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## **ADVOCACY PROCEDURES**

### **INTRODUCTION**

The ##### is responsible to ensure the effective management within all service streams of the group of service users being able to self-advocate or, in need, being supported to advocate with a view to removing barriers and practices that discriminate against them so that their rights, interests and wellbeing are achieved, upheld and protected and they have a full and valued life with the freedom to make decisions and choices.

These Procedures should be read in conjunction with all relevant Policies, Procedures and, if appropriate, Guidelines and, in particular, the Advocacy Policy.

### **DEFINITIONS**

The National Disability Advocacy Program (NDAP) defines Advocacy for people with a disability as:

“speaking, acting or writing with minimal conflict of interest on behalf of the interests of a disadvantaged person or group, in order to promote, protect and defend the welfare of, and justice for, either the person or group by:

- Acting in a partisan manner (i.e. being on their side and no one else’s);
- Being primarily concerned with their fundamental needs;
- Remaining loyal and accountable to them in a way which is empathic and vigorous (whilst respecting the rights of others); and
- Ensuring duty of care at all times.”

The NDAP defines six categories of Disability Advocacy:

- Citizen: matches people with disability with volunteers;
- Family: helps parents and family members advocate on behalf of the person with disability for a particular issue;
- Individual: upholds the rights of individual people with disability by working on discrimination, abuse and neglect;
- Legal: upholds the rights and interests of individual people with disability by addressing the legal aspects of discrimination, abuse and neglect;
- Self: supports people with disability to advocate for themselves, or as a group;
- Systemic: seeks to remove barriers and address discrimination to ensure the rights of all people with disability.

### **PROCEDURES**

Individual Advocates require a clear and transparent direction to guide their advocacy support or representation. There are two broad forms of direction:

- Participant Directed – whereby the person with a disability is providing direction and guidance to the advocate, and is thereby authorising their support or representation; or
- Best Interests – whereby the advocate is acting to protect or defend the person’s wellbeing, rights or interests, and is directed and guided by the principles of relevant laws, regulations, standards, charters and conventions.

### **Participant Directed Advocacy Procedures**

(a) The Individual Advocate should attempt to seek independent direction and instruction from the person they support or represent. That is, direction and instruction which is independently informed and independently communicated, as well as free of undue influence, free of compliance and free of conflict of interest.

(b) A person with intellectual disability will often have a level of understanding which is limited, not only by their level of cognitive impairment, but also by their lack of experience with, or information about, the issues being considered. In those circumstances, the Individual Advocate should ensure options and issues are explained or demonstrated to the person in ways which are meaningful.

(c) A person’s capacity to understand information and the consequences of decisions should not be assumed – rather the Individual Advocate should check whether the person is genuinely following the issues being discussed by gently asking the person to explain things in their own words.

(d) The directions given by the person might sometimes be regarded by the Individual Advocate as not being in the best interest of the person. The Individual Advocate should address such concerns openly and honestly with the person, in order to assist them to fully understand the consequences of their decisions.

(e) The Individual Advocate might sometimes be required to exercise discretion and judgement in balancing the person’s right to make decisions which might result in negative outcomes with their responsibility to protect the person’s wellbeing and interests. Only in extreme circumstances, such as the person being placed in harm’s way, should the Individual Advocate breach the fidelity of their commitment to the person.

(f) Many people with intellectual disability who have limited understanding and experience might be overly compliant with, or unduly influenced by, the views and opinions of others. The Individual Advocate should strive to empower the person to self-advocate and effectively assert their rights and live up to their responsibilities, without allowing the advocacy to become another undue or coercive third party influence.

(g) Many people with intellectual disability are often susceptible to undue influence from a range of third party interests with potential conflicts of interest. The Individual Advocate should regard with healthy scepticism any attempts to interpret or represent the person’s views and opinions which are not independently formed and independently communicated.

(h) Where doubt exists concerning the reliability of a person’s communication intent, the Individual Advocate should seek independent and objective verification.

(i) Where a person’s language is other than English, the Individual Advocate should arrange for the support of an interpreter or translator, including Auslan where required, in all meetings or with the drafting of correspondence.

(j) Where interpreter or translation support is being provided by someone already involved with the person, such as a family member or support worker, the Individual Advocate should seek to validate that the purportedly expressed views and decisions of the person truly represent their views and decisions.

(k) Where a person requires assistance or support to communicate their views, opinions, choices and decisions, the Individual Advocate might support, promote or co-operate with the person by the appropriate use of Augmentative or Alternative Communication (AAC) methods.

(l) The Individual Advocate should strive to ensure that the use of any AAC system aims to promote the achievement of independent communication – that is, communication that allows the person to express their views and opinions or to make choices and decisions, free of undue influence.

(m) The Individual Advocate involved with persons using AAC systems should be mindful of the following advice: “... there are many questionable remedies that lack a scientific basis, they are heavily promoted and they frequently have accompanying products available for purchase...” – an extract from ‘Science-based Practice and the SpeechLanguage Pathologist’, International Journal of Speech-Language Pathology, Gregory I. 2011.

(n) The Individual Advocate involved with persons using AAC systems should be familiar with Article 12 of the United Nations Convention on the Rights of Persons with Disabilities (2006) - “Equal recognition before the law: ‘If decisions are made that relate to a person’s capacity to understand, then there must be safeguards against abuse... someone else should only be speaking for you to the extent that it is necessary and for as long as is appropriate. There should be a regular and independent review of the steps taken to make sure that there is no conflict of interest and that the disabled person’s rights and interests are properly respected.’ In addition, the Individual Advocate should be familiar with Article 16 ‘Freedom from exploitation, violence and abuse’; Article 17 ‘Protecting the integrity of the person’ and Article 21 ‘Freedom of Expression and Opinion and Access to Information’.

(o) When selecting an AAC method, a thorough assessment of the Participant should be conducted. This should preferably be conducted by a multidisciplinary team comprising a speech pathologist for language assessment and a psychologist for cognitive assessment.

(p) The Individual Advocate should be aware of the controversial evidence and issues associated with the use of Facilitated Communication (FC).

(q) The use of occasional physical prompting or facilitation may be a legitimate accessing or teaching strategy which might lead to the development of independent communication. However communication which arises from the use of FC without objective validation should not be regarded as having the same degree of reliability as independent communication.

(r) Therefore, the Individual Advocate should not accept, without objective validation, communication produced through the use of FC as an adequate basis for receiving direction or instruction, nor as a reliable basis for supported decision-making.

### **Best Interests Advocacy Procedures Direct**

(s) Where a person is unable to independently provide or verify direction, the Individual Advocate might be required to make direct representations that are deemed to be in the best interests of the person. The Individual Advocate is required to exercise discretion and judgement based on a firm understanding of the rights and safeguards that are provided in the United Nations Convention on

the Rights of Persons with Disabilities (2006), as well as other laws and regulations that might be relevant in particular circumstances.

In giving consideration to making direct representations that are deemed to be in the best interests of the person, the Individual Advocate should give consideration to the following:

- Develop a clear understanding of the person's preferences, needs and interests;
- Consult with others who might be speaking or acting on the person's behalf;
- Identify any threats to, or breaches of, the person's rights and interests;
- Establish if there is a legally appointed guardian or administrator;
- Establish if there is anyone currently providing advocacy support in the person's best interests; and
- Establish a clear plan of advocacy action.

#### **Indirect**

(t) Where a person currently has informal or natural advocacy support from friends, peers or family members which is deemed to be in the best interests of the person, then the Individual Advocate might consider providing additional indirect support to strengthen such advocacy.

#### **BREACHES OF THE POLICY PROCEDURES**

Any breaches of the Advocacy Policy Procedures could constitute a possible act of misconduct. Reference is accordingly made to ##### Discipline and Termination Policy which outlines the relevant processes that may be followed if misconduct is suspected.