

Supported decision-making and its importance in the context of the NDIS

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Outline

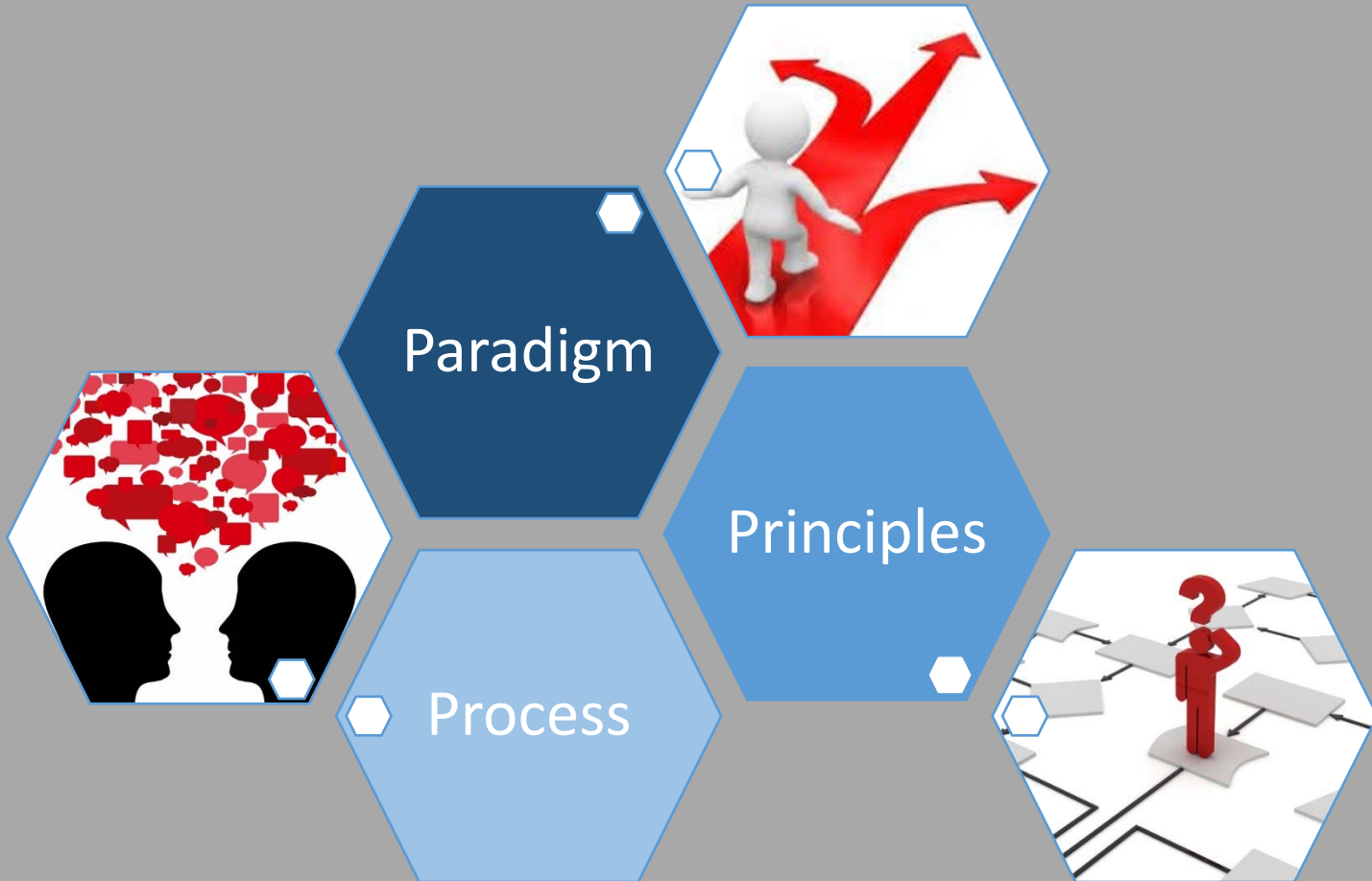
1. Provide an overview of supported decision-making.
2. Explore why supported decision-making is central to realising the aims of the NDIS.
3. Clarify why you are needed as a champion of the new supported decision-making paradigm.



What is supported decision-making?



What does the literature say?



A means of obtaining important human rights

“...all human persons, regardless of their decision-making capabilities, should enjoy “legal capacity” on an equal basis...”

Article 12 calls for not only the respect for legal capacity on an equal basis but also places an obligation on states to provide access to the support necessary for the exercise of legal capacity.

This requires the replacement of substituted decision-making regimes with supported decision-making ones.”

(Flynn & Arnstein-Kerslake, 2014).

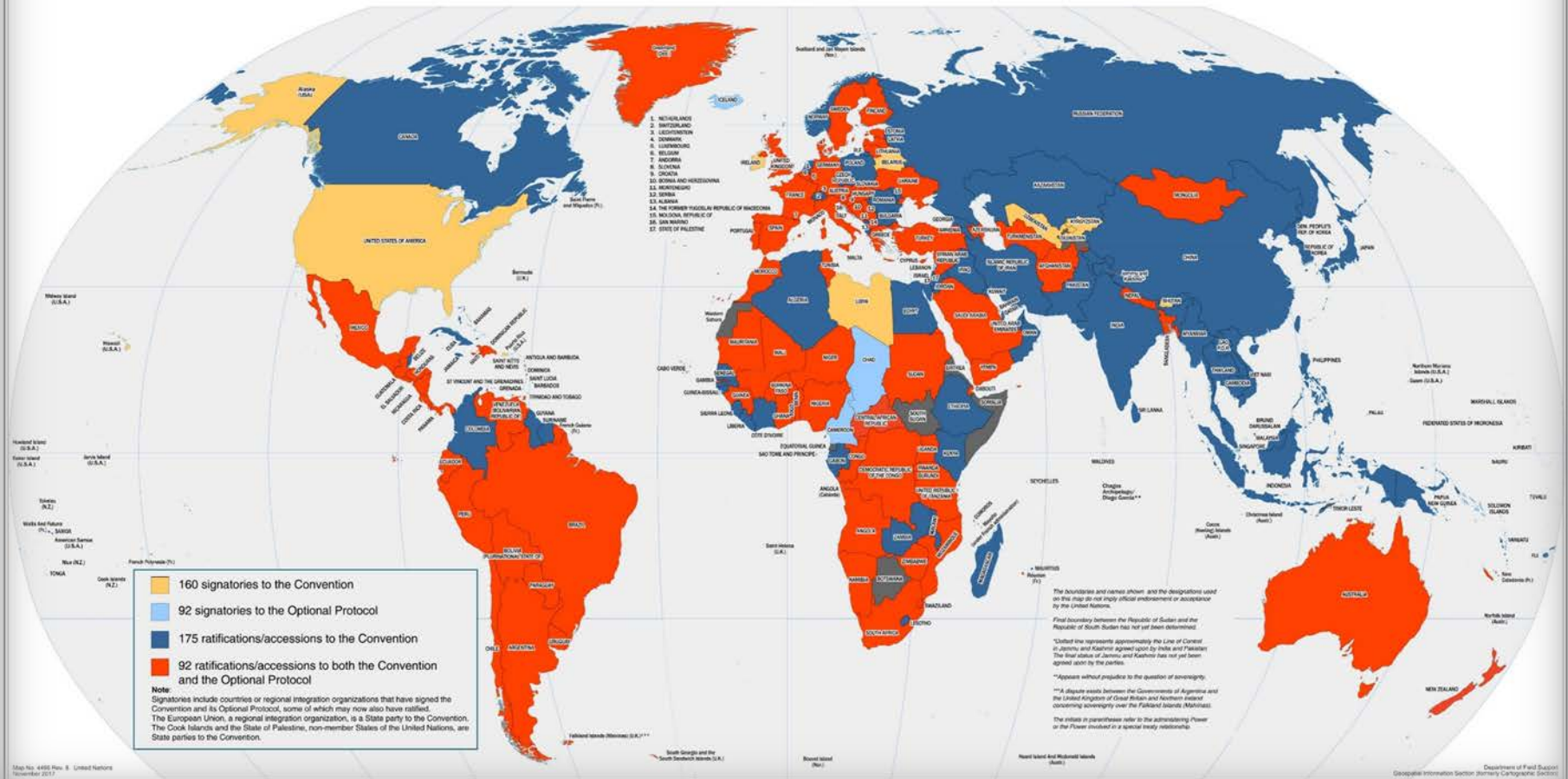
Enabling an important human right



CRPD and Optional Protocol Signatures and Ratifications

Not Signed
 Signed Convention
 Signed Convention & Protocol
 Ratified Convention
 Ratified Convention & Protocol

As of 19 September 2017



A legal process based on a set of principles

Supported decision-making emphasizes the person's right to **self-determination and autonomy**, the presumption of **capacity**, and the right to **decision-making supports to enable equality**.

(Bach, 1998)

Support process leading to self-determination

Supported decision-making is assisting a person with disability **to make their own decisions, make choices about their life and exercise control over things that are important to them**

(NSW Family & Community Services, 2015)

Supported decision-making is a range of practices whereby people with disabilities are assisted **to make or implement** their own decisions

(WAIIS, 2013)

Why is supported decision-making important?

practical assistance



self-determination

exercise legal capacity



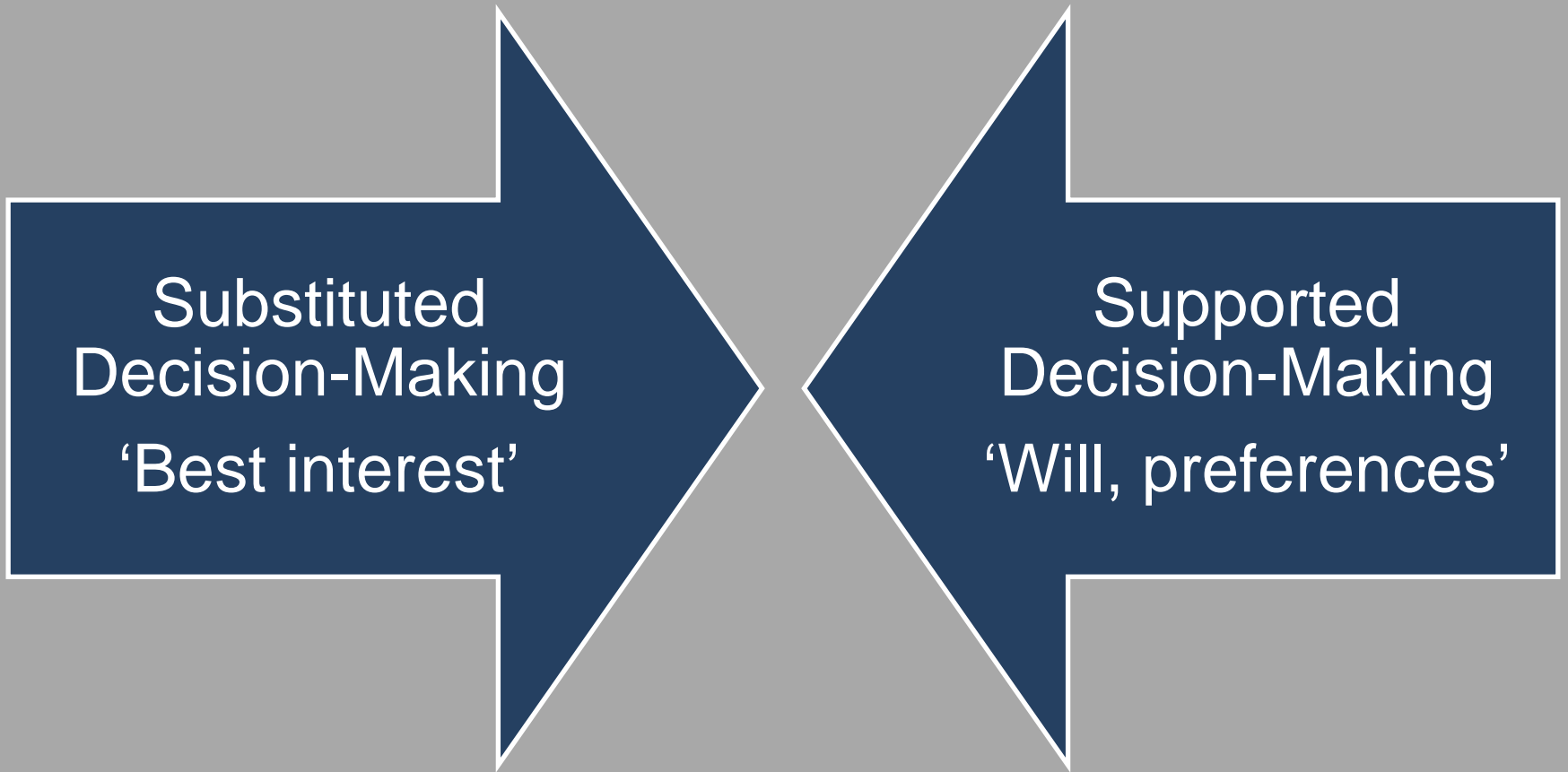
personhood



MICHAEL BACH

**INSTITUTE FOR RESEARCH AND DEVELOPMENT
ON INCLUSION AND SOCIETY**

A paradigm shift



The NDIS has been strongly shaped by the CRPD



NDIS | Revolutionising disability services

National
disabilityinsurance
Scheme

Central to realising the aims of the NDIS





Disability Services Commission

Western Australian National Disability Insurance Scheme (WA NDIS) Operational Policy

Supported Decision-Making

1. Keywords

Support, decision making, reduced capacity, plan, protect, assistance, exploitation, risk, abuse, neglect, harm, guardian, administrator.

2. Policy statement

This operational policy outlines the principles for supported decision making for children, and for adults with reduced capacity for decision-making, within WA NDIS. This policy applies to individuals in WA NDIS trial sites.

3. Principles

People with disability have the same right as other members of society to participate in, direct and implement the decisions that affect their lives.

Assume capacity – The starting assumption is that all individuals have capacity to make decisions and exercise choice, regardless of their disability, unless proven otherwise for a specific decision. Capacity is decision-specific. Individuals who require support to make decisions and exercise choice should have access to the support they need.

Decision making, choice and control are key elements of WA NDIS.

The best interests of the individual within WA NDIS are paramount.

All individuals within WA NDIS will have input into planning and decisions that impact on their lives and future.

4. Definitions

Child - an individual under 18 years of age.

Adult with reduced decision-making capacity – an individual 18 years of age and over, who may not always be able to make appropriate decisions in their own interests, or who may require support to do so.

Principles

- Participate in and implement the decisions that affect their lives.
- All individuals have capacity to make decisions; those who require support should have access to it.
- Decision making, choice and control are key elements.
- The best interests of the individual are paramount.
- All individuals will have input into decisions that impact their lives.

Best interests paradigm

“Occasionally, a person may be unable to make decisions, or may require assistance to make decisions that are in their own best interest. Children, and adults with reduced decision-making capacity, may require assistance to have their views and best interests considered when decisions are made on their behalf, as well as needing to be protected from exploitation, so that best outcomes are achieved.”

Your advocacy is needed

For supported decision-making to be widely available to NDIS participants, ensuring they can exercise choice and control, it requires individuals, disability organisations and service agencies to become **champions** of supported decision-making.



**KEEP
CALM
AND
SPEAK
UP**

Explore formal mechanisms of supported decision-making

Plan Nominee Role

- *Duty to ascertain wishes, and promote personal and social wellbeing, of participant*
- ***Plan nominee to act only if participant not capable***
- *Duty to consult*
- ***Duty to develop capacity of participant***
- *Duty to avoid or manage conflicts of interest*
- *Duty for corporate nominee to inform CEO if person closely involved in performance of nominee functions changes*

Become a champion of supported decision-making



Conclusion

- Disability organisations have an important role as advocates and champions of the cultural, legislative, and policy changes that are needed to realise the aims of supported decision-making.
- They also have a role fostering good supported decision-making practice.
- WAIIS and their members are well placed to take up the challenging of furthering the rights of people with disability in WA in this way.



Thank you

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