

15 September 2022

Committee Secretary  
Health and Environment Committee  
Parliament House  
Brisbane QLD 4000

By email: [hec@parliament.qld.gov.au](mailto:hec@parliament.qld.gov.au)

Dear Committee

### **Public Health and Other Legislation (COVID-19 Management) Amendment Bill 2022**

Thank you for the opportunity to provide feedback on the Public Health and Other Legislation (COVID-19 Management) Amendment Bill 2022 (the **Bill**). Aged and Disability Advocacy Australia (**ADA**) appreciates being consulted on the proposed amendments to this framework.

#### **About ADA Australia**

ADA is a not for profit, independent, community-based advocacy and education service with more than 30 years' experience in informing, supporting, representing and advocating in the interests of older people, and persons with disability in Queensland.

ADA also provides legal advocacy through ADA Law, a community legal centre and a division of ADA. ADA Law provides specialized legal advice to older people and people with disability, including those living with cognitive impairments or questioned capacity, on issues associated with human rights, elder abuse, and health and disability legal issues related to decision-making.

ADA advocates and legal practitioners work with identified First Peoples advocates through the Aboriginal and Torres Strait Islander Disability Network Queensland (**ATSIDNQ**), a network established to support mob with disability and provide individual advocacy services for Aboriginal and Torres Strait Islander people with disability.

#### **Implications for Institutional Settings**

ADA endorses the stated intention of the Bill to 'step down' restrictions relating to the risk of transmission of COVID-19.

ADA accepts that at this time, it is reasonable for the Chief Health Officer to retain a power to continue to make particular public health directions in response to the risks presented by COVID-19, including those directions proposed under clause 9 of the Bill that will insert Part 5A, Division 2, section 142E into the *Public Health Act 2005* (Qld) (the **Act**).

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ADA Australia acknowledges the Traditional Custodians of this land and pays respect to Elders, past and present.

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The directions proposed under this section include:

**(1)** *The chief health officer may, under this division, give any of the following directions (each a **public health direction**) –*

*b) a direction that persons who test positive for COVID-19 must, for a stated period starting on a stated day (the **isolation period**) –*

- (i) Stay at or in a stated place; and*
- (ii) Otherwise avoid contact with stated persons;*

*c) a direction that persons who are symptomatic and have had contact of a stated type (including, for example, of a stated duration) with a person who has tested positive for COVID-19 must, for a stated period starting on a stated day (the **quarantine period**) –*

- (i) stay at or in a stated place; and*
- (ii) otherwise avoid contact with stated persons;*

We note section 143E(2), which states that an isolation period or quarantine period cannot be made for more than 7 days – but also states that persons can be subject to more than one of either period. It appears that these periods can be made consecutively, effectively rolling several periods together into one extended period, with no limit on how many can be imposed upon a person.

Proposed section 142F provides powers for the chief health officer to include ‘related requirements’ in a public health direction. This includes a catch-all power under section 142F(1):

**(1)** *A public health direction may include stated requirements that are related to, and support the effectiveness of, the direction.*

At section 142F(3), the Bill makes provision for the public health direction to give a requirement to ‘operators of stated places’ to take stated steps in relation to compliance with the direction by persons at the places.

ADA has some concerns about the implications of the aforementioned powers for persons residing or temporarily staying in residential aged care facilities, hospitals and health care settings, and disability accommodation.

As set out in s143F, the public health direction may include a requirement that is directed towards, and carried out by, the operators of institutional settings.

However, there is little in the Bill that clarifies or gives comfort in relation to:

- The detail that a direction made towards operators under s143F will include, to ensure there is adequate guidance in relation to the exercise of authority;
- Any implications for or limitations on human rights which may be associated with decisions of an operator, when seeking to implement a requirement under a public health direction;
- Oversight of practices implemented by an operator, and consideration if the practices are proportionate to the level of risk associated with the public health direction; or
- The need for provision of exemptions relating to an individual’s continued access to:
  - Legal advisors and advocacy services;
  - End-of-life visitors; and
  - Medical and other healthcare appointments.

It is critical that the operation of the powers under sections 142E and 142F of the Bill will not cause disruption or limit access to these services for individuals affected by a public health direction in an institutional setting.

It is also critical that there is an oversight mechanism to ensure that restrictions imposed at an institutional setting are reasonable and proportionate. Over the course of the COVID-19 pandemic, ADA has observed significant variation by the operators of institutional facilities in response to the threat. This has included long periods of lock down and restrictions upon movement and visitors imposed by some residential aged care facilities, which are well above or continued though the level of risk had reduced.

Without appropriate guidance, and supervision, ADA is concerned that these provisions may seriously impact the human rights of persons residing in these settings. We strongly suggest that these sections are reviewed and amended to include appropriate safeguards against overreliance and inappropriate or disproportionate restrictions.

Thank you again for the opportunity to comment. ADA would be pleased to further assist the Committee with its inquiry. Should you wish to discuss this submission, please do not hesitate to contact Vanessa Krulin, Solicitor and Senior Policy and Research Officer on [REDACTED]

Yours faithfully



**Geoff Rowe**

Chief Executive Officer