



## **The Advocate**

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**Advocacy for Inclusion**

**March 2013**

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## General Manager's Report

The new year is well underway at Advocacy for Inclusion. The last month has seen several important submissions made, our training and self-advocacy network have fired up, and our individual advocacy work is in high demand.

2013 is a big year for people with disabilities with the launch of the National Disability Insurance Scheme (NDIS) in several sites across Australia including the ACT. The sense of anticipation is strong as people wait for desperately needed supports to become reality. Advocacy for Inclusion has been busy both locally and nationally, through the Disability Advocacy Network of Australia (DANA), commenting and advising on NDIS preparations in a range of areas.

Most important to us is the level of choice and control available to people with disabilities. This will not happen automatically with extra supports; rather it will take strong community and government commitment to make it happen. Everyone needs to support people with disabilities to understand what their choices are, and then provide support to make their own decisions about what they want to do about how their life will proceed. It will be a challenging time for all of us to make this work, but we must do it to ensure the NDIS succeeds in its goal of providing choice and control.

Supporting Self-advocacy training is ideal for anyone who has a relationship with a person with disability. This training is increasingly popular and is making a real difference in the lives of people with disabilities. Our training team provide the latest information in what is available and how you can get involved.

Our focus this newsletter is on employment following the major court decision of early

December about supported employment wages. People with disabilities are people too and have the same rights to decent employment and conditions as everyone else. This is a milestone decision to support that reality. It is disappointing that the Federal Government will appeal the decision, particularly when it goes against the right to employment as outlined under the *Convention on the Rights of Persons with Disabilities*.

The National Shut In Campaign has also reinvigorated and Advocacy for Inclusion is your ACT representative on the campaign working group. You can endorse the campaign at [www.shutin.org.au](http://www.shutin.org.au). People with disabilities are still kept in segregated places in work, education, accommodation and social activities. This is not acceptable and doesn't support their right to be included in the community.

Our policy team has been hard at work already this year, with several submissions, participation in a test case at the Tribunal, continuing work on supported decision making, contributing to questions for Senate Estimates, plus joining the First Point Steering Committee.

Individual advocacy is in high demand which is expected to increase with the NDIS, yet the ACT Government is one of only two in Australia that does not fund this much needed service. When a person with disability needs an advocate they have few options and usually end up having to work through complex problems on their own or with some support from friends or family if they have them. Many people with disabilities don't have natural supports and rely heavily on advocates to assist them in resolving major issues in their lives. Advocacy for Inclusion has been forced to close our intake process until more resources become available. This was a difficult decision, but we had no other option under current funding arrangements. We are

deeply concerned by the number of people who will be affected by this decision.

Advocacy for Inclusion is currently preparing for our National Disability Advocacy Standards external certification. This will involve an external audit, including interviews with our consumers and our self-advocacy network. We will also have our management and governance processes examined.

The team at Advocacy for Inclusion is excited by Canberra's centenary and encourages everyone to get involved where you can. We took a team trip on the Centenary Bus Loop and had a thoroughly enjoyable time, see photos later in this newsletter. The bus is accessible with room for one wheelchair.

Finally, I would like to express a heartfelt thanks to Clayton Utz for recent pro bono legal work on some of our individual advocacy cases.

Christina Ryan

### **Workers with disabilities win landmark wage fight**

The World Today  
By [Lindy Kerin](#)



**Photo:** Gordon Prior (centre) argued the assessment tool used to determine his wage was unfair. (7pm TV News VIC)

Two men with disabilities who were being paid less than \$4 an hour have won a landmark Federal Court case that could result in higher wages for thousands of disabled workers. Gordon Prior and Michael Nojin argued the test used to determine their wages was discriminatory.

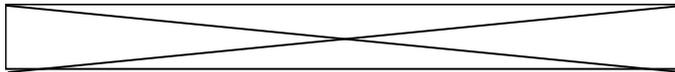
That test has now been suspended as a result of the court decision. Under the Federal Government's scheme, pay rates are set by a competency and productivity test. Workers can get the minimum adult wage, but if they fail the test their pay is cut - in some cases to less than \$1 per hour.

When Mr Prior, 59, was working as a gardener in rural Victoria, he was earning less than \$3 an hour.

"For the first three months it was \$3 an hour, \$2 an hour," he said. "In the hot weather it was a lot of work involved. There was raking, there was sweeping, lawn-mowing." Mr Nojin, from New South Wales, earned \$2 an hour working at a factory on the New South Wales north coast. Together the two men challenged the test in the Federal Court, arguing it was discriminatory. "It found that the tool that has been used to assess their wages was discriminatory, in particular the competencies that were part of the tool," their lawyer Kairsty Wilson said.

Ms Wilson says the court decision could affect around 20,000 workers with disabilities and could spark further legal action. "Initially when this case started, we had over 60 clients who were part of the original case, but it was just too difficult to manage with so many," she said.

"They're all obviously waiting to find out what's happened to that case."



**Audio:** [Court victory for workers with disabilities \(The World Today\)](#)

### Compensation

The Federal Government could also be liable for a compensation bill for workers with disabilities. Mr Prior says that is an option he is now considering.

He has changed jobs and is working at a dry cleaning service. "I'm getting nearly \$15 an hour. I get paid pro-rata holiday rates, public holiday rates for working on public holidays, a bit of overtime as well," he said. "And I'm working in decent conditions, which is perfect."

Federal Disability Discrimination Commissioner Graham Innes has welcomed the court decision but says the case highlights broader issues with the disability enterprises scheme.

"The problem with some business services, and it doesn't apply to all of them, or some disability services, is that they have two strongly competing goals: one is to run a sustainable or viable business and the second is to pay employees with disability wages and sometimes the two are incompatible," he said.

"I just wonder whether we need to be assessing those services and doing two things: one, moving people with disability as much as possible into open employment and secondly recognising that some of these facilities, some of these business services are just not viable models." He says it is never appropriate for people to be earning around \$2 an hour.

"In my view that's not employment and we should face that reality and provide support for people in that situation in other ways," he said.

A statement from the Department of Families, Housing, Community Services and Indigenous Affairs said the Federal Court decision will be reviewed.

A spokesperson has told The World Today the assessment test has been suspended as a result of the court decision.

*This article reprinted with kind permission of ABC Radio – The World Today*

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### **“People need to feel wanted” – an insider’s view on sheltered workshops**

Vincent has been working in a sheltered workshop in the ACT for the best part of 17 years. He takes pride in his work and is very good at it “I can get so much done really quickly,” he admits. His job is really important to him but he wishes things were different for him and for other people with disabilities. He thinks that sheltered workshops should be closed down. “People have been there for too long. **People should be able to do more things and have more choice.** I get bored – I can do more than the work I’m given. I get frustrated when they don’t give me more work,” he says.

Vincent’s vision for the employment of people with disabilities is a system where people with disabilities, who need support to work, have choice in where they work. They would be able to work anywhere, not just in sheltered workshops. When I asked him why this is important he said “**Because people need to feel wanted.**” He says that people don’t feel wanted when they are segregated from the community in sheltered workshops. “That’s how I feel sometimes,” he explains. He also said it’s important that people have a range of job opportunities, “so that people can work everywhere and do lots of different things.”

Vincent says he feels especially bad about the pay people get in sheltered workshops: “Not getting much. Some people get \$2, \$3, \$4, and so on. I reckon they should get more than that because we do good jobs. **The organisations should pay you what you’re good at.** Other people do the same job and get paid more.”

Christy Lynch, CEO of KARE in Ireland, has revolutionised supported employment for people with disabilities in Ireland. His motto is “**real jobs for real pay**” and he was gobsmacked by the continuing and increasing funding for sheltered workshops in Australia. “I can’t believe the debate is still going here. Get rid of sheltered workshops,” he said with passion. In his program, people with disabilities are supported to find and sustain jobs in mainstream workplaces. It is a successful program that promotes meaningful and inclusive paid positions for people with disabilities.

Vincent explains that he was inspired by Christy’s presentation at the DANA conference in early 2012. He wants the same progress to be made here in Australia. “Real jobs for real pay.”



## Supported Employment – the whys and whats What is it?

Supported Employment is not:

- Sheltered workshops / segregated business enterprises
- Segregated employment where people with disabilities work together with a few others without disabilities supervising or supporting
- Locking someone into the same job for the rest of their life
- Tokenistic
- Exploiting people with disabilities

Supported Employment is:

- People with disabilities working in inclusive workplaces
- When barriers are removed from the workplace, allowing full participation
- Real jobs
- Choice
- Opportunities to develop a career path
- Paid fairly
- Supported as negotiated <sup>1</sup>

Sheltered employment was originally set up in order to give people with disabilities the opportunity to work when they may not have previously. However it is now recognised that it is not an ideal model for employment. Sheltered workshops are segregated rather than inclusive, pay workers far less than other employment options, and do not provide opportunities for advancement or transition to open employment<sup>2</sup>. Supported employment was developed in the 1980’s and has become the accepted practice in many other countries including Ireland, Norway, Canada and New Zealand. Supported employment is when people with disabilities “are effectively employed in real jobs for real pay in the open labour market.” <sup>3</sup>

<sup>1</sup> Anne O’Bryan, Ken Simons, Steve Beyer and Bob Grove for The Policy Consortium for Supported Employment. (2000) **A Framework for Supported Employment.**

<http://www.jrf.org.uk/sites/files/jrf/1859353290.pdf>

<sup>2</sup> Trevor R. Parmenter, International Labour Office, Employment Sector, Skills and Employability Department. - Geneva: ILO (2011) **Promoting training and employment opportunities for people with intellectual disabilities: international experience.**

[http://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---ifp\\_skills/documents/publication/wcms\\_167316.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---ifp_skills/documents/publication/wcms_167316.pdf)

<sup>3</sup> (no date, accessed February 2013) **Conversion: A Pilot Project to Develop and Test a Comprehensive Programme of Conversion from Specialised Settings to Inclusive Employment for People with Disabilities.**

<http://www.employmentforall.eu/Conversion/tabid/3948/Default.aspx>

## Benefits

Supported employment has many benefits for those involved including:

For people with disabilities

- Inclusion
- Focus on abilities not disabilities
- Meets human rights
  - Universal Declaration of Human Rights Article 23<sup>4</sup>
  - Convention on the Rights of Persons with Disabilities Article 27<sup>5</sup>
- Encourages skill enhancement
- Earn a fair and decent income
- Build relationships with people without disabilities
- Greater self-esteem, independence and confidence for the person with disabilities

<sup>6 7</sup>

For employers

- Employees with disabilities are supported and well-trained for the job
- Lower rates of absenteeism and accidents
- Lower turnover of staff<sup>8 9</sup>

<sup>4</sup> United Nations. (1948) **The Universal Declaration of Human Rights**

<http://www.un.org/en/documents/udhr/index.shtml>

<sup>5</sup> United Nations. (2006) **Convention on the Rights of Persons with Disabilities**

<http://www.un.org/disabilities/convention/conventionfull.shtml>

<sup>6</sup> Trevor R. Parmenter, International Labour Office, Employment Sector, Skills and Employability Department. - Geneva: ILO (2011) **Promoting training and employment opportunities for people with intellectual disabilities: international experience.**

[http://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---ifp\\_skills/documents/publication/wcms\\_167316.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---ifp_skills/documents/publication/wcms_167316.pdf)

<sup>7</sup> IAS Employment. (accessed February 2013) **The Open Road -- Supported Employment.**

<http://www.youtube.com/watch?v=NRwo6AReqSA>

<sup>8</sup> Michael Kamp and Christy Lynch. (2007) **Handbook Supported Employment.**

<http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1337&context=gladnetcollect>

For the community

- Savings of over \$43 billion toward the Australian GDP<sup>10</sup>
- Increased inclusion and diversity
- Increased opportunities to meet human rights

## What's different?

Open Employment is a move toward Supported Employment practices. Both involve placement in the open labour market – that is, jobs in places that are for anybody, not just people with disabilities.

Supported employment means that people with disabilities are paid the same as people without disabilities. Many people in 'Open Employment' have been assessed using the Supported Wage System<sup>11</sup>, which means they are paid significantly less than the people they are working alongside.

A recent Australian court case<sup>12</sup> has found that the Supported Wage System is discriminatory and unfair. The assessment tool is no longer able to be used. Hopefully this case can lead the way to the fairer wages of supported employment.

<sup>9</sup> Deloitte Access Economics for Australian Network on Disability (2011) **The economic benefits of increasing employment for people with disability.**

[http://www.and.org.au/data/Conference/DAE\\_Report\\_8M\\_ay.pdf](http://www.and.org.au/data/Conference/DAE_Report_8M_ay.pdf)

<sup>10</sup> Deloitte Access Economics for Australian Network on Disability (2011) **The economic benefits of increasing employment for people with disability.**

[http://www.and.org.au/data/Conference/DAE\\_Report\\_8M\\_ay.pdf](http://www.and.org.au/data/Conference/DAE_Report_8M_ay.pdf)

<sup>11</sup> Job Access, Australian Government. (Accessed February 2013) **Supported Wage System**

[http://jobaccess.gov.au/Services/A-Z\\_list/Pages/Supported\\_Wage\\_System.aspx](http://jobaccess.gov.au/Services/A-Z_list/Pages/Supported_Wage_System.aspx)

<sup>12</sup> Lindy Kerin, The World Today, ABC Radio. (January 11, 2013) **Court victory for workers with disabilities**

<http://www.abc.net.au/worldtoday/content/2013/s3668034.htm>

Supported employment also places emphasis on people with disabilities doing real jobs which are valued, are of their choice, and are not dead ends in their career.

### Other forms of employment

Social Enterprises are becoming more popular in Canberra, particularly with school leavers and their families. Social enterprise is a business model that provides employment for those who are unable to work in the open labour market. They aim to make a profit, meet a need in the community and have a social purpose. Some of the social enterprises in the ACT include:

JACKmail

<http://www.jacksonwest.org/jackmail>

Ronnie's Succulent Snails

<http://www.ronniessucculentsnails.com.au/>

Magpie Blah! Blah!

<http://www.magpieblahblah.com.au/>

To find out more about social enterprises in the ACT contact the ACT Social Enterprise Hub <http://www.socialventures.com.au/employment/social-enterprise-hubs/the-act-hub/> or phone 02 6249 7756

### Recommendations for the ACT

- ✓ That the ACT Government develop policies encouraging the employment of people with disabilities
- ✓ Employers made aware of the benefits of supported employment over open employment
- ✓ All segregated employees be transitioned to supported employment
- ✓ Pathways for career advancement created and supported
- ✓ Pathways for change of job / career created and supported
- ✓ That employment agencies are provided with necessary training and resources to

support people with disabilities in supported employment

- ✓ That Post School Options programs are revised to focus on moving to supported employment rather than segregated or open employment

### Resources for further information:

Introducing Supported Employment, IAS Employment (Ireland)

<http://www.youtube.com/watch?v=NbtZdCa0U4I>

Why Supported employment works, IAS Employment

<http://www.youtube.com/watch?v=uH9bc1mhipQ>

Supported Decision Making and Choices in Sheltered Employment, Janelle Boettcher, Advocacy for Inclusion September 2012 Newsletter

[http://www.advocacyforinclusion.org/index.php?option=com\\_content&view=category&layout=blog&id=40&Itemid=51](http://www.advocacyforinclusion.org/index.php?option=com_content&view=category&layout=blog&id=40&Itemid=51)

People with Disabilities don't just want Work, they want Careers! Ellen Read, Advocacy for Inclusion September 2012 Newsletter

[http://www.advocacyforinclusion.org/index.php?option=com\\_content&view=category&layout=blog&id=40&Itemid=51](http://www.advocacyforinclusion.org/index.php?option=com_content&view=category&layout=blog&id=40&Itemid=51)

Disability Rights Now: Civil Society Report to the United Nations Committee on the Rights of Persons with Disabilities, August 2012, Compiled by Disability Representative, Advocacy, Legal and Human Rights Organisations

<http://www.ahrcentre.org/news/2012/10/19/433>

Supported Employment for people with disabilities in the EU and EFTA-EEA: good practices and recommendations in support of a flexicurity approach, Study Report, May 2011, European Union

[http://ec.europa.eu/justice/discrimination/files/cowi.final\\_study\\_report\\_may\\_2011\\_final\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/cowi.final_study_report_may_2011_final_en.pdf)

<sup>1</sup> Anne O'Bryan, Ken Simons, Steve Beyer and Bob Grove for The Policy Consortium for Supported Employment. (2000) **A Framework for Supported Employment.** <http://www.jrf.org.uk/sites/files/jrf/1859353290.pdf>

<sup>1</sup> Trevor R. Parmenter, International Labour Office, Employment Sector, Skills and Employability Department. - Geneva: ILO (2011) **Promoting training and employment opportunities for people with intellectual disabilities: international experience.**

[http://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---ifp\\_skills/documents/publication/wcms\\_167316.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---ifp_skills/documents/publication/wcms_167316.pdf)

<sup>1</sup> (no date, accessed February 2013) **Conversion: A Pilot Project to Develop and Test a Comprehensive Programme of Conversion from Specialised Settings to Inclusive Employment for People with Disabilities.**

<http://www.employmentforall.eu/Conversion/tabid/3948/Default.aspx>

<sup>1</sup> United Nations. (1948) **The Universal Declaration of Human Rights**

<http://www.un.org/en/documents/udhr/index.shtml>

<sup>1</sup> United Nations. (2006) **Convention on the Rights of Persons with Disabilities**

<http://www.un.org/disabilities/convention/conventionfull.shtml>

<sup>1</sup> Trevor R. Parmenter, International Labour Office, Employment Sector, Skills and Employability Department. - Geneva: ILO (2011) **Promoting training and employment opportunities for people with intellectual disabilities: international experience.**

[http://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---ifp\\_skills/documents/publication/wcms\\_167316.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---ifp_skills/documents/publication/wcms_167316.pdf)

<sup>1</sup> IAS Employment. (accessed February 2013) **The Open Road -- Supported Employment.**

<http://www.youtube.com/watch?v=NRwo6AReqSA>

<sup>1</sup> Michael Kamp and Christy Lynch. (2007) **Handbook Supported Employment.**

<http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1337&context=gladnetcollect>

<sup>1</sup> Deloitte Access Economics for Australian Network on Disability (2011) **The economic benefits of increasing employment for people with disability.**

[http://www.and.org.au/data/Conference/DAE\\_Report\\_8May.pdf](http://www.and.org.au/data/Conference/DAE_Report_8May.pdf)

<sup>1</sup> Deloitte Access Economics for Australian Network on Disability (2011) **The economic benefits of increasing employment for people with disability.**

[http://www.and.org.au/data/Conference/DAE\\_Report\\_8May.pdf](http://www.and.org.au/data/Conference/DAE_Report_8May.pdf)

<sup>1</sup> Job Access, Australian Government. (Accessed February 2013) **Supported Wage System**

[http://jobaccess.gov.au/Services/A-Z\\_list/Pages/Supported\\_Wage\\_System.aspx](http://jobaccess.gov.au/Services/A-Z_list/Pages/Supported_Wage_System.aspx)

<sup>1</sup> Lindy Kerin, The World Today, ABC Radio. (January 11, 2013) **Court victory for workers with disabilities**  
<http://www.abc.net.au/worldtoday/content/2013/s3668034.htm>



## Information. Not frustration

There still needs to be recognition that people with disabilities are not always given opportunities to be involved in their own life planning; whether it is accommodation, employment, relationships or just day to day decisions.

I recently attended an Individual Planning meeting. After the meeting had concluded, I was informed that the consumer had not been involved in their IP for the last 3 years. I was quite alarmed to hear this simply because an IP meeting discusses the goals, wishes, support and risks of the person concerned. How can goals and wishes of the person, for example, be identified if the person is not given the opportunity to raise them or discuss them? Who then identified the person's goals and wishes and made decisions subjective to them? It also needs to be noted that the appointed guardian was also not part of or invited to the previous IP meetings either.

It would be frustrating to anyone to have decisions made without having the opportunity to express own opinions. I know I would be extremely frustrated. Somehow, this is not entirely prevalent if you have a disability because if you do become frustrated, you may then be labelled as having behavioural issues. If you are on a guardianship order, you may not have any say in regards to certain aspects of your life whatsoever.

However it has been recognised after the aforementioned IP meeting, that the person has been noticeably happier since they were involved in their IP meeting. The person has since been

requesting to be more involved in decisions that affect their life, instead of being “treated like a mushroom”. These requests now seem to be respected which has made a difference to their overall wellbeing. A person with disabilities has the same right to get frustrated if their rights are being denied, as with any other person in the community: Freedom of expression (s 16) of the Human Rights Act.

Jamelle Boettcher  
Advocate



### Submission to the ACT Budget Consultation

Advocacy for Inclusion made a submission to the ACT Budget Consultation. The Budget Consultation is where the community is invited to provide their views on how ACT government money should be spent. In our submission we encourage the government to make policies and services that are inclusive and promote the human rights and choice and control of people with disabilities.

The National Disability Insurance Scheme (NDIS) is intended to allow people with disabilities “much greater power and choice in a new system, with the objective of giving people greater flexibility and control over their lives — with the ultimate goal being greater wellbeing.”<sup>13</sup> But the ACT has a long way to go to support choice and control for people with disabilities.

To address this, we advocated that the government address the following:

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<sup>13</sup> Productivity Commission. (2011). Disability Care and Support. Report no. 54, Canberra. p. 343

### - Address negative community attitudes

Discrimination and prejudice is a major problem for many people with disabilities. A recent Australian survey found that community attitudes are identified as the biggest factor impacting on the social inclusion among people with disabilities.<sup>14</sup> Action should include phasing out services that segregate people such as special schools in favour of inclusive services such as supports in mainstream schools.

### - Support the self-determination of people with disabilities

Many people think that people with disabilities cannot be self-determined and have choice and control over their lives. The government should promote the self-determination of people with disabilities by funding training for them and their support people.

### - Develop Supported Decision Making practices as an alternative to guardianship

Guardianship law in the ACT means that some people with disabilities have their right to make decisions taken away and given to someone else. This law should be reviewed and Supported Decision Making models should be developed to support the choice and control of people with disabilities.

### - Prepare people with disabilities for the self-directed funding model that will come with the NDIS

Most people with disabilities have never had the experience of managing their own support package (money that pays for their support).

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<sup>14</sup> Scope & Deakin University. (2013). *Australians fail social inclusion test for people with a disability*. <http://ahha.asn.au/news/australians-fail-social-inclusion-test-people-disability>

Preparation is needed to help them to learn the skills to have choice and control over their supports.

- **Improve consultation with people with disabilities to inform policies and practices that affect them**

People with disabilities are excluded from government consultation processes because they are not usually accessible and appropriate for the needs of people with disabilities, especially those who are most isolated.

- **Increase funding for independent disability advocacy**

There is nowhere near enough funding for independent disability advocacy in Australia and especially in the ACT to meet demand. When the NDIS starts the need for advocacy will increase and funding must increase significantly to ensure consumer choice and control.

- **Improve accommodation for people with disabilities**

People with disabilities have minimal choice over their accommodation because there is a severe lack of accessible homes and appropriate support. Many are forced to live in certain homes and with certain house mates because there are no other options for them. People with disabilities have the right to choose where and with whom they live just like everyone else.

- **Change the Domestic Violence law in the ACT**

Violence happens against people with disabilities in disability supported accommodation such as group homes but the law does not recognise this as domestic violence. This is unacceptable and the law needs to be changed so that people with disabilities are protected from violence.

- **Prevent and eliminate restrictive practices**

Some people with disabilities are subjected to restrictive practices. This includes secluding them to a room or house, preventing them from accessing their personal belongings or other entitlements, physically restraining someone from doing something or going somewhere, and giving the person medication to control or change their behaviour. These are serious restrictions of a person's human rights and the government should improve support for people with disabilities to prevent and eliminate restrictive practices.

- **Fund support for parents with disabilities to care for their children at home**

Many parents with disabilities, especially those with cognitive disabilities, have had their children removed from their care. People with disabilities need appropriate support to enable them to care for their children well at home and the government should fund these supports to prevent a child from being unnecessarily removed from their family.

- **Improve employment opportunities and support for people with disabilities**

People with disabilities have higher unemployment and poverty rates than people without disabilities. They are also segregated in sheltered workshops. The government should make programs that improve these employment rates and supports people to work in mainstream workplaces with the rest of the community.

- **Fund support for people with disabilities to access justice**

People with disabilities are excluded from the justice system because they are not provided the supports they need to understand and participate in legal proceedings and be heard in court. The

government should fund programs that ensure people with disabilities are afforded “reasonable accommodations” in the justice system so that they can get fair outcomes.

### **Submission to CEDAW General Discussion on Access to Justice**

Advocacy for Inclusion made a submission to the United Nations *Committee on the Elimination of Discrimination Against Women (CEDAW)* General Discussion on Access to Justice.

Access to justice is about having a fair legal system that is accessible for people with disabilities on an equal basis with people without disabilities. An accessible legal system is one that supports people with disabilities to get the right information, advice and assistance to understand and participate in legal processes. For example, this includes support to give evidence in court or make a police statement when the person has communication barriers or a cognitive disability. It also includes laws that respond to the issues faced by people with disabilities.

In our submission we raised our concerns about the lack of access to justice for women with disabilities, which stops them from fulfilling their human rights according to the *Convention on the Rights of Persons with Disabilities (CRPD)*:

#### **Freedom from exploitation, violence and abuse (CRPD Article 16)**

Women with disabilities are at higher risk of being victims of violence and abuse. Many are unable to realise their right to be free from violence and exploitation. The barriers include:

- Not enough awareness and understanding among the community of violence against women with disabilities, including a lack of research and data collection;

- Misunderstanding among the community that the types of violence experienced by women with disabilities are actually forms of violence;
- Lack of recognition and protections in the law for women with disabilities as victims of violence, especially in supported accommodation arrangements;
- Lack of support, programs, resources and information appropriate and accessible for women with disabilities to help them be free from violence;
- Mishandling by disability accommodation providers of incidents of violence against women with disabilities within supported accommodation, including lack of training among staff on how to respond to such incidents;
- The particular vulnerability of women with disabilities, including their dependence on abusive care givers or partners, dependence on supports provided within a violent residential care setting, fear of consequences of reporting incidents, and for many a conditioning to violent treatment over a lifetime.

#### **The right to parent (CRPD Article 23)**

Many mothers with disabilities experience barriers to justice and are consequently denied their right to be a parent and to access support to parent well. The barriers include:

- Gender based violence towards mothers with disabilities, particularly by abusive male partners, which interferes with their parenting rights;
- Discrimination against mothers with disabilities among child protection authorities and in the court, including the misunderstanding that mothers with disabilities cannot learn parenting skills;

- Lack of appropriate supports available to mothers with disabilities to parent well in their own home and to be free from violence and abuse;
- Lack of recognition of mothers with disabilities as having a voice of their own in court and other legal proceedings;
- Reduced access to legal representation due to high rates of economic disadvantage across this population;
- Lack of training among workers in the legal system to understand and support the needs of women with disabilities to participate in legal processes, including child protection workers, lawyers and judges;
- No “reasonable accommodation” made to support mothers with disabilities, who require extra support to understand and engage in court proceedings.

### **Equal recognition before the law (CRPD Article 12)**

Women with disabilities are denied justice because they are not viewed as credible or as having legal capacity. The barriers include:

- Guardianship practices which remove the recognition of a woman’s legal capacity before the law;
- Prejudice in the judicial system against women with disabilities as being less credible;
  - A woman’s case may be prevented from reaching the court because her case is not deemed worthwhile;
  - When a woman reaches court her credibility is questioned or denied.
- “Reasonable accommodation” is not made to support women with disabilities to be meaningfully engaged in legal proceedings using alternate communication mechanisms.

### **Conclusion**

Women with disabilities face multiple disadvantages and barriers to accessing justice.

The intersection of discrimination and prejudice faced by women with disabilities in their daily lives and in judicial processes both as women and as people with disabilities creates extra barriers. Women with disabilities need greater supports to access justice outside of court and throughout court proceedings. This includes:

- Education to recognise and know their rights;
- Information, resources and support to fulfil their rights and responsibilities such as parenting and finding safety from a violent situation;
- Support and reasonable accommodations throughout legal systems and court proceedings to engage them in the process and have their perspective promoted and recognised.

These supports are not available to women with disabilities, causing the justice system in Australia to be inaccessible to them and preventing them from asserting their rights. You can read the full submission at [www.advocacyforinclusion.org](http://www.advocacyforinclusion.org)



### **Submission to the Senate Inquiry into the Involuntary or Coerced Sterilisation of People with Disabilities**

Advocacy for Inclusion made a submission to the *Senate Inquiry into the Involuntary or Coerced Sterilisation of People with Disabilities*. Our submission was based on the experience of Advocacy for Inclusion in advocating for people

with disabilities and in training them in self-advocacy skills to better assert their own rights.

Sterilisation involves a procedure that takes away a person's ability to have children. Many people with disabilities have been sterilised against their will. In the past it was common practice for people with disabilities to be sterilised. It is not as common now but it still happens.

The Inquiry looked into other issues such as contraception, family planning, abortions, and reproductive rights. These practices are not "rare" or "a thing of the past" as many would like to think; they continue to happen in segregated environments hidden from the broader community. The Inquiry is extremely important in highlighting and addressing these issues.

In Australia, and internationally, people with disabilities have a disturbing history of institutionalisation, segregation and oppression. People with disabilities were segregated from the community in institutions<sup>15</sup> and routinely sterilised to prevent them from reproducing "genetically inferior offspring".<sup>16</sup> Also used was the routine practice of forcibly removing children from parents with disabilities.<sup>17</sup>

Like everyone else in the community, people with disabilities have the human right to retain their

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<sup>15</sup> Richardson, M. (2005). Critiques of segregation and eugenics. In P. Goward, P. Gordon Ramcharan, *Learning disability: A life cycle approach to valuing people*. UK: McGraw-Hill Professional Publishing

<sup>16</sup> Llewellyn, G. & McConnell, D. (2005). You have to prove yourself all the time. In P. Goward, P. Gordon Ramcharan, *Learning disability: A life cycle approach to valuing people*. UK: McGraw-Hill Professional Publishing

<sup>17</sup> McConnel, D. & Bjorg Sigurjonsdottir, H. (2010). Caught in the child protection net. In G. Llewellyn, R. Traustadottir, D. McConnell, & H. Bjorg Sigurjonsdottir. *Parents with intellectual disabilities: Past present and futures*. UK: John Wiley and Sons.

fertility, reproduce, raise their children, and receive support to do so.<sup>18</sup> Sexual expression is also gaining recognition as a fundamental human right. Paul Hunt, the former United Nations Special Rapporteur on the Right to Health, stated that he has:

*no doubt that the correct understanding of fundamental human rights principles, as well as existing human rights norms, leads ineluctably to the recognition of sexual rights as human rights. Sexual rights include the right of all persons to express their sexual orientation, with due regard for the well-being and rights of others, without fear of persecution, denial of liberty or social interference.*<sup>19</sup>

People with disabilities have increasing access to their human rights, yet this history of oppression has created deep seated social perceptions and attitudes towards people with disabilities. People with disabilities are not understood as having the same sexual and reproductive rights as people without disabilities. Often they are actively discouraged from having sexual relationships and from founding a family. In sharp contrast, people in the general Australian population are expected to perform these roles as part of the natural course of life.

A societal misconception is that people with disabilities are child-like or asexual.<sup>20</sup> Conversely, when a person with disability is viewed as sexual they can be labelled as hyper-

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<sup>18</sup> United Nations. (2006). *Convention on the Rights of Persons with Disabilities*. Article 23.

<sup>19</sup> Hunt, P. (2004). *Report of the Special Rapporteur on the Right to Health*. United Nations Office of the High Commissioner for Human Rights. UN Doc. E/CN.4/2004/49. [www.unhchr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.2004.49.En](http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.2004.49.En).

<sup>20</sup> Llewellyn, G. & McConnell, D. (2005). You have to prove yourself all the time. In P. Goward, P. Gordon Ramcharan, *Learning disability: A life cycle approach to valuing people*. UK: McGraw-Hill Professional Publishing

sexed or over-sexed. It is seen as a social problem to be suppressed or eliminated.

The impacts of this history and the long-lasting community attitudes cause continued denial of sexual and reproductive rights for people with disabilities. Advocacy for Inclusion provides advocacy support to people with disabilities to stand against discrimination and to assert their human rights. We raised the following key points in our submission:

- There is a lack of sex education and family planning services for people with disabilities;
- The sexuality of people with disabilities is oppressed by community beliefs that people with disabilities are not or should not be sexual;
- People with disabilities are denied the right to parent and found a family due to discrimination against their disability.

### Summary of recommendations

1. Develop rights based sexual health and family planning services that provide gender specific programs, which are accessible and targeted at people with disabilities.
2. Implement sex education for all children with disabilities in all schools from the early years of primary school and continued through high school.
3. Implement awareness training for health professionals on the reproductive, sexual and family rights of people with disabilities.
4. Improve awareness raising and training for service providers and support workers in the disability sector on the sexual and reproductive rights and privacy rights of people with disabilities.
5. Improve training and resources for parents, carers and guardians on how to support the

sexual and reproductive rights of people with disabilities.

6. Develop combined sexuality and self-advocacy training programs for people with disabilities targeted at promoting their understanding and assertion of their sexual and reproductive rights.
7. Introduce explicit requirements under disability service legislation the *National Standards for Disability Services* that require service providers to support the reproductive and sexual rights of people with disabilities.
8. Introduce awareness raising and training for child protection workers, health professionals, legal aid family lawyers, and other legal and court staff on the rights of people with disabilities to found a family and raise their children with appropriate support.
9. Introduce comprehensive strengths-based and family-centred support for parents with disabilities, which are aimed at retaining children in the care of their parents, including supports that are long-term, prevention-focused and home-based.

You can read the full submission online at [www.advocacyforinclusion.org](http://www.advocacyforinclusion.org)

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<sup>1</sup> Richardson, M. (2005). Critiques of segregation and eugenics. In P. Goward, P. Gordon Ramcharan, *Learning disability: A life cycle approach to valuing people*. UK: McGraw-Hill Professional Publishing

<sup>2</sup> Llewellyn, G. & McConnell, D. (2005). You have to prove yourself all the time. In P. Goward, P. Gordon Ramcharan, *Learning disability: A life cycle approach to valuing people*. UK: McGraw-Hill Professional Publishing

<sup>3</sup> McConnel, D. & Bjorg Sigurjonsdottir, H. (2010). Caught in the child protection net. In G. Llewellyn, R. Traustadottir, D. McConnell, & H. Bjorg Sigurjonsdottir. *Parents with intellectual disabilities: Past present and futures*. UK: John Wiley and Sons.

<sup>4</sup> United Nations. (2006). *Convention on the Rights of Persons with Disabilities*. Article 23.

<sup>5</sup> Hunt, P. (2004). *Report of the Special Rapporteur on the Right to Health*. United Nations Office of the High Commissioner for Human Rights. UN Doc. E/CN.4/2004/49.

www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.2004.49.En.

<sup>6</sup> Llewellyn, G. & McConnell, D. (2005). You have to prove yourself all the time. In P. Goward, P. Gordon Ramcharan, *Learning disability: A life cycle approach to valuing people*. UK: McGraw-Hill Professional Publishing



## Training Report

### Self-advocacy Group (Peer Network)

We have had a couple of very successful meetings. In December we had a Christmas celebration which was a lot of fun.

We also talked about Reinforce, who are the longest running self-advocacy group in Australia. SARU had contacted us on behalf of Reinforce to ask permission to include the group in a map of self-advocacy groups across Australia. The group not only agreed but thought it could be interesting to have contact from other groups!

We met in February and talked about 'Safe Relationships'. It was an emotive session, with group members sharing personal examples. We discussed our rights, and ways we can be more assertive to make sure our relationships are safe.

Our next meeting is Wednesday 13 March from 2 – 3:30pm. We will be talking about 2 topics, and members are welcome to attend one or both sessions:

2pm - 2:45pm Assertive Action

2:45 - 3:30pm ACT Cervical Screening Program - a free service for women with disabilities in the ACT

Other meetings coming up will be:

- Wednesday, 10 April. 2-3:30pm -The NDIS and me
- Tuesday, 16 April 2-3:30pm. Advocacy Standards Audit
- Wednesday, 8 May. 2-3:30pm. My Rights

Contact Karen on 6257 4005 for further details.  
*Note: Our Self-advocacy Group is for all people with disabilities who have attended a self-advocacy course.*

### Self-advocacy and Human Rights Course

This new course has started and is completely booked out. Participants will be learning more about their rights and speaking up to ensure your rights are respected.

If you are interested in doing any further courses please see the Training page on our website.



### Supporting Self-advocacy Workshops – Book in now

Supporting Self-advocacy (1 day workshop)  
Thursday 21 March, 9:30-4pm

Supporting Self-advocacy & Human Rights (1 day workshop)  
Wednesday 15 May, 9:30-4pm

Cost: \$80 per community organisation participant  
Cost: \$110 per government/corporate participant  
Interested? Complete and return the registration form on our website.

Don't forget we are also available to come and run these and other workshops in your

workplace. See our website for further information.

### Stay Up to Date with our Training

Our monthly eBulletin has the latest in self-advocacy resources, tips and training opportunities.

Sign up on our website

[http://www.advocacyforinclusion.org/index.php?option=com\\_content&view=category&layout=blog&id=4&Itemid=6](http://www.advocacyforinclusion.org/index.php?option=com_content&view=category&layout=blog&id=4&Itemid=6)

or by emailing [training@advocacyforinclusion.org](mailto:training@advocacyforinclusion.org)



Advocacy for Inclusion has signed on to the national campaign to end racism "It Stops With Me" being coordinated by the Australian Human Rights Commission.

We are planning all sorts of activities as part of the campaign including:

- using the logo as part of our signatures
- attending training and workshops
- Inviting guest speakers to our staff meetings
- Inviting the telephone interpreters
- Learning about the cultures and customs of different countries and sharing the knowledge with team.

If you or your organisation would like to endorse the campaign, check it out at

<http://itstopswithme.humanrights.gov.au/>

### Pro Bono Legal Support

Advocacy for Inclusion thanks Clayton Utz for their recent pro bono legal support. Most of our individual advocacy consumers have no capacity to afford legal assistance.

Recent support from Clayton Utz has allowed some of our individual advocacy consumers to pursue legal outcomes that they may never have otherwise. They have also been much more successful than they would have been if forced to act on their own.

We are enormously grateful for this support.



### Position Vacant

Administration and Communications Officer  
Position description and selection criteria

[Word](#) | [PDF](#)

Applications close 19 March 2013.



### New on our Website

We recently added the following to our website:

- Submission to CEDAW General Discussion on Access to Justice - February 2013
- Advocacy for Inclusion Submission to ACT Budget 2013–14 - February 2013
- Submission to the Senate Inquiry into sterilisation - February 2013
- [2013 Training Calendar](#)



## Canberra's Centenary



From left to right: Ellen, Christina, Jamelle, Tehmi & Karen.

In early February the Advocacy for Inclusion team went on the Centenary of Canberra Loop Bus, which is a free bus ride around the national landmarks. It was a lovely outing for the team and we encourage everyone to join in the Centenary celebrations by taking the bus. For more information about the timetable and stops, please refer to

[http://www.action.act.gov.au/news/news\\_articles/centenary\\_loop\\_route\\_100](http://www.action.act.gov.au/news/news_articles/centenary_loop_route_100)



## Your donations mean so much .....

Your donation buys materials and covers the costs of training people with disabilities to speak for themselves and to be more independent.

You can help with the cost of a training manual, accessible transport to a workshop, or printing information for our self-advocacy peer network.

We rely entirely on donations for these costs and appreciate your support. You can help change the life of a person with disability.

To donate [click here](#).

Your donations support our Self-advocacy work (which is free to people with disabilities)...

### **\$25**

Buys fresh food for one week of our Nutrition and Self-advocacy course

### **\$50**

Provides one comprehensive Self-advocacy manual, a resource for future self-advocacy

### **\$80**

Pays for a return trip by taxi for a self-advocate to attend training or our self-advocacy network

### **\$123**

Hires a training room for one session of Self-advocacy education

### **\$312**

Hires a training room for a one day Supporting Self-advocacy workshop (which means we can put this money toward our Self-advocacy training instead)

### **\$1384**

Covers the cost of a full Self-advocacy course for 6 people with disabilities

You can donate any amount and all donations over \$2 are Tax Deductable

If you would like to make a donation to Advocacy for Inclusion please use the form at the back of this newsletter. All donations over \$2.00 are tax deductible. You can also donate to us via the Hands Across Canberra website at <http://handsacrosscanberra.org.au/give/browse/?id=64>

## Twitter



Advocacy for Inclusion is now on Twitter. Why not follow us at @adv4inclusion to keep up with our day to day activities and thoughts?



## Funding Acknowledgement

Advocacy for Inclusion is currently funded by the:

- *Australian Government Department of Families, Housing, Community Services and Indigenous Affairs*
- *the ACT Government – Community Services Directorate (Disability ACT)*

## Order your Advocacy for Inclusion cards today!!!

**“like the stars, we are all the same from a distance”**

The Inclusion Art Competition invited artists with disabilities to depict their concept of inclusion. This beautiful new set of cards is based on a themed set of artworks by artists at the Hands On Studio. They are ideal for any occasion when you want to send a message of inclusion.

The cards are high quality gloss, post office-preferred size and available in Sets of 10 with envelopes – two copies of each design per set.



**“In my thoughts I have many friends”**

**Artist Andrew Delaney**

Andrew grew up watching his Grandfather doing art and has always wanted to have a go. He has been doing art classes at Hands on Studio since October 2009 and loves to paint; in particular he loves to paint tractors and farms.

**\$10 per pack of 10 cards**

All cards are Post Office preferred size.

**Order Form:**

Product	No. of items	Ea	Total Cost
Andrew Delaney Cards Pack of 10		\$10	
<b>Free</b> Poster – 1 per order with any other item purchased.  Andrew Delaney – “In my thoughts, I have many friends”			
‘Stars’ Cards. Pack of 10 - Two of each card in a pack		\$10	
DVD – Pete & Annie’s Dinner party		\$55	
Postage & Handling for DVD		\$5	
Donations			
Total			
Your Name:			
Your Address:			

*Please make your cheque or money order payable to Advocacy for Inclusion Inc.*

Advocacy for Inclusion  
 Suite 2.02, 20 Genge Street,  
 Canberra ACT 2601



improving life for people with disabilities

**MEMBER APPLICATION FORM**

Name \_\_\_\_\_

Address \_\_\_\_\_

Post Code \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

Contact Person (Organisations only) \_\_\_\_\_

Full Membership

Associate Membership

Please tick if you have a disability (free membership)

To become a member, please fill in this form and return it to the address below.

*Please make your donation, cheque or money order payable to Advocacy for Inclusion Inc.*

**Advocacy for Inclusion**  
 2.02/20 Genge Street  
 Canberra City ACT 2601

**Membership includes:**

- Quarterly newsletter
- Policy consultation on key issues
- Representative opportunities
- Connection with local and national networks
- Right to nominate for our Board
- Membership rates for training

**Membership Categories:**

- *Full Membership - Individuals*
  - \$10
  - Free for people with disabilities
- *Associate Membership - Organisations*
  - \$25