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**Disability Rights: Facilitating the empowerment of people with disability** • CHCDIS007 • Trainer’s Manual • 2016

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# Topic 7: Person-centred practice in action

**Approximate duration:** 3 hours 20 minutes

**Topic sequence:**

7.1. Assisting service users to understand their rights (40 minutes)

7.2. Supported decision-making and the role of family, friends and carers (50 minutes)

7.3. Dignity of risk (50 minutes)

7.4. Advocacy and referral (60 minutes)

7.5. Inclusive practices (50 minutes)

**Equipment needed:**

* Audio-visual equipment with internet connection
* Learner Guide (pages 120-147)
* Butchers paper
* Coloured markers
* Computers or smart devices for undertaking individual research

## 7.1. Assisting service users to understand their rights

**Approximate duration:** 40 minutes

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| This icon indicates a trainer’s note | **Trainer’s note:** If teaching this unit as part of an aged care qualification, you might like to refer to the provisions outlined in schedule 1 of the *Aged Care Act 1977* (Cth) *User Rights Principles*,[[1]](#endnote-2) and particularly the *Charter of Care Recipients’ Rights and Responsibilities – Residential Care*.[[2]](#endnote-3) You might also like to consider sourcing some examples of internal complaints or grievance procedures that are used by organisations within the disability sector. |

A person-centred approach to service delivery involves the individual being at the centre of decision-making and having control over the services they receive. This means that they are empowered to be able to recognise when their basic rights are not being respected and upheld.

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| This icon indicates a discussion question | **Discussion scenario:** Alex has just registered to receive an occupational therapy service through your agency. What important information should you pass on to Alex about his rights when using this service? |

**Points to inform discussion:**

* Alex should be provided with information about what to expect from the service.
* He should also be provided with information that tells him where he can go if he is not happy with the service that he receives, and what will happen to any complaint that he makes.
* It is common for people with disability to delay making a complaint, or to refrain from complaining altogether because they fear that this may have negative consequences.
* You should stress to Alex that the organisation appreciates and values complaints as it wants services to be as responsive as possible for all who access them.

As we’ve already learned, the *National Standards for Disability Services* must be upheld by all service providers working with people with disability.

In order to empower service users with disability and help them to understand their rights, it is important that you talk to them about the standards when they first start accessing your service. Service users must also be informed about what they can do if, at any time, they feel that their rights are not being upheld.

All organisations are required to have procedures in place for dealing with grievances and complaints. It is essential that you familiarise yourself with these processes so that you are able to explain them to service users.

Consider the following indicators on feedback and complaints outlined under Standard 4 of the *National Standards for Disability Services*.

|  |  |
| --- | --- |
| **National Standards for Disability Services** | **Indicators of Practice** |
| **Standard 4: Feedback and Complaints** | 4:1 Individuals, families, friends, carers and advocates are actively supported to provide feedback, make a complaint or resolve a dispute without fear of adverse consequences.  4:2 Feedback mechanisms including complaints resolution, and how to access independent support, advice and representation are clearly communicated to individuals, families, friends, carers and advocates.  4:3 Complaints are resolved together with the individual, family, friends, carer or advocate in a proactive and timely manner.  4:4 The service seeks and, in conjunction with individuals, families, friends, carers and advocates, reviews feedback on service provision and supports on a regular basis as part of continuous improvement.  4:5 The service develops a culture of continuous improvement using compliments, feedback and complaints to plan, deliver and review services for individuals and the community.  4:6 The service effectively manages disputes. |

### Activity: Having the conversation

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| --- | --- |
| This icon indicates an activity for individuals | **Activity type:** Individual exercise/partner role play  **Duration:** 30 minutes  **Equipment needed:** Learner Guide (page 123), |

**Purpose:** To encourage learners to think about how to explain the rights that service users are entitled to expect from service delivery, in language that is plain and easy to understand.

**Instructions:**

1. Instruct learners to turn to (page 123) of their Learner Guide, then read out the scenario below.

|  |  |
| --- | --- |
| This icon indicates a suggested section to read out | You are working as an Intake and Assessment Officer with an agency that provides a range of services to people with disability. Padma, a young woman with Cerebral Palsy has just registered to receive services through your agency. You need to tell Padma about her rights so that she knows what to expect from your service, and what she can do if she does not feel that her rights are being respected. |

1. Next, ask learners to consider how they would explain the six *National Standards for Disability Services* to Padma. Remind learners that they can refer back to the overview of the *National Standards for Disability Services*, located on pages 82-84 of their Learner Guide.
2. Inform learners that they have 20 minutes to write some key points down in the space provided.
3. After 20 minutes, ask for two rounds of volunteers to role play this scenario.

The activity question and additional information that appears in the Learner Guide is included below.

|  |  |  |
| --- | --- | --- |
| This icon indicates a discussion question | | **Discussion question:** How would you explain the six *National Standards for Disability Services* to Padma?  **Points to think about:**   * Consider your language and try and keep things as simple as possible. * Think about how you will communicate information about the complaints process. Remember to make sure this is a two-way conversation and that you allow Padma to ask questions about anything that you are saying and contribute to the overall conversation. * Remember that you should also consider how you might provide written information to the service user about their rights. * Information about the *National Standards for Disability Services* is available in 15 community languages, in addition to Easy English. |
| This icon is used to highlight further reading and important information | **Further reading:**  Department of Social Services, [*National Standards for Disability Services – Conversation Tool*](https://www.dss.gov.au/our-responsibilities/disability-and-carers/standards-and-quality-assurance/new-national-standards-for-disability-services/national-standards-for-disability-services-conversation-tool) (26 June 2015).  Department of Social Services, [*Charter of Care Recipients' Rights and Responsibilities - Residential Care*](https://www.dss.gov.au/our-responsibilities/ageing-and-aged-care/for-providers/guidance-for-providers/charter-of-care-recipients-rights-and-responsibilities-residential-care-home-care)(18 September 2015).  Department of Social Services[, *Rights and responsibilities* - *home care*](http://www.myagedcare.gov.au/financial-and-legal/rights-and-responsibilities-home-care) (1 July, 2015). | |

## 7.2. Supported decision-making and the role of family, friends and carers

**Approximate duration:** 50 minutes

|  |  |
| --- | --- |
| This icon indicates a trainer’s note | **Trainer’s note:** In teaching this section, undertake your own research into guardianship laws that are in place in your own state and territory.  Also consider any progress that has been made in implementing the recommendations of the Australian Law Reform Commission’s report *Equality, Capacity and Disability in Commonwealth Laws.*[[3]](#endnote-4) It is recommended that you familiarise yourself with this report as a starting point for teaching this section of the training. Also read through *General Comment Number 1: Article 12, Equal recognition before the law*, adopted by the Committee on the Rights of Persons with Disabilities in 2014.[[4]](#endnote-5) Both of these documents have been included as further reading at the end of this section. |

It should always be assumed that people with disability have the capacity to make their own decisions.

Some state and territory guardianship laws currently allow for decision-making power to be transferred to a guardian who has been legally appointed to make decisions that are in the best interests of the person with disability as a last resort.

A decision of this sort would typically be made where a person with disability is deemed to lack the ability to make decisions that are in his/her/their own best interests.

In most states and territories, a friend or family member can be appointed as a legal guardian, or a public guardian may be appointed by the state where this is not a viable option.[[5]](#endnote-6) When someone is appointed to make decisions on behalf of a person with disability, this is known as ‘substitute decision-making’.

In 2014, the Committee on the Rights of Persons with Disabilities released a general comment on Article 12 of the Disability Convention (Equal recognition before the law), which stated that:

The human rights-based model of disability implies a shift from the substitute decision-making paradigm to one that is based on supported decision-making.[[6]](#endnote-7)

|  |  |
| --- | --- |
| This icon indicates a discussion question | **Discussion question:** How do you think ‘supported decision-making’ might differ from ‘substitute decision-making’? |

**Points to inform discussion:**

* The will and preferences of the person with disability is always at the centre of the supported decision-making process
* Within supported decision-making, the person with disability is recognised as the primary decision-maker, while the support person provides information about the issues at hand and communicates the will and preferences of the individual
* This person-centred approach is what distinguishes supported decision-making from substitute decision-making
* Substitute decision-making gives a guardian the legal authority to make decisions without properly consulting with the individual about their preferences.[[7]](#endnote-8)

In the *Equality, Capacity and Disability in Commonwealth Laws* report, the Australian Law Reform Commission recommended the adoption of a national set of decision-making principles to improve inconsistencies between Commonwealth and state and territory legislation concerning decision-making for people with disability or older people who may require support. [[8]](#endnote-9)

The four principles recommended by the Australian Law Reform Commission are:

***Principle 1: The equal right to make decisions***

All adults have an equal right to make decisions that affect their lives and to have those decisions respected.

***Principle 2: Support***

Persons who require support in decision-making must be provided with access to the support necessary for them to make, communicate and participate in decisions that affect their lives.

***Principle 3: Will, preferences and rights***

The will, preferences and rights of persons who may require decision-making support must direct decisions that affect their lives.

***Principle 4: Safeguards***

Laws and legal frameworks must contain appropriate and effective safeguards in relation to interventions for persons who may require decision-making support, including to prevent abuse and undue influence.

|  |  |
| --- | --- |
| This icon indicates a discussion question | **Discussion question:** What do you think is meant by the term ‘undue influence’? |

**Points to inform discussion:**

* Undue influence is any act of persuasion by one person that overcomes the free will and judgment of another.
* The Committee on the Rights of Persons with Disabilities, has stated that:

All people risk being subject to ‘undue influence’, yet this may be exacerbated for those who rely on the support of others to make decisions. Undue influence is characterized as occurring, where the quality of the interaction between the support person and the person being supported includes signs of fear, aggression, threat, deception or manipulation.[[9]](#endnote-10)

Keep the four principles proposed by the Australian Law Reform Commission in your mind as we start to explore the role of family, friends and carers.

### The role of family, friends and carers

Family, friends and carers play an active role in the care and support of many people with disability.

As we saw back in Topic 4, in 2012 there were around 2.7 million carers in Australia providing support to friends or family with disability or ill health.[[10]](#endnote-11)

[](https://www.youtube.com/watch?v=qbUPImk6hJY)

At the same time, many people with disability operate independently of informal support structures and will prefer that family and friends are not involved in conversations about disability services at all.

Consider the following indicators of practice from the *National Standards for Disability Services*.

|  |  |
| --- | --- |
| **National Standards for Disability Services** | **Indicators of Practice** |
| **Standard 2: Participation and Inclusion** | 2:4 Where appropriate, the service works with an individual’s family, friends, carer or advocate to promote community connection, inclusion and participation. |
| **Standard 3: Individual Outcomes** | 3:2 Service planning, provision and review is based on individual choice and is undertaken together with an individual and, with consent, their family, friends, carer or advocate. |

|  |  |
| --- | --- |
| This icon indicates a discussion question | **Discussion question:** What do you think are some of the key words in these indicators of practice? |

**Points to inform discussion:**

* Significant key words are ‘where appropriate’, ‘individual choice’ and ‘with consent’ because they emphasise the independence and agency of the person with disability.

You should always recognise the person with disability as their own expert and let them determine whether or not they would like family, friends or carers to be involved in conversations around service delivery. In instances where family are actively involved in a service user’s planning, there are times where you might be required to balance the concerns of the family with the will and preferences of the person you are supporting.

### Viewing activity

|  |  |
| --- | --- |
| This icon indicates a viewing activity | **Video:** ‘[Dee’s place](https://www.humanrights.gov.au/twentystories/video-dees-place.html)’  **Source:** Australian Human Rights Commission  **Duration:** 5 minutes 16seconds |



**Summary:** Living independently is something most teenagers look forward to. So it wasn’t a surprise when at 18, Dee Holmes told her mum and dad that she wanted to live in her own place, like her brothers. But for people like Dee, who have an intellectual disability, finding enough support to live with independence can be difficult.

**Instructions:**

1. Play the video ‘Dee’s place’.
2. Ask learners if they have any comments or questions about the video before moving on.

While Dee’s parents were concerned about her living in the community, they supported her choice. Not all families operate this way and some may need extra reassurance.

|  |  |  |
| --- | --- | --- |
| This icon indicates a trainer’s note | **Trainer’s note:** Instruct learners to turn to the case study on page 129 of their Learner Guide and read the case study out loud, as it appears below. | |
| This icon indicates a suggested section to read out | | Heath is 20 and lives in a large regional town. He lives with another young man who also has a neurological condition. Heath uses domestic assistance, and personal assistance with appointments and events. He likes where he lives, but wants to live in a big city, where he could go to the football, theatre and musicals. His family however discourage him from moving, as they are concerned about how he might cope. His support workers also say that it would be hard to organise.  After turning 21, Heath decides that he definitely wants to experience living in a city. Heath asks Denise, his key support worker, to assist him to speak with his family about his goal to move away.  They sit down together and map out what is required for Heath to move. Heath’s family outline their worries, and Heath expresses his life goals to his family. They discuss housing, health, study, employment, friendship and travel, and together they explore the kinds of support that would be available for Heath in the city. They identify a few risks, and discuss how to manage them. They also explore new skills that Heath will need such as using public transport and managing his household budget.  Suitable accommodation is found but it isn’t available straight away. In the meantime, Heath and Denise develop a plan together that involves Heath using online networks to meet other young people in the city who share his interests. He also enrols in a TAFE that is close to his new home. He makes contact with the disability support worker to discuss his needs and supports on campus.[[11]](#endnote-12) | |

In this scenario, Heath had given his consent for the support worker to help him address the concerns of his family. The support worker was able to reassure Heath’s family while still allowing Heath to work towards his own goals.

|  |  |
| --- | --- |
| cid:5260E570-9B9A-4BB5-A758-F4F6BD34314F@iiNet | **Discussion question:**  What might happen when the wishes of the person with disability and the wishes of the family are conflicting? |

### Activity: Family challenges

|  |  |
| --- | --- |
| This icon indicates an activity for a group or class discussion | **Activity type:** Small group activity  **Duration:** 20 minutes  **Equipment needed:** Overview of the *National Standards for Disability Services* (pages 82-84 of Learner Guide), butchers paper, coloured markers, |

**Purpose:** To encourage learners to think about how they would respond if there were differences in opinions between a service user and their family.

**Instructions:**

1. Organise learners into groups of three or four people.
2. Ask learners to turn to the case study on page 130 of their Learner Guide and read the scenario out loud, as it appears below:

|  |  |
| --- | --- |
| This icon indicates a suggested section to read out | You are working with Pedro, a 19-year-old man with Cerebral Palsy, to prepare a personalised support plan. When Pedro is outlining his goals and aspirations, he indicates that he would like to learn how to get to a local meet-up group for young people who are same-sex attracted. The next day, you receive a phone call from Pedro’s mother who tells you that she doesn’t want Pedro to go along to the group because she does not agree with Pedro’s ‘lifestyle choice’. How would you respond to this situation? |

1. Ask groups to brainstorm the factors that they would need to consider in managing this situation, and identify the indicators of practice from the *National Standards for Disability Services* that would apply to this scenario. Inform groups that they have 10 minutes to complete the task.
2. After 10 minutes, ask a spokesperson from each group to share their thoughts with the class.

Some indicators of practice that might apply have been outlined below:

|  |  |
| --- | --- |
| **National Standards for Disability Services** | **Indicators of Practice** |
| **Standard 1: Rights** | 1:2 The service, its staff and its volunteers recognise and promote individual freedom of expression.  1:3 The service supports active decision-making and individual choice including the timely provision of information in appropriate formats to support individuals, families, friends and carers to make informed decisions and understand their rights and responsibilities.  1:4 The service provides support strategies that are based on the minimal restrictive options and are contemporary, evidence-based, transparent and capable of review.  1:9 The service keeps personal information confidential and private. |
| **Standard 2: Participation and Inclusion** | 2:1 The service actively promotes a valued role for people with disability, of their own choosing.  2:2 The service works together with individuals to connect to family, friends and their chosen communities.  2:3 Staff understand, respect and facilitate individual interests and preferences, in relation to work, learning, social activities and community connection over time.  2:4 Where appropriate, the service works with an individual’s family, friends, carer or advocate to promote community connection, inclusion and participation. |
| **Standard 3: Individual Outcomes** | 3:1 The service works together with an individual and, with consent, their family, friends, carer or advocate to identify their strengths, needs and life goals.  3:2 Service planning, provision and review is based on individual choice and is undertaken together with an individual and, with consent, their family, friends, carer or advocate.  3:4 Service planning and delivery is responsive to diversity including disability, age, gender, culture, heritage, language, faith, sexual identity, relationship status, and other relevant factors. |
| **Standard 4: Feedback and Complaints** | 4:1 Individuals, families, friends, carers and advocates are actively supported to provide feedback, make a complaint or resolve a dispute without fear of adverse consequences. |

**Other points to inform discussion:**

* It is important to consider whether Pedro has provided his consent for you to speak openly to his family about his supports.
* In any case, you should contact Pedro and inform him that you have received this call so that he is in control of what happens next.
* If Pedro does not feel comfortable addressing this matter with his mother and asks for your support, you should explain your responsibilities to Pedro under the *National Standards for Disability Services* and your organisation’s code of ethics.
* With Pedro’s consent you can speak with his mother and explain that helping Pedro to achieve his goals and aspirations is a core component of a person-centred approach to service delivery.

|  |  |
| --- | --- |
| This icon is used to highlight further reading and important information | **Further reading:**  Commonwealth of Australia, [*Carer Recognition Act 2010*](https://www.comlaw.gov.au/Details/C2010A00123) (2010).  Department of Families, Housing, Community Services and Indigenous Affairs, [*National Carer Strategy Evidence Base*](https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/national-carer-strategy-evidence-base) (2011).  Department of Families, Housing, Community Services and Indigenous Affairs, [*National Carer Strategy Implementation Plan*](https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/national-carer-strategy-implementation-plan)(2012).  Australian Law Reform Commission, [*Equality, Capacity and Disability in Commonwealth Laws: The role of family, carers and supporters*](http://www.alrc.gov.au/publications/equality-capacity-and-disability-commonwealth-laws/role-family-carers-and-supporters)(2014).  Australian Law Reform Commission, [*Equality, Capacity and Disability in Commonwealth Laws (ALRC report 124)*](https://www.alrc.gov.au/publications/equality-capacity-disability-report-124)(2014).  Committee on the Rights of Persons with Disabilities, [*General Comment No. 1: Article 12, Equal recognition before the law*](http://www.ohchr.org/EN/HRBodies/CRPD/Pages/GC.aspx) (2014). |

## 7.3. Dignity of risk

**Approximate duration:** 50 minutes

### Viewing activity

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| This icon indicates a viewing activity | **Video:** ‘[What is Duty of Care? Duty of Care vs Dignity of Risk](https://www.youtube.com/watch?v=Nf4Y7v-SLtc)’  **Source:** The Mental Health Recovery Institute,  **Duration:** 9 minutes 3 seconds |



**Summary:** Every day in Australia, workers in human services are faced with situations where considerations of duty of care may apply. This video examines the vital differences between duty of care and dignity of risk and explains when each applies and what to do about it.[[12]](#endnote-13)

**Instructions:**

1. Play the video, ‘What is Duty of Care? Duty of Care vs Dignity of Risk’
2. Ask learners if they have any comments or questions about the video before moving on.

|  |  |
| --- | --- |
| This icon indicates a trainer’s note | **Trainer’s note:**  Duty of care is defined as:  The responsibility or the legal obligation of a person or organisation to avoid acts or omissions (which can be reasonably foreseen) to be likely to cause harm to others.[[13]](#endnote-14)  But duty of care does not mean preventing service users from taking risks, or having opportunities to succeed or fail on their own terms.  Article 12 of the *Convention on the Rights of Persons with Disabilities* states:  States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.  States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.[[14]](#endnote-15) |

### Ways of managing risk

If you suspect that there is reasonable risk of a service user experiencing harm as a result of their participation in an activity, you could think about taking the following steps:

* Investigate the potential dangers involved in participating in the activity and communicate these to the service user.
* Talk to the service user about potential consequences that may arise as a result of them participating in the activity.
* Talk through any alternative options that may reduce the level of risk involved.
* Tell your supervisor how you have managed the situation (in person and in writing).

If the service user still wishes to go through with their decision after exploring all of the risks involved, it is important to remember that you cannot stop the individual from exercising their rights unless you have the legal authority to do so. You should consult your supervisor if you are concerned about whether or not you could be found liable for any harm that may arise.[[15]](#endnote-16)



### Activity: Discussing dignity of risk

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| --- | --- |
| This icon indicates an activity for a group or class discussion | **Activity type:** Small group activity  **Duration:** 15 minutes  **Equipment needed:** Learner Guide (page 133), Butchers paper, coloured markers |

**Purpose:** To encourage learners to think about the extent to which rights may be limited in exercising duty of care.

**Instructions:**

1. Organise learners into groups of three or four people.
2. Ask learners to turn to the case study on page 133 of their Learner Guide and read out the case study, as it appears below:

|  |  |
| --- | --- |
| This icon indicates a suggested section to read out | Sian, 55, has an intellectual disability, lives in a Community Residential Unit (CRU) and works at an Australian Disability Enterprise (ADE) five days per week. Sian is a smoker and her CRU support workers send one packet of cigarettes to Sian's work to last a month, with strict instructions that limit Sian to only one cigarette per day.   Sian has recently begun to ask for two cigarettes at lunchtime. She is very angry about the restriction, and yells and shouts abuse when she is given only one cigarette. ADE staff contact the CRU manager, Matt, who says that they are looking out for Sian's health.[[16]](#endnote-17) |

1. Ask groups to brainstorm their responses to each of the questions listed underneath the case study. The questions have been included below:

|  |  |
| --- | --- |
| This icon indicates a discussion question | **Discussion questions:**   * What are your observations on the balance between dignity of risk and duty of care in this scenario? * Do you think that Sian’s rights are being upheld in this situation? * Is there anything you would do differently if you were confronted with this situation? * If you were confronted with this situation, what indicators of practice from the *National Standards for Disability Services* might you need to consider? |

1. Inform groups that they have 10 minutes to complete the task and ask them to begin.
2. After 10 minutes, ask each group to share their findings with the rest of the class.

### Activity: Identifying risk

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| --- | --- |
| This icon indicates an activity for a group or class discussion | **Activity type:** Small group activity  **Duration:** 20 minutes Equipment needed: Learner Guide (pages 133-135) |

**Instructions:**

1. Divide the class into three groups and allocate one of the following three case studies to each group.
2. Ask learners to read their allocated case study in their groups and discuss whether they think the disability support worker in the scenario has shown negligence.
3. After 10 minutes, ask each group to read out their case studies to the class and explain whether the disability support worker in their case study was negligent or not.

**Case study 1:**

Sarah has been helping Emily learn how to safely cross the road using the traffic signals. Emily has not been able to successfully demonstrate that she understands what is required. Sarah lets Emily go out independently and is aware that she will need to cross the road. As Emily is crossing a road, she is hit by a car.

Could Sarah be in breach of her duty of care and be seen as negligent? Why?

**Case study 2:**

While John is supporting Rod to participate in a game of darts his mobile phone rings. As Rod is fairly unsteady with his balance, John lets the call go to his message bank and assists Rod to throw his next dart. Rod accidentally drops the dart and it gets stuck in his foot. Has John shown a reasonable duty of care to Rod?

What if he answered his phone and turned away to take the call?

**Case study 3:**

Prasit is supporting Matthew who is 22 years old and has an intellectual disability requiring minimal support. Matthew tells Prasit he wants to go skateboarding at the local skateboard park. Prasit explains the risks involved and offers him protective gear such as a helmet, elbow pads, knee pads and wrist pads. Matthew refuses to wear them and breaks his wrist.

Has Prasit failed in his duty of care? Explain why or why not.

These case studies have been adapted from the *Supporting Disability Support Workers Coordinators Manual* by the Spina Bifida Association of WA. [[17]](#endnote-18)

|  |  |
| --- | --- |
| This icon is used to highlight further reading and important information | **Further reading:**  National Disability Services, [*The Upside of Risk*](http://www.nds.org.au/presentation/article/28) (16 February 2011).  Department of Human Services (Victoria), [*Supporting decision making guide*](http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/supporting-decision-making-guide) (2012).  National Disability Insurance Agency, [*Planning and Assessment Fact Sheet – Risk and Safeguards*](http://www.ndis.gov.au/planning-and-assessment-risk-and-safeg) (16 January 2014). |

## 7.4. Advocacy and referral

**Approximate duration:** 60 minutes

The *Convention on the Rights of Persons with Disabilities* requires that people with disability be provided with appropriate support to enable them to exercise their legal capacity on an equal basis with others.[[18]](#endnote-19)

The Committee on the Rights of Persons with Disabilities has explained that within a legal context:

‘Support’ is a broad term that encompasses both informal and formal support arrangements, of varying types and intensity. For example, persons with disabilities may choose one or more trusted support persons to assist them in exercising their legal capacity for certain types of decisions, or may call on other forms of support, such as peer support, advocacy (including self-advocacy support), or assistance with communication.[[19]](#endnote-20)

|  |  |
| --- | --- |
| This icon indicates a discussion question | What do you think is meant by the term ‘disability advocacy’? |

**Definition:**

Disability advocacy ensures the human rights and legal rights of people with disability are promoted and protected so that people with disability can fully participate in the community.[[20]](#endnote-21)

The role of advocacy in providing support for people with disability to exercise their rights is well-recognised in the *National Standards for Disability Services*.

|  |  |
| --- | --- |
| **National Standards for Disability Services** | **Indicators of Practice** |
| **Standard 1: Rights** | 1:7 The service supports individuals with information and, if needed, access to legal advice and/or advocacy.  1:8 The service recognises the role of families, friends, carers and advocates in safeguarding and upholding the rights of people with disability. |

### Types of advocacy

The three main types of advocacy are:

1. **Self-advocacy**

Self-advocacy involves a person with disability advocating for themselves if their rights have been contravened or unfulfilled.

1. **Individual advocacy**

Individual advocacy involves an advocate working with a person with disability to assist them to resolve a complaint, or provide them with information to allow them to address the complaint on their own.

1. **Systemic advocacy**

Systemic advocacy involves advocating for change on issues that affect a wide range of people, such as captioning on television or audio announcements on public transport. When an advocate takes on an individual advocacy case, it may sometimes lead to systemic advocacy depending on the nature of the issue the individual is seeking to address.

Let’s start by looking at self-advocacy.

Remember back in Topic 2, when we explored the three sets of standards that were put in place to govern access to certain facilities for people with disability (i.e the Transport Standards, Education Standards, and Access to Premises Standards)?

We saw that each of these sets of standards came about largely due to complaints that were lodged by people with disability. Each of these cases are examples of self-advocacy which also led to systemic change.

### Viewing activity

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| This icon indicates a viewing activity | **Video:** [‘What is self-advocacy?’](http://www.youtube.com/watch?v=oH2FKTWuOTQ)  **Source**: Department of Social Services (DSS),  **Duration:** 4 minutes 55 seconds |



**Summary:** This video from the Department of Social Services explains the nature of self-advocacy from the perspective of a person with disability.

**Instructions:**

1. Play the video ‘What is self-advocacy?’
2. After the video has played, ask learners what tools a person with disability might need in order to become a good self-advocate.

Research (both nationally and internationally) demonstrates that increased levels of self-determination through self-advocacy leads to:

* Enhanced mental health and general wellbeing
* Increased independence
* Greater control over life situations
* Better outcomes in education and employment
* An enhanced ability to solve problems.[[21]](#endnote-22)

When assisting a service user to undertake advocacy on a specific issue, aim to build the capacity of the individual to resolve the problem on their own, rather than becoming reliant on you.

This may take time and the service user may need some assistance along the way.

### Advocating for people with disability

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| This icon indicates a discussion question | **Discussion question:** Remember Khaira, the student who was unable to access her classes because the building was not wheelchair accessible? (see Learner Guide page 49)  What are some of the steps you could take to enable Khaira to stand up for her rights? |

**Points to inform discussion:**

* You could start by asking Khaira if she has already taken any steps to try and address the situation.
* If Khaira is unsure about her rights and what she is able to do, you could explain the section of the *Disability Discrimination Act* that might apply, or explain the need for educational institutions to make adjustments for students with disability under the *Disability Discrimination Act*.
* If Khaira feels nervous about speaking to someone at the university about her rights, you could offer to role play the scenario so that she can come prepared and think about what she would like to say.
* You could provide Khaira with information about self-advocacy.

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| This icon indicates a discussion question | **Discussion scenario:** Khaira gets very upset and tells you that she is stressed about missing classes and does not feel that she can approach the university about her problem on her own. She asks you to speak to the university on her behalf. What should you do? |

**Points to inform discussion:**

* What you do next really comes down to the organisation you are working for, its core business and your individual work role.
* If providing advocacy support is part of your role, you may be able to assist Khaira further. You could suggest that you try to arrange a meeting with the university together so that you are there as a support person. This would still allow for Khaira to be in control of the situation. If Khaira still does not feel confident enough with this, she may ask you to approach the university on her behalf.
* If advocacy is not a part of your role, but it is a service that is offered by your organisation, you may be able to refer Khaira to another member of staff within your workplace.
* If your organisation does not provide advocacy support at all, Khaira will need to access this support elsewhere. But you have a responsibility to ensure that she is provided with information about other organisations that might be able to help her.

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| This icon indicates a discussion question | **Discussion question:** If part of your role is to provide assistance with advocacy matters, what are some of the factors you might need to consider to ensure that Khaira is at the centre of the process? |

**Points to inform discussion:**

* Talk to Khaira about the steps that could be taken to resolve the complaint and ask for her input in how you approach this.
* If the agreed action requires lodging a formal complaint, explain the steps involved in the complaints process and ensure that Khaira understands what to expect, and how long the process might take.
* Advocate for the outcome that Khaira wants. It is fine to explain all of the options available, but ultimately, Khaira is in charge of how she would like the complaint to be resolved.
* Consult with and actively engage Khaira throughout the complaint process.

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| This icon indicates a trainer’s note | **Trainer’s note:** For the following activity, you might like to state the city that Khaira lives in to make the activity more relevant to where the training is being held. |

### Activity: Sourcing referral options

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| This icon indicates an activity for a group or class discussion | **Activity type:** Group activity  **Duration:** 30 minutes  **Equipment needed:** Learner Guide (page 140), computer with internet access |

**Purpose:** To get learners to undertake a practical research task, in line with what is expected in the workplace.

**Instructions:**

1. Organise learners into groups of three or four people.
2. Ask learners to turn to the activity on page 140 of their Learner Guide and read through the instructions, as they appear below:

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| This icon indicates a suggested section to read out | Imagine you are working for an organisation that does not provide individual advocacy for people with disability. Use the internet to research some referral options for Khaira. What are some of the organisations that might be able to assist her and how will you determine which is the most appropriate? |

1. Inform groups that they have 20 minutes to complete the task and ask them to begin.
2. After 20 minutes, ask groups to share their findings with the rest of the class.

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| This icon is used to highlight further reading and important information | **Further reading:**  Ethnic Disability Advocacy Centre, [*Let Me Speak (online self-advocacy training)*](http://www.edac.org.au/letmespeak/).  Australian Human Rights Commission, [*Complaints under the Disability Discrimination Act*](https://www.humanrights.gov.au/complaints/complaint-guides/what-you-can-complain-about/complaints-under-disability-discrimination).  Advocacy for Inclusion, [*Resources*](http://www.advocacyforinclusion.org/index.php/resources) (16 November 2015). |

## 7.5. Inclusive practices

**Approximate duration:** 50 minutes

### Activity: The importance of consultation

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| This icon indicates an activity for individuals | **Activity type:** Individual written exercise  **Duration:** 5 minutes  **Equipment needed:** Learner Guide (page 141) |

**Purpose:** To encourage learners to think about how they would feel if they had not been consulted in an important decision that would have a significant impact on their lives.

**Instructions:**

1. Instruct learners to turn to the written exercise on page 141 of their Learner Guide.
2. Read out the scenario and question below, as it appears in the Learner Guide:

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| This icon indicates a suggested section to read out | You’ve been working for a large organisation in the community services sector for the past six years. One Monday, your manager pulls you into a private meeting to inform you that the organisation is being restructured and that you will be moved into a new role. The new role sounds very different from what you are currently doing and you are told that you will no longer be working directly with clients, which is the aspect of the job that you enjoyed most.  How do you think you would feel if you were placed a situation where you weren’t consulted about an important decision affecting you?  How could this be avoided? |

1. Inform learners that this is a reflective activity, and they will not be required to share their answers with the class.

It is important to everyone to be included in conversations about - and have a say in - decisions that might affect them.

The preamble to the *Convention on the Rights of Persons with Disabilities* states:

Persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them.[[22]](#endnote-23)

This is also reflected in the *National Standards for Disability Services*.

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| **National Standards for Disability Services** | **Indicator of Practice** |
| **Standard 6: Service management** | 6:4 The service has monitoring feedback, learning and reflection processes which support continuous improvement of people with disability, families, friends, carers and advocates to review policies, practices, procedures and service provision. |

### Nothing about us without us

A phrase that you’ll hear quite frequently in the disability sector is ‘nothing about us without us.’ Back at the beginning of this topic, we learnt about the disempowerment that was experienced historically by people with disability who continued to be subjected to decisions that were made by others.

The expression ‘nothing about us without us’ recognises that people with disability are their own experts, and the best people to advise on issues that impact on their lives.

If your workplace is about to implement new policies or programmes that may have an impact on service users with disability, it is important to seek their input.

Consultation can take many forms, however many people with disability still prefer face-to-face consultation.

There are a number of factors that you will need to consider in order for the face-to-face consultation process to be fully accessible to all service users.

### Activity: Organising accessible events

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| This icon indicates an activity for a group or class discussion | **Activity type:** Small group activity  **Duration:** 30 minutes  **Equipment needed:** Butchers paper, coloured markers, and the ‘Accessible Events Checklist’ handout |

**Purpose:** This activity is designed to get learners thinking about the various elements of accessibility they might need to consider when organising an event.

**Instructions:**

1. Organise learners into groups of three or four people.
2. Ask learners to imagine that they are working for an organisation that provides a peer support program for people with disability, and that the organisation is about to plan the schedule of meetings and activities for the coming year. Management has decided to hold a number of face-to-face consultation forums to gauge the needs and interests of the service users who the meetings are targeted at.
3. Inform groups that they have 10 minutes to brainstorm all of the different elements that need to be taken into account to ensure that their event is accessible and instruct them to write these, or draw them on their piece of butcher’s paper.
4. At the end of the 10 minutes, instruct learners to turn to the Accessible Events Checklist on page 144-146 of the Learner Guide and see if there are any elements that they missed in their planning.
5. Ask learners if they have any comments or questions about the activity.



Disability advocate and former Disability Discrimination Commissioner Graeme Innes using tactile ground surface indicators at a train station.

### Checklist to ensure inclusion of people with disability in meetings and other events

**Venue**

* Wheelchair accessible – people who use wheelchairs can enter, exit and move about easily.
* Accessible toilets.
* Functioning hearing loop is available.
* PA system (microphone and speakers) for meetings/events in a space with poor acoustics or with 16 or more people.
* Venue is close to accessible public transport and has accessible parking.
* The speakers platform is accessible for people who use wheelchairs.
* Reception desk is at a height that is accessible for people who use wheelchairs.
* There is space and water provisions for people using assistance animals (e.g. guide dogs).

**Transport**

* Information about public transport options is provided to attendees, including information about whether the train stations or bus services running near the venue are accessible for people with disability.
* Venue drop off points for taxis and other vehicles are as close to the entrance of the venue as possible. Check if there is a kerb ramp at the drop off point to allow a person using a wheelchair to get from the road to the entrance.
* Car spaces in the venue car park include spaces that are identified as being reserved for people with disability.

**Sign language interpreters**

* Large public meeting / event - If the event is a large public meeting / event where members of the public do not need to RSVP or it is highly likely that people will turn up without RSVP, a sign language interpreter is booked at least 3 weeks in advance.
* Meetings / Consultations - Sign language interpreters will be booked if and when any attendees/participants indicate requirement when RSVP is received.

**Invitations**

* Include a notice within invitations about accessibility and support requirements. For example:  
  ‘If you have any access or support requirements in order to participate fully, please let us know when you RSVP. Please note: The venue is accessible for people using wheelchairs’.
* The invitation is available in Word or html format. If a PDF format is designed and distributed (hard and soft copies) this will be accompanied by electronic circulation of Word or html version containing identical information.
* Ensure the invitation conforms to the accessibility requirements for producing readable text, especially in relation to minimum font size, font type, layout and contrast colour etc. Microsoft Word has the ability to check for accessibility issues.
* Any ticket booking or registration systems that are used should comply to web accessibility standards.

**Videos**

* The video is captioned.
* The video has been audio described.
* If the video is not audio described, presenters have been reminded to verbalise any important visual elements such as on-screen text.

**PowerPoint presentations**

* Any images/photos in presentations will be described by presenters.
* Any text that is specifically referred to on the screen should be read.

**Documentation to be circulated prior to, or at, meeting / event**

* Documents (including agenda, issues papers, reports etc.) conform to requirements for producing readable text. Microsoft Word has the ability to check for accessibility issues.
* Prior to, or at, the event, accessible formats should be circulated concurrently or arrangements made for access to accessible formats (accessible formats include large print, Braille and Word or text versions of documents on CD, memory stick or by email). Please note - PDF documents are not accessible for people who use screen reading technology.

**Layout of room**

* Sufficient circulation space exists for people who use wheelchairs.
* Seating for people who use wheelchairs is reserved at the front or middle of the room if possible (not always at the back).
* If a sign language interpreter will be present, seats are reserved at the front for people who are deaf or hard of hearing so they have direct line of sight and are close to the interpreter.

**Group activities (meetings, consultations, seminars and workshops)**

* If group activities (including ice-breakers etc.) are planned, the needs of people with disability have been considered and addressed so full participation of all participants is ensured.

**Housekeeping**

* If a microphone is being used, the person opening the event should briefly go off-microphone to orientate people who are blind to their location.
* Non-visual directions should be given when explaining the locations of toilets, emergency exits etc.

**Catering**

* Provide different catering choices where possible and ensure that catering staff are briefed on helping people with disability with their selection and service. Other considerations include ensuring that there are sufficient seats and tables available, that there is room for everybody to manoeuvre safely between tables and that there is a range of cutlery and crockery provided.

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| This icon is used to highlight further reading and important information | **Further reading:**  Meetings and Events Australia, [*Accessible Events Guide*](http://www.artsaccessaustralia.org/resources/publications/225-accessible-events-guide) (2009).  Department of Social Services, [*Guide to Inclusive Consultation*](https://www.dss.gov.au/sites/default/files/documents/05_2012/ic.pdf)(2012). | | | |
| This icon indicates a trainer’s note | **Trainer’s note:** Instruct learners to turn to page 147 of their Learner Guide and ask someone to read out the following case study. | | |
| This icon indicates a suggested section to read out | | | **Disability discrimination in the provision of goods and services**  (*This case study is based on a complaint that was conciliated by the Australian Human Rights Commission)*  The complainant, who is blind and has a hearing impairment, attended a conference organised by the respondent industry body. He claimed he was unable to access or participate in large sections of the conference because materials were not made available to him in accessible formats, presenters were not briefed on how to deliver accessible sessions and the hearing loop was not functional in a number of rooms.  On being advised of the complaint the industry body agreed to participate in conciliation.  The complaint was resolved with an agreement that the industry body pay the complainant $3,000 and provide him with presentation materials in an accessible format. The industry body agreed to seek expert advice on its guidelines for planning accessible events, which were developed in response to the complaint, and to publish the finalised guidelines on its website. | |
| This icon indicates a discussion question | | **Discussion questions:**   * In this case study, which of the complainant’s rights were limited and how? * How might this have impacted on his level of inclusion? * What key policies and practices do you think the industry body should include in their new guidelines? | | | |

## Topic 7: Endnotes

1. Assistant Minister for Social Services, Mitch Fifield, 'User Rights Principles 2014' (Australian Government, 2014). [↑](#endnote-ref-2)
2. Department of Social Services, 'Charter of Care Recipients' Rights And Responsibilities - Residential Care' (Australian Government, 2014). [↑](#endnote-ref-3)
3. Australian Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws* ALRC Report No 124 (2014). [↑](#endnote-ref-4)
4. Committee on the Rights of Persons with Disabilities, *General comment No. 1-*

   *Article 12: Equal recognition before the law,* 11th sess UN Doc CRPD/C/GC/1 (19 May 2014). [↑](#endnote-ref-5)
5. Western Australian State Administrative Tribunal, *Frequently asked questions* (2015) <<http://www.publicadvocate.wa.gov.au/G/guardianship_frequently_asked_questions.aspx?uid=6194-8506-7822-0632>>. [↑](#endnote-ref-6)
6. Committee on the Rights of Persons with Disabilities, *General comment No. 1-*

   *Article 12: Equal recognition before the law,* 11th sess UN Doc CRPD/C/GC/1 (19 May 2014). [↑](#endnote-ref-7)
7. UN Enable, *Handbook for Parliamentarians*, ‘6. From provision to practice: implementing the Convention’ (2007) <<http://www.un.org/disabilities/default.asp?id=242>>. [↑](#endnote-ref-8)
8. Australian Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws*, ‘3. National Decision-Making Principles’ ALRC Report No 124 (2014) <<https://www.alrc.gov.au/publications/national-decision-making-principles>>. [↑](#endnote-ref-9)
9. Committee on the Rights of Persons with Disabilities, *General comment No. 1-*

   *Article 12: Equal recognition before the law,* 11th sess UN Doc CRPD/C/GC/1 (19 May 2014). [↑](#endnote-ref-10)
10. Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Finding* (4430.0 2012) <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/4430.0>>. [↑](#endnote-ref-11)
11. Department of Social Services, *National Standards for Disability Services - Stories* (2013) <<https://www.dss.gov.au/our-responsibilities/disability-and-carers/standards-and-quality-assurance/national-standards-for-disability-services>>. [↑](#endnote-ref-12)
12. Mental Health Recovery Institute, *What is Duty of Care? Duty of Care vs Dignity of Risk* (2015) <<https://www.youtube.com/watch?v=Nf4Y7v-SLtc>>. [↑](#endnote-ref-13)
13. Online Business Dictionary, *What is duty of care? Definition and meaning* (2015) <<http://www.businessdictionary.com/definition/duty-of-care.html>>. [↑](#endnote-ref-14)
14. Convention of the Rights of Persons with Disabilities, opened for signature 13 December 2006, 2515 UNTS 3 (entered into force 3 May 2008) Art 12. [↑](#endnote-ref-15)
15. Spina Bifida Association WA Inc., *Supporting Disability Support Workers: A Self-Paced Learning Guide,* ‘Duty of care’, (2007) 49-50. [↑](#endnote-ref-16)
16. Adapted from National Disability Services, *Strengthening Human Rights in Disability Services: Case Scenarios for discussion*, ‘Case study 3’ (2012) 14. [↑](#endnote-ref-17)
17. Chris Kuca-Thompson, Spina Bifida Association of WA, Supporting Disability Support Workers Coordinators Manual (2007) 51 <<http://www.ideaswa.net/upload/editor/files/downloads/SupportingDisabilitySupportWorkers-CoordinatorsManual.pdf>>. [↑](#endnote-ref-18)
18. Convention of the Rights of Persons with Disabilities, opened for signature 13 December 2006, 2515 UNTS 3 (entered into force 3 May 2008) Art 12. [↑](#endnote-ref-19)
19. Committee on the Rights of Persons with Disabilities, *General comment No. 1-*

    *Article 12: Equal recognition before the law,* 11th sess UN Doc CRPD/C/GC/1 (19 May 2014). [↑](#endnote-ref-20)
20. Disability Advocacy Resource Unit, *What is Advocacy?* (2014) <<http://www.daru.org.au/what-is-advocacy>>. [↑](#endnote-ref-21)
21. Christina Ryan and Karen Hedley, *Developing Supporting Self-Advocacy Training – Why And How* (2012) Advocacy for Inclusion <<http://www.advocacyforinclusion.org/publications/Reports/developing_supporting_selfadvocacy_final.pdf>>. [↑](#endnote-ref-22)
22. Convention of the Rights of Persons with Disabilities, opened for signature 13 December 2006, 2515 UNTS 3 (entered into force 3 May 2008) Preamble. [↑](#endnote-ref-23)