Quality Procedure 6: The Rights and Responsibilities of People Seeking and Receiving Advocacy

AUDIT: 12 MONTHLY
DISTRIBUTION: see Document register held by Quality Coordinator
REFERENCES: National Disability Advocacy Service Standards

Section 6:

The Rights and Responsibilities of People Seeking and Receiving Advocacy

Copyright © Rights in Action 2005
The material contained on this document constitutes Commonwealth copyright and is intended for your general use and information. You may download, display, print and reproduce this material in unaltered form only (retaining this notice, and any headers and footers) for your personal, non-commercial use or use within your organisation. You may distribute any copies of downloaded material in unaltered, complete form only (retaining this notice, and any headers and footers). All other rights are reserved. Requests for further authorisation should be directed to:

Rights In Action Incorporated, PO Box 1041N CAIRNS NORTH QLD 4870
Telephone: 07 4031 7377 Facsimile: 07 4031 7383 Email: Coordinator@rightsinaction.org
Rights In Action Inc. - Policy and Procedures Manual
Section 6: The Rights and Responsibilities of People Seeking/Receiving Advocacy

Contents

Quality Procedure – Issue Status 3
Disability Advocacy Standards 5
Rights of the Person Seeking/Receiving Advocacy 8
Advocacy for People with Impaired Capacity 9
Physical Access to Advocacy 11
Right to Access Information 11
Privacy Policy 12
Complaint Policy and Procedure 14
Handbook for People Seeking Advocacy 17
Appendix 18
# Quality Procedure 6: Issue Status

<table>
<thead>
<tr>
<th>ISSUE</th>
<th>DESCRIPTION</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>01</td>
<td>Endorsed Policy &amp; Quality Procedure Manual</td>
<td>Adopted January 2005</td>
</tr>
</tbody>
</table>
| 02    | • Updated to include Disability Advocacy Standards  
       • Included Issue Status  
       • Included People Seeking & Receiving Advocacy | Updated September 2006 |
| 03    | • Amended Indigenous to Aboriginal & Torres Strait Islanders  
       • Amended We/Our to The Organisation or RIA  
       • Formatted document | Updated May 2007 |
| 04    | • Updated Format and Layout  
       • Appendix added | Updated January 2008 |
| 05    | • Updated Complaints Procedure and specifically removed “grievance” and replaced with “complaint”  
       • Amended references to funding body from FaCSIA to FaHCSIA – Families, Housing, Community Services and Indigenous Affairs  
       • Included informal decision makers page 4  
       • Physical Access page 5 | Updated September 2008 |
<p>| 06    | • Updated NDAP Standards | July 2009 |
| 07    | • Included a contents page, removed service coordinator, updated complaints policy &amp; procedure, ethical behaviour and advocacy for people with impaired capacity added | Updated September 2009 |
| 08    | • Replaced GAAT with QCAT. DS replaced with Dept of Communities. | Updated September 2010 |
| 09    | • Updated with Copyright | January 2011 |
| 10    | • Updated Ethical behaviour to include – advocates not to engage in financial arrangements (pg 7) | Endorsed by MC August 2011 |</p>
<table>
<thead>
<tr>
<th>ISSUE</th>
<th>DESCRIPTION</th>
<th>DATE</th>
</tr>
</thead>
</table>
| 11    | Changed references to Coordinator to Manager  
|       | Amended references to Handbook to be People Seeking or Receiving Advocacy  
|       | Amended name change for DS to Child Safety and Disability Services | July 2012  
|       | Endorsed by MC August 2012 |
| 12    | Added Human Services Standards 1, 2, 3, 4 & 5  
|       | Insert forms on appendix page in PDF format  
|       | Added – Advocating and obtaining consent for a child or young person  
|       | Updated the web link to the FaHCSIA & Department of Communities Complaints policy  
|       | Updated contact details for FaHCSIA, DS & CRRS | July 2013 |
| 13    | Changed FaHCSIA to Department of Social Services (DSS)  
|       | Application to access personal file record | Updated October 2013 |
| 14    | Included Privacy Policy  
|       | Updated Privacy Brochure  
|       | Removed 28 day timeframe and replaced with “within a reasonable timeframe”  
|       | Amended page numbers | Revised May 2014  
|       | Endorsed by MC June 2014 |
|       | Changed Adult to Public Guardian  
|       | Added CRRS & DSS online complaint web address  
|       | Updated and attached documents and forms in Appendix  
|       | Added hyperlink | Revised May 2015  
|       | Endorsed by MC June 2015 |
Disability Advocacy Standards

National Disability Advocacy Program (NDAP), National Standards Disability Service Standards (NSDS), Queensland Disability Advocacy Standards (QDAS) and Human Services Quality Standards (HSQS) Queensland

Standard 1: Access to advocacy
NDAP:
Each person with a disability seeking the support of an advocate has access to an agency on the basis of relative need and within available resources.

QDAS:
Each person or group seeking advocacy has access to the advocacy agency on the basis of relative need and within available resources.

HSQS:
Sound governance and management systems that maximise outcomes for stakeholders

Standard 1: Rights
NSDS:
The service or program promotes individual rights to freedom of expression, self-determination and decision-making and actively prevents abuse, harm, neglect and violence.

Standard 2: Individual needs
NDAP:
Each person with a disability receives advocacy that is designed to meet, in the least restrictive way, his or her individual needs and personal goals.

QDAS:
Each person or group with a disability receives advocacy that is designed to promote their personal goals related to their fundamental need, in the least restrictive way.

HSQS - Standard 2: Service access
Sound eligibility, entry and exit processes facilitate access to services on the basis of relative need and available resources.

Standard 2: Participation & Inclusion
NSDS:
The service or program works with individuals and families, friends and carers to promote opportunities for meaningful participation and active inclusion in society.
Standard 3: Decision-making and choice
NDAP:
People have the opportunity to participate as fully as possible in making decisions about advocacy activities undertaken.

QDAS:
People have the opportunity to participate as fully as possible in making decisions about advocacy provided.

HSQS - Standard 3: Responding to individual need
The assessed needs of the individual are being appropriately addressed and responded to within resource capability

Standard 3: Individual Outcomes
NSDS
Services and supports are assessed, planned, delivered and reviewed to build on individual strengths and enable individuals to reach their goals.

Standard 4: Privacy, dignity and confidentiality
NDAP:
The right of people with disability to privacy, dignity and confidentiality is recognised and respected.

QDAS:
Recognition of the right to privacy, dignity and confidentiality in all aspects of life.

HSQS:
The safety, well being and human and legal rights of people using services are protected and promoted.

Standards 4: Feedback and Complaints
NSDS:
Regular feedback is sought and used to inform individual and organisation wide service or program reviews and improvement.

HSQS - Standard 5: Feedback, complaints and appeals
Effective feedback, complaints and appeals processes that lead to improvements in service delivery.

Standard 5: Service Access
NSDS
The service or program manages access, commencement and leaving a service in a transparent, fair and equal and responsive way.
Standard 6: Valued status
NDAP:
Each person with a disability has an opportunity to develop and maintain their own advocacy skills that enable him or her to achieve valued roles in the community.

QDAS:
Advocating for the acknowledgment, development and maintenance of people’s skills and talents, to enhance and encourage their active participation within the life of the community.

Standard 7: Complaints and disputes
NDAP:
People with disability who have a complaint or dispute with the advocacy agency, are encouraged to raise it, and have it resolved, without fear of retribution.

QDAS:
A proactive approach to complaints and disputes management that safeguards people accessing an advocacy agency from retributive action when raising complaints.

QDAS:
Upholding the legal and human rights of each person with a disability and taking action to prevent and/or respond to allegations of abuse, assault, neglect and exploitation.

Standard 12: Protection of human rights and freedom from abuse
NDAP:
The advocacy agency acts to prevent abuse and neglect and to uphold the legal and human rights of people with disability.
Rights of the Person Seeking/Receiving Advocacy

People with a disability seeking/receiving advocacy are the focus of Rights In Action’s (RIA’s) operations and it is important that their rights are acknowledged and promoted at every opportunity.

The Rights of the Person Seeking/Receiving Advocacy

People seeking advocacy:
- will have their advocacy priorities decided on the basis of vulnerability and the capacity of RIA to respond;
- will be treated with respect and dignity;
- will be addressed responsive to their social, cultural and physical needs;
- have a right to privacy and confidentiality.

People receiving advocacy:
- will be involved in decisions about their advocacy effort. They will be aware of all the options available and will be encouraged to have a family member, friend or person of their choice involved in their decisions;
- have a right to complain about the advocacy support they are receiving. Complaints will be dealt with fairly, promptly and without retribution.
- the person with the complaint may involve another person of his/her choice to represent his/her interests;
- will have their views taken into account in the planning and evaluation of the organisation;
- have the right to a quality service free from physical, sexual, verbal and emotional abuse and neglect;
- have a right to privacy and confidentiality;
- have access to information about themselves held by RIA, unless there is an exception which applies under the Privacy Act, such as where RIA has a legal duty not to disclose the information or where it may be harmful to the client to do so (e.g.: medical reports with specific restrictions on release).

Ethical Behaviour

Advocates are both ethically and legally accountable for their actions and are required to protect the individual from abuse, neglect and exploitation.

The Advocate will establish boundaries with the person seeking advocacy. This will include:
- keeping family and personal life private;
- not be involved in the purchase of/or consumption of alcohol or illegal drugs for people seeking advocacy;
- not enter into any financial arrangements with people seeking advocacy;
- not accept personal gifts or money *(refer to Section 10 – Gift Policy)*;
- declare perceived or actual conflict of interest; and
- not enter into a personal or sexual relationship with the individual.

**Unacceptable Behaviour**

Visitors and people seeking advocacy are to respect the human dignity of the RIA staff and other people accessing RIA assistance.

Staff are not expected to tolerate abusive or offensive behaviour.

If people seeking/receiving advocacy or visitors to the RIA office become extremely difficult or uncooperative, staff will refer the matter to the Manager for immediate attention.

If any staff believe that person seeking/receiving advocacy or other visitor’s behaviour is extreme in nature and likely to escalate to violence, then staff will call police immediately for assistance, then advise the Manager or delegate.

Alternately, if this behaviour occurs in the RIA office, staff are to use their duress alarm. *(Refer Section 12)*
Advocacy and Obtaining Consent for People with Impaired Capacity

In instances when individuals lack the capacity to provide RIA Advocates informed consent, our agency will protect the persons' interests by seeking permission from an appropriate third party. This could be either an informal/substitute decision maker (a person over 18 years of age who has a continuous relationship and interest in the individual such as a family member, carer or friend) or formal decision maker such as a legal guardian or the Public Guardian.

If there is no informal decision maker for the person seeking advocacy, our agency may support the individual by making an application to the Queensland Civil and Administrative Tribunal (QCAT) where necessary.

If the informal decision maker appears to be acting against the individual’s wishes or interests, the Advocate should take reasonable steps to safeguard the interests and rights of the individual. The following principles will help to guide the Advocate's actions:

- **Take the least restrictive option**: the intervention by the Advocate will be the least restrictive option in relation to the freedom of the individual receiving advocacy.
- **Consider the individuals wishes**: the Advocate will take into account the individuals present and past wishes and feelings so far as they can be ascertained.
- **Consult with relevant others**: the Advocate will seek and take into account the views of relevant people who are close to the individual or who may know the person well. In weighing up the views of relevant others the Advocate will consider issues such as conflict of interest.
- **Encourage and support client to use whatever skills he/she has**: the Advocate will encourage the individual to exercise whatever skills that he/she may have to participate in decision making about their welfare and where practicable help them develop new skills.
Advocacy and obtaining consent from children and young people

Valid consent is just as important when advocating for children and young people as it is with adults. Advocates have a duty to act in the best interest of the child. The child or young person should be involved in choosing their advocacy goals as much as possible, depending on their level of understanding. If the child is not capable of this, Advocates will need the consent of the person with legal or parental responsibility.

Physical Access to Advocacy

We strive to ensure people with disabilities have access to our office for their appointments. Alternate arrangements can be arranged if this is not possible. Advocates can meet people at mutually agreed locations such as their home (only under extenuating circumstances due to their disability), a community centre or accompany them to appointments at other service locations when practical.

Right to Access Information

People seeking/receiving advocacy through RIA have a right to access their personal file in accordance to the Freedom of Information Act 1992 and privacy legislation, unless there is an exception which applies under the Act, such as where RIA has a legal duty not to disclose the information or where it may be harmful to the client to do so.

A person seeking advocacy will be made aware of the right to access their personal file through the Handbook for People Seeking/Receiving Advocacy, as well as verbally by RIA staff. (Refer to RIA Privacy and Confidentiality Policy)

Additionally, people can ask the organisation to amend their personal information if they believe it is inaccurate, incomplete or misleading.

If RIA agree to amend their personal information, the organisation will add a note to the records identifying the information was amended and how it was considered to be inaccurate, incomplete or misleading.
To ensure that the organisations records remain complete, original records will be held for at least 5 years after the Service Agreement Activity Period or other period required by legislation. (refer to Section 8)

A request to access personal records and Application to Access Personal file Records will be completed and referred to the Manager.

The Manager will ensure that assistance is provided to individuals to access their information as soon as possible. A RIA Advocate will be made available to explain any terminology.

Privacy and Confidentiality Policy

Rights in Action Inc (RIA) respects the privacy of all people including our clients, employees, members, volunteers, referrers of clients and online users, and is committed to safeguarding the personal information that is provided to us.

Purpose
The purpose of this privacy policy is to:

- clearly communicate the personal information handling practices of RIA
- enhance the transparency of RIA operations, and
- give individuals a better and more complete understanding of the sort of personal information that RIA collects, and the way we handle that information.

Definitions:

Online users refers to anyone that accesses the Rights in Action website www.rightsinaction.org

Personal information as defined by the Privacy Act 1988 (as amended) is information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether true or not, and whether recorded in a material form or not.

Sensitive information as defined by the Privacy Act 1988 (as amended) is information or opinion (that is also personal information) about an individual’s racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual preferences or practices or criminal record or health, genetic, biometric information or biometric templates, that is also personal information.

Our obligations under the Privacy Act

This privacy policy sets out how we comply with our obligations under the Privacy Act.
1988 (Privacy Act). We are bound by the Australian Privacy Principles (APPs) in the Privacy Act which regulate how organisations may collect, use, disclose and store personal information, and how individuals may access and correct personal information held about them. RIA also acknowledges our obligations under The Queensland Information Privacy Act and other legislation of confidentiality in the Child Protection Act 1999 and Disability Services Act 2006.

Collection of Personal and Sensitive Information

If you would like to enquire about Rights in Action Inc (RIA) Services’ on an anonymous basis or using a pseudonym, please tell us. If this is possible and lawful, we will take all reasonable steps to comply with your request.

However, we will not be able to provide advocacy to a person with disability if we are not provided with the personal information necessary for us to do so. The nature and extent of personal and sensitive information collected by RIA varies depending on your particular interaction with our agency. RIA may collect personal and sensitive information from (not limited to) clients, families and carers, service providers, and health professionals.

Clients (People seeking or receiving advocacy)

Information collected may include:

- contact details (name, address, email etc.)
- personal details including: date of birth, gender, income
- information on personal issues and experiences, relationships,
- family background, supports clients may have in the community and areas of interest
- photographs, signatures, tax file numbers and
- health information and/or medical history

How the information is collected:

- enquiry / referral form
- membership applications
- online referral
- telephone or face to face interview

Purpose use of the information collected:

- to provide independent individual advocacy
- to provide referral to appropriate services
- to meet the requirements of government funding bodies
- to monitor and evaluate outcomes of our advocacy assistance
- to produce performance reports to funding bodies
- to comply with legal obligations

The complete Privacy and Confidentiality Policy can be found on our website www.rightsinaction.org. A hard copy will be provided on request.
Complaint Policy and Procedures

Rights in Action Incorporated (RIA) has policies and procedures in place for responding to and addressing complaints and concerns about our services. Any concerns will be listened to and managed with respect for the rights of all people involved. We aim to respond to and resolve complaints in a timely manner.

Policy

RIA acknowledges that all people have the right to be heard on issues of concern and undertakes to address all concerns and complaints quickly to work towards an outcome satisfactory to all parties. This will be done without fear of retribution and in an equitable way. RIA believes that queries, concerns and complaints provide valuable feedback about how the organisation can improve its service.

People seeking advocacy have the right to:
- have the complaint pursued confidentially, objectively and with an aim towards permanent resolution and elimination of the chance of repetition wherever possible;
- be told what avenues are open to them to resolve the complaint; and
- have another person, friend or family member present to support them.

RIA has a responsibility to maintain complete confidentiality during the investigation of a complaint.

RIA applies principles of natural justice in its investigation of complaints:
- any staff member against whom a complaint has been lodged has the right to be informed of the details of the complaint;
- the staff member has the opportunity to respond to the complaint;
- a decision is made in the matter in an unbiased way.

The Handbook for People Seeking or Receiving Advocacy, (a copy of which is given to people seeking advocacy at their initial interview) outlines the complaints policy and procedure.

What is not a complaint

The following are not considered complaints for the purposes of this Policy and Procedure:
- complaints regarding the inability of RIA to provide a timely service due to staffing or other constraints such as geographic boundaries (refer RIA clients to direct their concerns to our funding agencies)
- if the advocacy service sought by a client is outside the parameters of our service agreements
• if an RIA client is dissatisfied with an outcome in their matter and all avenues of assistance and/or advocacy available through RIA have been exhausted
• complaints about actions by third parties (e.g. Disability Services or Housing)

Procedure

The following procedure ensures the efficient and accountable actions of RIA staff and the Management Committee when responding to complaints about actions of or service provided by staff.

Step 1: Making a Complaint

• The Complaint may be made in writing, by telephone or in person to a staff member or to the Manager.
• Details of the complaint and response will be documented. Written statements will be disclosed to all parties.

Step 2: Resolving the complaint

• In the first instance, the Complainant (person making a complaint) should talk to the staff member with whom they have a complaint to discuss a suitable resolution.
• Where this is not appropriate or the complaint is unresolved, the Complainant can refer the complaint to the Manager.
• Within five working days, the Manager will investigate the complaint and contact the Complainant to attempt to resolve the complaint.
• If required, the Manager may arrange a meeting between those concerned to facilitate resolution. The goal is to achieve an effective resolution of your complaint within a reasonable timeframe. The Complainant can bring a friend or family member to support them in this discussion.
  o The Complainant’s feedback will be considered confidential and will only be discussed with the people directly involved.
  o Details of the meeting will be documented and signed by all parties.
• The matter will be considered finalised if the Complainant is satisfied with the response and the complaint has been resolved.
• If the complaint remains unresolved or is made against the Manager, the Complainant may refer their complaint directly to the President of the Management Committee.

Step 3: Directing a Complaint to the President

• The President will take the complaint to a sub-committee of the Management Committee, which will:
  o review steps already taken;
  o request written response from staff involved;
  o if required, interview those concerned separately and privately;
  o arrange a meeting with the Complainant to discuss and resolve the complaint (where possible).
• The decision of the sub-committee if final.
• In lieu of meeting with the sub-committee, the Complainant may apply to the Dispute Resolution Centre (DRC) at the Magistrates Court for mediation. The sub-committee of the Management Committee will attend on behalf of RIA.
  o RIA will not refer complaints to the DRC of its own initiative due to funding limitations.

**Extending Timeframes**

Timeframes for achieving stages of this procedure may be extended if there is reasonable justification for doing so. Reasons for doing so must be clearly documented.

**External Agencies for Dealing with Complaints**

At any stage throughout the complaint process, the Complainant may seek external support and assistance. Similarly, the Manager and/or Management Committee may request assistance or advice from external parties.

**Complaints Resolution and Referral Service**

If the Complainant is not happy with the way RIA addressed his/her complaint, he/she can contact the Complaints Resolution and Referral Service (CRRS) on

**FREE CALL 1800 880 052**

**TIS : 13 14 50 • TTY : 1800 301 130 • NRS : 1800 555 677**

**OR**

By completing an online Complain form at: [http://www.crrs.net.au/make-a-complaint/](http://www.crrs.net.au/make-a-complaint/)

CRRS is a service that helps people with disabilities sort out complaints about advocacy services funded by the Australian Department of Social Services. CRRS helps deal with complaints when a service is not meeting the National Disability Services Standard. When looking at a complaint, CRRS:

• will talk to the person who makes the complaint;
• will get the other side of the story;
• will write a letter to the service;
• may investigate the complaint; and/or
• may hold a special conciliation meeting.

If the complaint is not resolved, CRRS will inform the Department of Social Services.

**Department of Social Services (DSS)**

If you wish to raise a concern about Rights In Action (a DSS funded service provider) you can do this by contacting the Complaints Management System.

• Telephone: 1800 634 035
• Fax: (02) 6133 8442
Email: complaints@dss.gov.au  
Mail: DSS Feedback, PO Box 7576, Canberra Business Centre, 2610  
Online - Provide feedback

Further information can be found at: https://www.dss.gov.au/contact/feedback-compliments-complaints-and-enquiries

Department of Communities, Child Safety and Disability Services (DS)

If you have a complaint, DS encourage you to try to resolve your complaint or concerns at a local level directly with the funded service that you have a complaint about or the local regional DS office.

Disability Services, Far North Region  
Telephone: 4048 9900  
Fax: 4048 9911  
Mail: PO Box 2360 Cairns QLD 4870


Handbook for People Seeking Advocacy

RIA is responsible for producing and maintaining the Handbook for People Seeking/Receiving Advocacy and ensuring that people seeking advocacy are given a copy at their initial contact with RIA. Additionally, the contents of the handbook will be explained verbally to people at their initial contact with RIA.

The handbook will include details of how advocacy support is provided and the complaints procedure.

Arrangements can be made for the Handbook to be provided in alternative formats suitable to individual needs (e.g.; translated into other languages).
Appendix

- ...Privacy and Confidentiality Policy

- Privacy Brochure ..................................................

- Complements and Complaints Brochure ..................

- Have Your Say Brochure ........................................

- Complaints Form .................................................

- Handbook for People Seeking or Receiving Advocacy

- Application to Access Personal File Records