



Participant Advocate Policy

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Purpose

Mental Health Foundation ACT (MHF) supports a person's entitlement to decision-making rights.

MHF recognises additionally that everyone has a right to support with decision-making, and to choose who provides that support. MHF encourages the seeking of independent support, for example, from independent advocacy services as needed.

This policy sets out the responsibilities of MHF staff in relation to working with participants and their selected advocate.

Definitions

Act – refers to the *National Disability Insurance Scheme Act 2013*.

Advocacy – in this policy refers to supporting an MHF participant who has a mental illness and representing their express wish in line with their values, will and preferences. The aim is to bring about beneficial outcomes in a way that enables each participant to retain as much control as possible over the process and to seek to ensure their human rights are upheld.

Advocate – refers to a 3rd party that provides formal or informal support to a participant. With express permission from the person, a carer, guardian, parent or independent advocate can advocate on the person's behalf.

Commission – refers to the National Disability Insurance Scheme Quality and Safeguards Commission.

Independent advocate – is defined in the Act to mean a person who:

- is independent of the service provider (such as MHF), the Commission and any other providers providing supports or services to the person,
- provides independent advocacy for the person, to assist them to exercise choice and control and to have their voice heard in matters that affect them,
- acts at the direction of the person, reflecting their expressed wishes, will, preferences and rights,
- is free of relevant conflict of interest.

NDIS – means the National Disability Insurance Scheme.

Policy

It is the responsibility of the Chief Executive Officer to ensure that this policy is implemented within MHF.

This policy should be read in conjunction with the *Participants Rights and Responsibilities Policy*.

Key Principles

The Act acknowledges the important role of advocates and other representatives; and requires registered NDIS providers to cooperate with, and facilitate arrangements for, advocates and other representatives of persons who are affected by complaints or incidents and who wish to be independently supported in that process by an advocate or other representative.

In relation to advocacy and participant rights, MHF acknowledges that:

- people with mental health issues have the same rights as other people to determine their own best interests, exercise choice and control, and engage as equal partners in decisions that will affect their lives, to the full extent of their capacity,
- making decisions usually involves four elements: understanding relevant information; retaining or remembering the relevant information; using or weighing up the relevant information; and communicating a decision in words, gestures or in other ways. Any one or more of these elements can be used to support decision making,
- environmental factors, such as the environment in which information is provided, time of day, the quality of support relationships and the availability of

someone willing to provide support, can affect decision-making. Environmental factors should be mitigated whenever possible to enable the person to exercise choice and control to the greatest degree possible,

- participants should wherever possible be supported to make and implement their own decisions,
- substitute decision making should only ever be used as a last resort, where no less restrictive alternative exists.

The MHF acknowledges and respects the role of decision-supporters and advocates, such as a participant's family, carers and others, in the participant's life.

Caution around substitute decision-making

MHF encourage people to seek advice from independent advocacy services and/or legal services and/or the Public Trustee and Guardian as needed to ensure that all alternative options to substitute decision-making have been exhausted, that the substitute decision-maker is aware of the responsibilities and limits of their role and that any proposed substitute decision-making is appropriate. Australian laws restrict who can make substitute decisions, the types of decisions that can be made and the circumstances in which those decisions can be made. Each decision should be separately assessed (just because support from a substitute decision-maker is needed for one decision, doesn't mean that other decisions will also require that the substitute decision-maker be involved). People can also request a change of the person authorised to make substitute decisions when needed.

Importance of acting in the best interests

An advocate **must** act solely in the interests of the participant who they are supporting.

It is important that there is independence when formal advocacy services are used to avoid any actual or perceived conflict of interest.

Appointment and selection of an advocate

A participant may choose to appoint an advocate through advocacy organisations such as Advocacy for Inclusion Inc. or ACT Disability, Aged and Carer Advocacy Services. These organisations are funded by the government to provide



independent advocacy support to people who experience mental ill health and/or people with disabilities.

Alternatively, if the person chooses, an advocate can simply be a family member or carer of the participant, or a formally appointed legal guardian.

What support can an advocate provide?

An advocate can promote the wishes and preferences of the participant and seek to enable them to access MHF services and support. They may:

- assist the participant to access MHF services,
- assist the participant to change MHF services,
- ensure that the MHF service/s chosen are appropriate,
- communicate with MHF staff,
- assist in negotiating suitable resolutions where a complaint or dispute about MHF services has arisen.

References

ACT Disability, Aged and Carer Advocacy Services *Support Your Decision – Decision Making toolkit*: <https://support-my-decision.org.au/> (Accessed 20 January 2021)

Advocacy for Inclusion *Individual Advocacy* website information: <https://www.advocacyforinclusion.org/our-services/individual-advocacy/> (Accessed 23 May 2023)

Self-Advocacy Kit:
Book 1: Self-Advocacy and Human Rights;
Book 2: First Steps to Self-Advocacy;
Book 3: How to Self-Advocate; and
Book 4: Self-advocating.

Australian Government, Department of Social Services *Disability advocacy Factsheet*

Office of the Public Advocate, Victoria *Guide to NDIS decision-making*, January 2018



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