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Thursday 30 June 2022

The Hon Amanda Rishworth MP
Minister for Social Services
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

RE: Physical Disability Australia's (PDA's) Submission to the Draft Disability Advocacy Framework

Dear Minister

Thank you for providing the opportunity to provide a submission regarding the draft National Disability Advocacy Framework (NDAF) as published on the Department of Social Services' Engage website¹. What follows are our answers to the questions suggested in the submission guide.

1. Do you believe the new NDAF encompasses your vision of advocacy? If not, what changes are required?

As an over-arching aspirational document, the draft NDAF covers what I think the governments of Australia should respect and recognise in the broad work of advocacy organisations.

The **Introduction** of the draft NDAF, however, blurs the distinction between disability advocacy and disability services. The main barriers facing people with disability's access to social and economic life in the community is a lack of resources (directed support, assistive technology, money, etc) and these are not things that any advocacy service provides. We therefore recommend the NDAF confine its scope to the things advocacy services typically provide: representation and informal support to assert the equal standing of people with disability in a range of contexts.

The draft NDAF also misses the distinction between individual and systemic advocacy for people with disability. Both the **Rationale** and **Objective** sections focus in an almost exclusive fashion on access to advocacy services by individuals with disability, ignoring the fact that people with disability also need advocacy in a collective sense through the work of their representative organisations to governments, their bureaucracies, and industry.

We also think the second paragraph of the draft NDAF's **Rationale** section is poorly worded. As it stands, it suggests that the primary components of discrimination that people may experience relate to their "gender, age, education, employment, sexuality, geographic location, socio-economic group, ethnicity and cultural background", and that disability is a but a complicating, secondary factor.

¹ <https://engage.dss.gov.au/national-disability-advocacy-framework-2022-2025/>

We think the underlying premise here, that it is mostly intersectional discrimination and disadvantage that makes life hard for people with disability, is insulting to those who experience discrimination and disadvantage solely on the grounds of their disability. A building that does not meet the *Disability (Access to Premises) Standards 2010*, for example, does not pose any barriers to people without disability on the basis of their gender, age, education, employment, sexuality, geographic location, socio-economic group, ethnicity and cultural background.

Moreover, the *Disability Discrimination Act 1992* (and its jurisdictional analogues) are the only human rights instruments that contain 'unjustifiable hardship' *get-off-the-hook* provisions to allow continued disadvantaging and otherwise unlawful discrimination of people on the grounds of disability alone.

It is high time that the Commonwealth and jurisdictional governments of Australia, and their Departments that deal with providing services and opportunity to people with disability, understand that disability leaves those with this attribute vulnerable to discrimination, disadvantage, violence, abuse, neglect and exploitation regardless of any other attribute they may have, and that this deserves an appropriate policy response independent of gender, age, education, employment, sexuality, geographic location, socio-economic group, ethnicity and cultural background considerations... and this needs to be reflected in the NDAF.

2. Are the *Principles* of the NDAF appropriate for guiding the delivery of advocacy for people with disability in a changing disability environment, including in the context of the NDIS? If not, what changes are required?

The Principles of the draft NDAF section covering the **Presumption of Rights and Capacity** makes certain claims about what it means to be a citizen of this nation, but with regard to rights, these are not enshrined in the Australian Constitution nor is there an Australian Bill of Rights that asserts those listed here.

If we put this aside, there is one 'right' that is missing in this section (the very thing the NDAF is supposed to guarantee):

All people with disability (should have) the right to effective individual and collective representational advocacy services.

We recommend this be added to the list, and that the NDAF list the jurisdictional responsibilities to bring this about: That the Commonwealth² commits to sustainably funding the national Disability Representative Organisations they rely on for critical disability policy advice and the States and Territories commit to sustainably funding individual disability advocacy organisations that serve individuals with personal disability-related concerns in a way that meets demand.

The **Access to Supports** section appropriately acknowledges the needs of people with reduced capacity for communication and independent decision-making however, this is not recognised in a commitment to provide additional funding to advocacy services that need to engage interpreters or people skilled in assisting those who need it to make good choices.

² This includes the Department of Social Services, the National Disability Insurance Agency, the NDIS Quality and Safeguards Commission, and any other entity that requests and receives disability policy submissions by representative organisations.

Similarly, it is good to see the **Justice** section recognises that many people with disability (especially those with limited financial resources) are at a disadvantage when it comes to having their 'rights' full recognised by the criminal and civil legal systems. This should, again, be formally recognised by demand-based funding commitments to the advocacy services engaged in supporting people with disability involved in criminal and civil legal matters and the Legal Aid services who are often also involved.

The **Person-Centred Approach** section rightfully proclaims that the actual views and voices of people with disability should be heard and understood in all advocacy situations. However, not all people with disability are capable of expressing them in a way that brings about a recognition of their 'rights'. As such, we think the promotion of self-advocacy needs a 'where appropriate' caveat.

While not explicitly noted in our reflection on the **Rationale** section, PDA understands the need for **Respect for Intersectionality and Diversity**, however, we feel there has been too much emphasis on intersectional advocacy in recent years³ and that the focus of the NDAF should be predominantly focused on supporting disability advocacy programs.

Finally, the **Safeguards** section, as with the earlier *Principles* categories, details some good outcomes. However, the other parts of the draft NDAF do not detail how these are to be achieved. In the end, it all comes down to Commonwealth and jurisdictional governments understanding that advocacy organisations, whether they are focused on systemic or individual representation, require an on-going commitment to sustainable funding that meets the demand there is for services.

3. Are the *Outcomes* of the NDAF clear and achievable? Should different ones be included? If so, what should be included?

As they stand, the **Outcomes** listed in the draft NDAF are good and we don't think anyone in the disability community would say that they should not be achieved. The problem is that they are not formulated in a way that allows for a determination that they are, in fact, achieved. PDA believes a well-formulated outcome statement has a timeframe attached to it, and an implied measurement tool that can quantify the level of success. For example, the draft outcome:

People with disability are able to participate in all aspects of the civil, political, economic, social and cultural life of our communities

Would be more meaningful if it started with "By the NDAF review date..." and ended with "... as indicated in the number of people with disability:

- Working in open employment;
- Elected to local, jurisdictional and Commonwealth governments; and
- Appearing in mainstream media reports of cultural events.

Without specific timeframes and observable benchmarks, there is no way to determine if the NDAFs outcomes have been attained in any concrete sense at all.

³ Nowhere is this more evident than in the previous Commonwealth Government's preferencing of women's, children and young people's, first nations people's, and cultural and linguistically diverse people's (population based) national peak disability organisations over their disability-specific counterparts both in funding and engagement.

4. Are the *Responsibilities, Reform and Policy Directions* of the NDAF relevant or should different ones be included?

This section of the draft NDAF does a good job from the second dot-point down in listing some good reforms in policy development commitments including: commitment to co-design; commitment to equity in funding arrangements (including identifying and addressing service gaps); and improving the coordination of systemic disability advocate usage by a range of government entities.

What is missing is a statement of understanding that disability advocacy has been chronically underfunded for a number of years. To remedy this, the NDAF needs to make the Commonwealth and jurisdictional governments responsible for sustainably funding disability advocacy organisations so that they can meet current and future -projected demands for their services. To leave it up to each funding government “how each advocacy program is developed, funded and managed...” makes any agreement enshrining the NDAF completely meaningless. As it stands, a given government could decide not to develop an advocacy program, defund existing advocacy organisations and hand management over to the other government covering any given location in Australia.

5. Does the *NDAF Identify What is Needed* in the current and future disability environment? If not, what changes are required?

As it stands, the draft NDAF is an overly broad list of aspirations where the Commonwealth and jurisdictional governments agree that:

- a. The disadvantage, discrimination, violence, abuse, neglect, and exploitation people with disability in Australia still face is something that should be remedied;
- b. People with Disability should be empowered to exercise all the benefits Australian citizenship brings to those who possess it; and
- c. Advocacy services are one of the means to help bring this about.

No reference is made to the current state of disability advocacy organisations in Australia, their ability to meet the demands for their services; nor the circumstances in which they find themselves. With regard to advocacy, it make no reference at all to *What is Needed* in the current and future disability environment.

As noted several times above, the draft NDAF makes no reference to the need for demand-meeting sustainable funding of disability advocacy organisations so that they can assist in the attainment of the **Outcomes** listed.

From PDA’s perspective, *What is Needed* is that the parties to the NDAF agree to an informed and independent assessment of the disability landscape of Australia to determine the demand for systemic and individual advocacy services and a mutual commitment to provide what it will take to secure them now and into the future.

6. Do you have any other comments, thoughts or ideas about the NDAF?

The draft NDAF (like the expiring undated document⁴) is a slim document that does not contain much detail regarding what the disability advocacy will look like going forward.

⁴ https://www.dss.gov.au/sites/default/files/documents/11_2014/attachment_a.2_-_national_disability_advocacy_framework.pdf

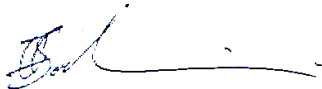
The *Engage* website notes:

The new draft Framework was drafted in consultation with federal, state and territory governments. It aims to ensure all people with disability can access advocacy services and support in a changing environment.

While we approve of this statement's aim, we are disappointed that the draft NDAF was not produced in consultation with advocacy services nor the people with disability who need access to them now and in the future.

The slogan "Nothing About Us Without Us", mentioned in the draft NDAF is used frequently by people with disability to request involvement from the top down in the formulation of policies and programs to address the barriers they face and the needs they have. We hope the approved NDAF incorporates and acknowledges the input of both people with disability and their advocates in the creation of the document even though they are not represented in the Disability Reform Council⁵... yet.

Yours Sincerely,



Andrew Fairbairn
President and Director (WA)
Physical Disability Australia



Simon Burchill
General Manager
Physical Disability Australia

Cc The Hon Bill Shorten MP, Commonwealth Minister for the National Disability Insurance Scheme
The Hon Natasha Maclaren-Jones MLC, NSW Minister for Disability Services
The Hon Colin Brooks MP, VIC Minister for Disability, Ageing and Carers
The Hon Craig Crawford MP, QLD Minister for Seniors and Disability Services
The Hon Don Punch MLA, WA Minister for Disability Services
The Hon Nat Cook MP, SA Minister for Human Services
The Hon Jo Palmer MLC, TAS Minister for Disability Services
Ms Emma Davidson MLA, ACT Minister for Disability
The Hon Ngaree Ah Kit MP, NT Minister for Disabilities

About Us:

Physical Disability Australia (PDA) is a national peak membership-based representative organisation run by people with physical disability for people with physical disability. PDA was founded 25 years ago and we have over 1,000 members from all Australian States and Territories. Our purpose is to:

- Remove barriers through systematic advocacy to all levels of government to enable every Australian living with a physical disability opportunities to realise their full potential;
- Proactively embrace and promote difference and diversity for an inclusive society; and
- Actively promote of the rights, responsibilities, issues and participation of Australians with physical disability.

⁵ <https://www.dss.gov.au/our-responsibilities/disability-and-carers/programs-services/government-international/disability-reform-ministers/disability-reform-ministers-membership>