vulnerable, but even those who aren’t. Knowledge is power. When enough people in a community are sufficiently educated and aren’t propped up with a sense of power or authority over others they have a great ability to pass on and further educate the community.

The NDIS should not fund advocacy – federal government should continue to take ownership of something that all people have a right to – the right to have your say and correct injustices when other departments have not been able to. Funding advocacy under a department or a specific piece of legislation does not make sense and is a conflict of interest – accessing **independent** advocacy services should be uniform across the board and with every government department there should be some funding made available to fund advocacy services – not just for people with disability. What about those “Socially Disadvantaged” who fall through the cracks; the homeless, some middle income earners (they are not eligible for legal aid but cannot afford lawyers), the aged etc.

If however, the NDIS is funded to provide advocacy it must be through Information, Linkages and Capacity Building (ILC). Advocacy agencies funded under ILC should not also be a registered Service Provider to ensure independence of service, impartiality and transparencies. Even with the best of intentions and organisational structures in place, there is always the opportunity of a perceived conflict of interest.

Again, if advocacy agencies provide this service under the ILC and are also able to register as a Service Provider then it is incumbent upon the federal government to ensure strict policies, guidelines and review mechanisms are put in place to ensure no conflict can arise.

Questions/Answers

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

Agencies need to have stringent organisational structures and governance measures in place to ensure conflict of interest does not arise. A set framework and guidelines these agencies need to follow to be registered under both ILC and Service Provision.

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

Advocacy seeks to ensure that people are treated fairly and without prejudice. Funding all people with a disability to access advocacy is not appropriate, as there are many people who know how to advocate for themselves without needing to access an external organisation. NDAP should continue to fund advocacy as a matter of ensuring natural justice with all people in Australia, not just those labelled as “more vulnerable”. Advocacy is most powerful when it is independent of a government department, as they are able to identify gaps in systems and notify the relevant department and present solutions.

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

NDAP needs to continue reinforcing service delivery standards and ensuring that organisations adhere to them. Advocacy agencies must be accredited. Potential standard/policy relating to timeliness when responding to an advocate to ensure they are able to meet crucial timelines in relation to the client’s matter.

5. Understanding and improving access to justice

We shall open with a comment from a Prison Guard to an advocate on a recent visit: *“There wouldn’t be that many people with a disability in prisons”*.

In relation to the justice system, the **Convention on the Rights of Persons with Disability** states that people with disability:

- are entitled to equal protection and equal benefit of the law
- have the same legal rights and obligations as people without disability
- have an equal right to use the law to protect and pursue their interests
- should enjoy equal and effective access to justice
- must be provided with the adjustments and support they need to enjoy their other human rights if they have had their personal freedom taken away
- should only have their personal freedom taken away if there is a lawful and proper reason to do so and not just because a person has a disability.

This means that people with disability should be protected by the law, be able to use the law and be able to participate in all stages of legal processes and procedures on an equal basis with others in the community.

Questions/Answers

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

Accessible and cost effective ones – not just legal aid, but funding to go to community legal services to ensure that the service has a specialist lawyer covering each type of law – we have found in our region in particular that there is a shortage of civil lawyers and of specialist lawyers particularly in the areas of mental health and body corporate law.

5.2 What barriers prevent people with disability from accessing justice?

The assumption that legal services require payment, when a majority of people with disability receive a pension or may be in a lower paying job. People with disability are also disempowered from when they first realise they are different from everyone else. This is the sort of culture we have walked into from early days where there was no recourse for bullying someone with a disability or being prejudice towards someone with a disability and assuming they will not understand a process and that it will be too time consuming to assess their capacity, take instructions and work with that person. In our experience we have often found that the two most common barriers in obtaining legal support has always been; not knowing that services exist for them and the cost factor – especially for those already in correctional facilities. Limited resources from their local community legal service, failing to identify that they may require legal service up until the last minute, and then not being able to access a service with enough time so often they will dismiss the opportunity to fight for their rights.

5.3 What models of legal advocacy are most effective?

Promoting the fact that legal advocacy for those with disability do exist by promoting advocacy in all areas of the law from legal firms, police stations, courts and throughout the prison system. Those where the Lawyers/Solicitors and the Courts work together with an Advocate and acknowledge that Advocacy plays an important and crucial role in the justice system. Accessible flexible service delivered in all areas, with lawyers who specialise in all areas of law.

6. Other significant issues and ideas

Addressing the significant issues as they relate to our agency and region:

1. NDAP funding needs to remain – where the funding comes from may need to change. All legislation covers the idea that basic human rights need to be upheld so every single department based on a piece of legislation should allocate a specific amount in their budget and apply that to the funding body for advocacy.
2. Funding needs to increase to give those in regional, rural and remote areas to afford adequate advocacy agency support and service in these areas.
3. Advocacy agencies must be accredited

ⁱ The Universal Declaration of Human Rights
Convention on the Rights of Persons with Disabilities
Australian Human Rights Commission Act 1986
Disability Discrimination Act 1992
Disability Services Act 1986

Australian Human Rights Commission: Access to Justice in the Criminal Justice System for People with Disability - Issue Paper: April 2013

Operational Guidelines for the National Disability Advocacy Program

National Disability Advocacy Framework

National Disability Strategy

Review of the National Disability Advocacy Program Discussion Paper – April 2016

Queensland Police Disability Plan 2010-2014