

125. Vicdeaf

Name of organisation: Vicdeaf

Proposal 2-1:

Proposal 3-1:

Proposal 3-2 National Decision-Making Principle 1:

Proposal 3-3 National Decision-Making Principle 2:

Proposal 3-4 Support Guidelines:

Proposal 3-5 National Decision-Making Principle 3:

Proposal 3-6 Will, Preferences and Rights Guidelines:

Proposal 3-7 Representative Decision-Making Guidelines:

Proposal 3-8 National Decision-Making Principle 4:

Proposal 3-9 Safeguards Guidelines:

Proposal 4-1:

Question 4-1:

For all justice processes from start to finish, plus VCAT, OPA. Immigration Law too in regards to migrants with a disability / CALD background. Mental Health Law - not appropriate 'deaf friendly' assessments and those also relevant to supported accommodation.

Question 4-2:

- Might be appropriate but wary of how these people are selected / chosen and how it is monitored
- Both of these terms are ok as long as they are formally recognised in some manner.

Proposal 4-2:

Proposal 4-3:

Proposal 4-4:

Proposal 4-5:

Question 4-3:

- It goes back to the reason and accountability of the person taking on the fiduciary role.
- If this makes the relationship between the supporter / representative more accountable, i.e. the person with a disability can appeal against a decision if their wishes were not respected - then yes absolutely.

Question 4-4:

*Accountability, capacity, method of communication used with the person who requires support, proof of connection with other providers, capacity to be open minded. *Documentation, similar to that when appointing a POA etc. There needs to be a paper trail that formalises and legalises the relationship. * The supported should not also be the interpreter. * A case manager should be appointed to oversee the overall care to ensure everything is being done in the interest of the person with a disability.

Proposal 4–6:

Question 4–5:

* Accountability, accessibility, transparency and the ability to listen to the person and not allow other dominate persons and / or hearing people influence the representative especially when it comes to communication / cultural barriers

* Having a peak body that oversee's the appointment of representatives & ensures that relevant paperwork, authorities are completed and lodged. Then this peak needs to monitor and ensure that representatives that are appointed are meeting the needs and acting on these on the clients behalf.

* A government agency or disability service who is accountable to the government (rules & regulations) should oversee the supporter and have total understanding of the disability.

Proposal 4–7:

Proposal 4–8:

Proposal 4–9:

Question 4–6:

* It would all go back to rules and all that as is always but there may need to be ONE bottom line - what is the best for the person they both are resp[onsible for; not what is best for the commonwealth or the state / territory appointed persons. With access to interpreters it remains a sore point that some decision makes especially finance related use the persons money to pay for interpreters which is so wrong and says a lot really in how they do not 'understand' the person they are responsible for nor the principles.

* There needs to be a level of accountability, as well as training. So having a peak body of some description that has a list of registererd supporters / representatives of which they can monitor. This peak body can then also be the connection between the state or territory appointed decision makers.

Proposal 4–10:

Proposal 4–11:

Proposal 4–12:

Proposal 5–1:

Proposal 5–2:

Proposal 5–3:

Question 5–1:

* To accept existig professional relationships even if it seems unique and work on collaboration moe. Trust is often established although I

understand some may view it as controlling at first sight but as is sometimes the case, one needs to look past first impressions and see what layers are underneath.

* NDIS in its current form needs to acknowledge and accept the workers (current service providers) that people with a disability currently work with. I am unfamiliar with the paperwork required by the NDIS, but think there should be an authorisation to speak with the relevant worker and not assume that it is simply a family member / friend who is in attendance.

* All NDIS rules should be accessible for everyone involved.

Question 5-2:

* To provide a flow chart in plain English and / or visual pictures for participants and / or to allow other professionals they are already linked with to be able to teach the participants. And a separate flow chart of same outlining the consequences of what happens if not followed. A workshop too by a collaboration between NDIA and a relevant service provider. 2 - Refer to answers for question 6 and also accessibility / accountability is a priority. financial organisations such as State Trustees, Judge Papaleo etc may need to review how often they give out statements and they need to be quick with their decisions as they often are not. They tend to procrastinate when it comes to releasing a large amount of money.

* 1. I have heard examples of clients accessing and managing their own funds - which they have then used for purely personal reasons (such as a holiday) opposed to accessing services. I think as part of the planning process, there needs to be a budget of what funds will be received and where this is allocated to. The client can have some discretion as to how they manage their funds, but there is a guideline that can assist them. 2. Must be formalised and have a level of accountability.

Proposal 6-1:

Proposal 6-2:

Proposal 6-3:

Proposal 6-4:

Proposal 6-5:

Proposal 7-1:

Proposal 7-2:

Question 7-1:

* Does it have to be clinically - recognised? There are many that are not clinically diagnosed because the existing assessments are not 'deaf friendly' therefore may fall through the gaps. With mental health, it is common knowledge that they can have "good" and "bad" days even

though the 'good' days may not mean much however the system need to allow flexibility for this. Migrants are another factor - cultural and religious beliefs along with minimal or no language is a huge barrier in regards to trial. Cognitive language processing - not necessarily a mental impairment but more of how they were brought up (or lack of a good parenting influence) can impact on the processes. I wouldn't want to base too much emphasis on the clinical reports itself when there are other factors in play with the clinical assessment fail to uncover if the right people are not used as assessors.

* My concern with this test for 'unfitness' to stand trial is who will be the person / organisation providing the test and what qualifications / experience will they have in the varied specialised areas that can impact on ones ability to understand and make decisions as part of court proceedings? I believe there should be provision to have a test, but who will provide the specialist knowledge to determine if a person is unfit to stand trial.

* All form of communication are respected and individuals are given the opportunity to communicate in their first language - i.e. Auslan, notetakers, picture cues, assistive listening devices etc. Yes there needs to be a threshold.

Proposal 7-3:

Proposal 7-4:

Proposal 7-5:

Proposal 7-6:

Proposal 7-7:

Question 7-2:

* How does one define 'reasonable' when they often do not have experience in the disability field, themselves? Ho do they also do this when they refuse to pay for interpreters but depend on family or dominant persons to "interpret" or "represent" the person. Or even try to communicate with the person in THEIR language (in person or in letter - it is oftne officious language - please!) regardless of what disability the person have. Question 10 is fraught with risks. Solicitors would need to be trained. 2. disagree - for the reason that it is not their job to do so plus the legal area is a very comples one that "normal" people do run into difficulties too. This is best assessed by a person who has a broader involvement in the person's life or over several years.

* Yes, providing there is a clause in the conduct rules that the solicitor should utilise all supports available to provide the client with access and the ability to be involved in decision making, providing instructions etc. Then once all supports have been exhausted the solicitor should be able to access this exception to the duties of confidentiality.

Proposal 7–8:
Proposal 7–9:
Proposal 7–10:
Proposal 7–11:
Question 7–3:

* How is it known that a person is incapable of giving consent? What risk is there that people will say 'oh that person is Deaf, can't communicate, lets take the forensic sample' - without determining how the person communicates and then providing them the support required to communicate. My concern would be the risk that it is assumed the person is incapable without this being proven.

* Depends on what had been done to ensure that every opportunity has been given for the person to give consent. "incapable of giving consent" is not clear cut - just because a person says no doesn't mean he / she is incapable of giving consent and if being a victim of crime, they could be traumatised to think clearly. All too often in crimes, interpreters are never organised. I wonder why they say "victims of crime", why not "perpetuators of crime" to be included in this?

* No, everything possible should be done to obtain consent in a way the victims understand, no matter how long it takes.

* Yes, similar rules to that of an unconscious person / patient.

Proposal 7–12:

absolutely. but it should also be the courts responsibility to ensure supports are provided so that the person can communicate their decisions to the other members of the jury and to the court.

Proposal 7–13:
Proposal 7–14:

Yes.

It is possible for the court to book the appropriately qualified interpreters to assist a juror to participate fully with proceedings and jury deliberations.

Proposal 7–15:

Communication assistants can swear an oath or make an affirmation as does ANY language interpreter who is present within the court room.

Proposal 8–1:
Proposal 9–1:

Proposal 9-2:

Proposal 9-3:

Proposal 9-4:

Question 9-1:

* Yes, in conjunction with a statutory declaration or something that has an obligation. I have a client who I don't believe has the capacity to vote. I contacted the Electoral Commission, locally, and was told not to enrol the person. There is no checking mechanism that I called the commission or that I have done this in a professional capacity. So what happens if this person is eventually fined?

* I have a client who is not of "sound mind" but is not well enough (mental health issues) to make such decision - client did not vote. Need to add more in the range of qualified persons....such as case managers.

Proposal 9-5:

Proposal 9-6:

Absolutely - providing the person indicates that that is their wishes.

Question 9-2:

* making information accessible. Use of information in Auslan, easy English ballot papers etc

* Volunteers at electoral polling booths should have Auslan skills and information should be available in an accessible format such as Auslan.

* If we are having a supporter or a representative; the right to vote for the person would need to be looked into since it is possible they could vote "just because" on behalf of the person. The lead up to vote process need to be looked into on how the information is accessible to a wide range of disabilities as that is the most important part to voting. Note - captioning is not always reliable due to glitches.

* Maybe a national recognisable 'support' card, issued by the Commonwealth, similar to a companion card. The person with a disability can show when they need support. But it has to be the individual's card and they can show the presiding officer that the person with them will be assisting them on this occasion.

Proposal 9-7:

Proposal 10-1:

Question 11-1:

Absolutely Yes!!

In theory this is good, but not so in practice. There are still problems with informed consent simply because there are no formal processes in verifying what informed consent is. We have had cases where clients with an intellectual disability and / or deaf sign the forms without ensuring that they actually understood the form and the consequences of defaulting. A 'shiny new product' for our client can be more important than the legalities. All businesses should have an obligation to provide interpreters and / or easy to understand forms.

Question 11-2:

* The issue here is who determines if the party does or doesn't have the decision making ability and can / can't give 'real consent'.

* Further clarification is required as to what is 'real consent'. There are people who don't get the concept of marriage but do enjoy the time they spend together and if they show enjoyment in kissing and being affectionate, then they could be 'married' if they want to move in together.

Proposal 11-1:

Question 11-3:

* Yes but how does the Act ensure that there is evidence of consultation with the person with a disability and that the person's wishes are being respected.

* This needs to be looked into carefully as to who the significant persons / animals and his / her passionate hobbies are to the person's life in order to make the appropriate choice of beneficiary ie cat protection society, Lost Dogs Home, AFL team etc

Question 11-4:

* Yes, again there needs to be some type of checking system to make sure that the preferences and rights of the person are upheld.

Proposal 11-2:

Other comments?:

Equality, capacity and Disability...it is often the processes that need to be looked into rather than the 'expected' outcomes of the proposals. Too many organisations do not provide access and it is often up to the client to pay for access or to have a support person / organisation to advocate for them when it should be the organisations responsibility in the first place. Media also needs to be included in how they promote these themes in accessible and non-judgemental matter. The legal area needs work - they put out policies and all that but have no 'real' understanding

of the layers that are apparent in a persons life be they of different skin colour, different backgrounds, different ethnicity, different disabilities etc etc.

The common denominator is accessibility and WHO has the knowledge to determine who can / cant make a decision.

File 1:

File 2: