

Introduction to Advocacy

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WHAT IS ADVOCACY?

Not pre-judging, finding the right people and justice – this is what it's all about.

"It seems to me that whereas power usually means power-over, the power of some person or group over some other person or group, it is possible to develop the conception of power-with, a jointly developed power, a co-active, not a coercive power."

Mary Parker Follett

What is an advocate? An advocate is someone who supports us to accomplish a particular specific goal of our choosing, often in part by speaking on our behalf.

Who is an advocate? An advocate can be **almost anyone** - a friend, relative, or a support worker. Professional Advocates are independent workers whose **only** job is to help us get our message across on particular issues– this booklet is mostly about 'professional advocates'. Some advocates have 'lived experience' of psychosocial disability and are 'consumer' or 'peer' advocates and others do not.

Who uses advocates? Many people use advocates at times;

- hiring a **legal advocate**, when we are before a court;
- calling a **union organiser/advocate** when we are in a dispute with our employer;
- employing a **real estate agent** when negotiating a house sale with a buyer;
- even as a child **getting Mum to ask Dad for permission to do something** for us.

Why use an advocate? Using an advocate does **not** mean we are unskilled or **incapable of speaking for ourselves**; it just reflects the fact that **when issues are very important and personal to us it can be hard to think objectively and calmly**.

Advocates in Mental Health: When we use mental health services there are some **specific reasons** why it may be sensible to involve an advocate. For example,

- 1) Specialised Knowledge:** Some issues involve **specialised knowledge**, and it can help to have skilled, effective support. This is why most lawyers who are brought before a court themselves hire their own lawyers or why skilled advocates sometimes need advocates themselves; not because they lack skills but because it's different when it's **personal**.
- 2) Prejudice:** Sometimes, very sadly, **'stigma' or prejudice** means that some people **stop listening** to us as soon as they learn we have a psychiatric diagnosis.

Example 1 : Someone is being held as an 'involuntary patient' in a psychiatric unit. They have been in the hospital for a long time and no one has re-assessed their involuntary status. Their claims to have been treated unfairly have fallen on deaf ears. In order to be treated fairly they need an advocate who has specialised knowledge of the Victorian Mental Health Act.

Example 2: This is why so many of us don't divulge our 'mental illness' at work. But sometimes this is impossible and the issue may even be about direct prejudice following an 'episode'. Having a 'professional' (advocate) on our side, who is there to remind people why we **MUST** be heard, can be helpful. Additionally, some of us find that **certain conditions** –like constant criticism – feed our distress.

The degree of prejudice in the mental health workforce and services is also an important issue. Sometimes we need a professional advocate because we are treated prejudicially by the very people who are employed to provide care for us.

Summary: Most advocates believe that their job is to address **specific issues** - **to listen to what we want to accomplish**, maybe help a little **clarifying** or **separating out issues**, and then present **options** or offer advice (and, where needed, personal support) to accomplish the **goals we** choose.

Justice: The ultimate goal of advocacy is justice – a 'fair go' for all. If we, the people advocates assist, get the same opportunities to pursue our goals and partake in our community as any other Australian would want, then many advocates would feel they had done their jobs adequately.

TECHNIQUES OF ADVOCACY

“Technique is communication: the two words are synonymous” Leonard Bernstein

“Working to fix problems and get a ‘fair go’ for people can sometimes be a complex and challenging process, with many different techniques and options and as many methods as there are advocates.”

The suggested process below is one that has worked for us before:

Step 1: Clarify exactly what the problem is; this will not always be the obvious issue.

Example: A person who used a wheelchair approached an advocate to help him get government funding for a new, faster wheelchair. When the advocate discussed the reasons for this, the client explained that the manager at the place he worked kept giving him a hard time because he was sometimes 2 or 3 minutes late for work despite getting up at 6am (the earliest his workers could help him) and travelling for two hours to get to work. So it turned out that what was actually needed was not a wheelchair but getting the manager to understand his employee’s situation better.

Step 2: Find out and list what rules, guidelines or laws apply to the situation.

Example: A person living at a residential unit was having difficulty getting staff to arrange visits to the doctor. The advocate discovered several sets of relevant rules: the organisation’s internal policies on health, laws on negligence and ‘duty of care’, and specific laws about discrimination. (Nowadays, the ‘Charter of Rights and Responsibilities would also be relevant.) These were listed and prioritized based in part on how much effort it would take to use each rule or law.

Step 3: Get specialist advice if needed.

There are a number of specialist advocacy agencies covering specific areas and if your advocacy effort involves such an area—law, industrial relations, discrimination, credit law—it is essential to get advice and sometimes get the other agency to take over. Even if the specialist agency does not take on the issue, it can be very useful to get their expertise and sometimes authority.

Example: An advocate was talking to a senior manager about an issue in which the organization was breaking the law. The manager simply refused to admit that the law was as the advocate described. Rather than dispute the point, the advocate handed over the business card of a lawyer at a community legal service who had advised the advocate and asked the manager to talk it over with the lawyer. **It was soon resolved appropriately.**

Step 4: Decide which approach to use first and what to do if the first approach does not work.

Example One: Starting at the beginning: Often it is best to try to sort out a problem by discussing it with the worker or manager directly involved, especially if you may be working with them again. ‘Going over someone’s head’ without talking to them first can cause bad feelings and make life difficult for the client in the future.

Example Two: ‘Climb the ladder’: If the first approach to the workers, or others directly involved, does not work, approach their manager, and then their manager, then outside agencies etc. until you find someone with the ability and willingness to change the situation.

Example Three: ‘Jumping to the top’: Sometimes when you are not getting cooperation in a big business, especially where people are saying they don’t have the power to help you or that ‘the rules are the rules’, it can be worth approaching the person in ultimate authority.

ADVOCACY IS ABOUT FAIRNESS:

Balancing the result you get with the importance of ongoing relationships

“Expecting the world to treat you fairly because you are good is like expecting the bull not to charge because you are a vegetarian.” Dennis Wholey

Power Games:

Where there are no useful ‘rules’ or laws (and sometimes when there are) you can ask for a ‘fair go’ and explain how the desired action is objectively ‘fair’ rather than a particular goal.

It can be very powerful if what you ask for is fair and reasonable by some demonstrable standard. **If an advocate adopts a ‘position’, there is often a power game of bargaining and bullying.**

Example: For instance an industrial advocate trying to get a better wage for a client may ask for \$25 an hour instead of the current \$15. The employer may then offer \$17 and haggling may begin, finally achieving a result that depends on negotiating skills and power.

An alternative: The advocate does some research and finds out in advance of any conversation with the employer what other people doing the same work are being paid. The client and the advocate talk about whether this is satisfactory and if it is the advocate can approach the employer asking for equality with those workers – a ‘fair go’. **There is less pressure to bargain.**

The Golden Rule: One very useful way to demonstrate fairness is the ‘Golden Rule’ – ask that the person with whom you are working be given the same respect and opportunity as the people with whom you are talking would expect for themselves. This can be effective where the person with the problem just wants it resolved the same way as it would be resolved for other people (including other workers); this is a very common situation for consumers.

Balance Results with Relationships: Always remember that the person the advocate is assisting may have to ‘live with’ the situation afterwards.’ In any advocacy situation there are two things to consider:

THE ‘RESULTS’: the outcomes of the advocacy. Sometimes only the **results** matter:

Example: You are trying to return a faulty product to a store you do not regularly visit. Though it’s best to try to be civil as a general policy, in the end it does not matter much how the sales person feels about you afterwards as long as you are able to return the product. Here the result is most important.

THE ‘RELATIONSHIPS’: how everybody in the advocacy feels afterwards. Other times **relationship** is vital.

Example: If you and a partner disagree about whose turn it is to wash the dishes, you might be able to argue at length, call in witnesses, prove they are wrong – and then pay for it in bad feeling and ‘grumpiness’.

USEFUL REFERENCE: Fisher, Roger and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In*, New York, NY: Penguin Books, 1983.

WHAT DOES AN ADVOCATE ACTUALLY DO?

A guide to the dos and don'ts of advocacy

"If you are neutral in situations of injustice, you have chosen the side of the oppressor. If an elephant has its foot on the tail of a mouse and you say that you are neutral, the mouse will not appreciate your neutrality." Desmond Tutu

Introduction: The 'best advocacy is the least advocacy' that will be effective. An advocate should not take over our struggle or do everything for us; we need to be in charge of our own lives and issues.

1. What does an advocate actually do?

- If just letting us know our options or telling us where to find information or make a complaint is enough, then that is all an advocate does.
- If we feel OK talking about our concerns but need help getting our ideas into writing in a letter or complaint, then that is all an advocate does.
- If we are happy to speak for ourselves but want someone there to support us or to speak up for us if we are not being heard, then that is all an advocate does.
- If we have something very important to say and really do not feel able to say it ourselves safely or effectively at the time or in the situation, then an advocate can speak for us, deliver our message for us, this time.

2. What don't advocates do?

- Advocates are not case managers; rather than generalist support, advocates generally work on specific issues and specific types of issues.
- Advocates are not mediators or impartial facilitators.
- Advocates, like lawyers and union delegates, are 'on the side of' the people they support.

3. Where do I find an advocate?

There are advocates who specialise in many different areas; mental health law, credit problems, industrial issues, supporting people from non-English-speaking backgrounds, housing issues and many more. Here are a couple of places to start.

- **Victorian Mental Illness Awareness Council (VMIAC):** 1/22 Aintree St, East Brunswick, 3057 (Phone (03) 9380 3900). VMIAC provides information and advocacy for people who use mental health services. They can assist directly with some things and direct people to other specialist agencies where needed.
- **Disability Advocacy Resource Unit (DARU)** does not provide advocacy directly but is a very good place to find out about advocacy agencies for people with disabilities which includes people with 'psychiatric' disabilities or people who use mental health services. You can call 03 9639 5807 or visit <http://www.daru.org.au/> on the Web.

COMMON ADVOCACY SITUATIONS

Advocates can't guarantee success but people say just having us there makes their own fight easier. It is still their fight and they deserve to stay in control of it

*"Don't let the negativity given to you by the world disempower you. Instead give to yourself that which empowers you."
Les Brown African American who was born into poverty in 1945 and made it! Motivation Speaker*

Advocates can never guarantee the results we want but experience has shown that having someone independent on our side has given people a better chance of being heard. Here are a few classical examples of professional advocate's work.

- 1. Example One:** I am in public housing and have been given a 'Breach Notice' (a formal warning that I have done the wrong thing and must face the consequences – we all dread them). It is because of a problem with my house. I have to attend a tribunal Hearing and might be evicted.

Advocacy Response: After getting my side of things, explaining my options and getting my approval, my advocate (and me if I want to) can then get in touch with the housing worker who issued the breach. We then discuss exactly what the problem is and, if necessary, let the housing officer know our side of things and what we are already doing to fix any problem. Sometimes it will be enough to get the Notice cancelled if we can show that the problem will be fixed soon.

- 2. Example Two:** I am in a psychiatric hospital involuntarily and am told I will be discharged to accommodation I consider unsuitable

Advocacy Response: Sometimes in hospital we don't get time, or think clearly enough, to explain all the reasons why we disagree with the decisions that are made on our behalf, and an advocate passing on our feelings will mean that at least they will be received. An advocate could listen to our concerns, and our attempts to be heard, and contact an appropriate person at the hospital (the Doctor, or Nurse Unit Manager, etc.) The advocate could explain our wishes and perhaps offer to attend any planned discharge meeting to support us. ***An advocate cannot overrule a medical decision but sometimes having an independent advocate present can help make it more likely our concerns will be at least heard.***

- 3. Example Three:** I am being treated unfairly at work, after being absent with an episode of illness.

Advocacy Response: An industrial advocate can look at the situation, advise me if what is happening is unfair or even illegal and, if so, explain my options and rights. If I think it's a good idea, the advocate might ask for a meeting between us and the employer where the advocate can support me to put my point of view. An advocate might also explain the law to the employer. If needed, the advocate could attempt to arrange legal representation or assistance to pursue my legal rights.

- 4. Example Four:** I owe money to a big company and can't pay it all at once and I am being pursued by debt collectors who just won't listen to me.

Advocacy Response: In this situation an advocate can, after talking to me and explaining options and getting my decisions, call the company involved--either the collectors or sometimes the company with the original debt. With my participation if possible, perhaps explain to them why the situation has occurred, especially if there are special circumstances. It may be then possible to negotiate a fair and acceptable payment schedule.

- 5. Example Five:** I am studying at a TAFE, have missed classes because I have been ill, and my teacher told me I am in danger of failing the course.

Advocacy Response: An advocate can, if I choose, contact the college for us and/or with us. The advocate could, if we wished, find out what supports are available and if possible negotiate flexible ways to complete the course. Again, if we wish, an advocate could suggest or arrange any needed or useful education for staff about 'mental illness' or the rights of people who use mental health services.

PRINCIPLES OF ADVOCACY

A Guide to what advocacy is and what it is not

"You can out-distance that which is running after you, but not what is running inside you." Rwandan Proverb

- 1. Advocacy is independent:** If we want an advocate to help us with an issue concerning a particular organisation, for instance a hospital or an employer, the advocate cannot work for that organisation, or any organisation directly linked to it. This protects our rights, and prevents workers from having to choose between fighting for us and keeping their jobs.
- 2. Advocacy is accountable to the person being assisted:** The advocate is required to 'take instructions' from us. 'Taking instructions' is simply a legal term which means that the person needs to act in a way we ask them to act. The decisions are made by us, the people who need the advocate, and not the advocate.
- 3. Mediation and 'objectivity':** In issues surrounding people diagnosed with 'mental illness' situations often arise that call for 'mediation' and 'objectivity' but this is not advocacy. The advocate is clearly on the side of the person they are assisting.
- 4. Personal Ethics:** If there comes a time when an advocate is asked to do something or act on an issue that goes against their personal ethics, then they should withdraw and recommend another advocate to assist.
- 5. Advocacy is a 'moral endeavour':** People who become advocates are often driven by a desire to make the world a better, fairer and more just place. Often they are people who see senseless suffering and want to do something about it; and they feel fulfilled when they can help someone else achieve something no matter how small.
- 6. Advocacy is not needlessly confrontational:** If at all possible, an advocate seeks to work collaboratively and avoid unnecessary conflict because this is usually in the best interest of the person the advocate is assisting. The last thing an advocate should want to do is set their client up to be 'targeted' in the future.

FROM THE VOLUNTARY DISABILITY ADVOCACY CODE OF CONDUCT

- 1. Disability Advocacy should demonstrate accountability by:** ensuring where possible, the course of action is directed by the person with a disability; **and** working to clear objectives in a transparent manner.
- 2. Disability Advocates must:** respect the wishes of the person with a disability; minimise conflicts of interest; gather all relevant information; present information in a format that is accessible to the person with a disability; ensure whether the person with a disability can make an informed decision; and act in a timely manner.
- 3. Disability Advocates must not:** impose their own opinion; use their position of authority; or make decisions on behalf of a person with a disability without proper consultation.
- 4. Disability Advocacy should always demonstrate respect by:** promoting an environment that encourages respect and trust; treating others fairly, objectively and in a courteous manner; and ensuring freedom from discrimination, harassment, bullying and victimisation.
- 5. The Disability Advocacy Code of Conduct** is a good resource for people wanting to learn more about advocacy. It is available from the Disability Advocacy Resource Unit (DARU), 03 9639 5807;

TTY: 133 677 quote 9639 5807

Email: admin@daru.org.au

Address: Level 8, 128 Exhibition St, Melbourne VIC 3000

SYSTEMIC ADVOCACY

You can change the life of a person and it will get you out of jail but to change the life of the whole community wins you the game. (Proverb)

“Two people are fishing by a stream when a drowning man floats by. The one of the fishers who can swim jumped in, rescued the drowner. Then they hear screams and turn to see another person in the water drowning. The swimmer jumps in and rescues the second drowning person. Then they see another person in the river screaming.

The swimmer turns around and starts walking away.

The second fisher yells ‘What are you doing? There’s a drowning person here!’ The Swimmer says “I’m going upstream to stop the scoundrel who’s throwing them in!”

Old Teaching Story

One of the tools we and our advocates use is a knowledge of ‘the rules’; what do we do when there are no good rules?

We advocate, lobby for change to the ‘system’; the policies, laws, rules or practices whatever they may be.

So ‘Systemic Advocacy is making sure that laws, rules and standard practices used by hospitals, other organisations and state agencies are good and fair to everyone, particularly ‘consumers’

How do we do ‘Systemic Advocacy’ ? We can use many of the techniques described elsewhere in this booklet, but also:

Research and publicizing research; once we formally record problems, how big they are, and maybe examples, we can use this information to tell people, lobby governments or people in charge.

Identifying and publicizing good practice; if someone does a particular thing better than others, we can tell people about it, prove it can work.

Speaking as a group: sometimes we can all get together, prove that a particular problem affects a number of people, speak out together or even if possible take legal action.

Legal reform: Changing the minds, educating or persuading the people who make the laws and rules, and getting them to change the rules; for instance current changes to the Mental Health Act.

Mobilising public opinion; sometimes the best way to change the mind of the people who make laws and rules is to change the minds of the people who vote/fund/put them in power- for instance a social media /petition informing the public.

Appealing to existing good rules or laws: There may be an existing ‘higher’ rule or law that can be used to change the faulty one; For instance in 1960’s America some states put in laws that hurt people of colour and advocates for equality used federal ‘Civil Rights’ laws to overrule the states.

SUPPORTED DECISION MAKING

“People may give words of suggestion but in the end your words will be the final”

— Rojade Silva

As we have said, advocates listen to us and work toward our goals and decisions – what we want.

But sometimes, we end up making decision at times that we think later **“What the Dickens was I thinking?”** Sometimes this is just part of life. Other times we can identify **particular times or sort of decisions** that are likely to be those sort of decisions we are likely to want to have made differently.

Examples : If someone spends all the money in their bank account, but only on occasions they use a particular drug, and they always regret it, maybe they might say they made ‘bad’ financial decisions while on that drug

: If a person buys 3 cars one after another, and every time finds out they paid much more than anyone else for these cars, then maybe they might conclude they did not make good decisions when negotiating with salespeople.

: one of the situations that often concern us is when we come to attention of mental health services. When because of stress, life situations, or our reactions to such and/or ‘mental illness’, because things are not explained to us or just because of being taken away against our will from our homes we may either begin to make or are judged to be making decisions we would regret later. Or we are asked to decide important things, in an instant, without sufficient information or explanation.

If someone has doubts that someone can make good decisions there are at least two ways to approach the problem.

1) ‘Substitute Decision Making’

The ‘Old Fashioned’ method asks the Typical Question:

“Who should make decisions for her?”

Answers include “A parent, a guardian, a psychiatrist, whatever?”

The results are decisions that some supposedly sensible person thinks are good decisions which in some cases might perhaps turn out to be decisions we agree with later – or not.

2) ‘Supported Decision Making’

The New Way in the new Mental Health Act asks the Typical Question:

“What can we do to make it possible for her to make a decision she will be happy with later?”

Answers include “Give them more **time**, give them more **information**, help them **calm** down, speak in plain **language**, deal with whatever overwhelming **problem** is uppermost in their minds”

The results are decisions that reflect our own priorities, goals and values. And are more likely to be ones that please us later.

Why are we talking about this in this Advocacy booklet?

Because a lot of the things that support decision making are things that, as we describe earlier, advocates can do very well. Having an advocate, or independent support person, whose priority is making a situation where we can make decisions we do not regret later is so Important that the New Victorian Mental Health Act includes a promise to provide such advocates.