

12 February 2023

Disability Services Act Review
Department of Social Services
Canberra ACT 2601

[REDACTED]

[REDACTED]

Re: Disability Services Act

Thank you for the opportunity to provide feedback on the review to inform the replacement of the *Disability Services Act 1986* (the **Act**). 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.

Review of the Consultation Paper

Question 1 – objects of the new Act

ADA broadly agrees with the proposed objectives. We consider that the drafting could be expanded by amendment to proposed objective c), in relation to the provision of supports and services which empower people with disability to maintain and increase social and economic participation.

Is it often the case that the person with disability's views and wishes are not incorporated, or even considered in decision-making relating to choice and use of supports and services, and that both general and legal advocacy plays a critical role in ensuring an individual's rights are protected. We suggest that an additional element should be added under c), as follows:

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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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- vi. *accessing advocacy services, including legal advocacy, in relation to a person's social and economic participation and in support of an individual's choices and access to preferred supports and services.*

Question 2 – Target Group

ADA supports the identification of identities and characteristics of cohorts who may experience greater participation barriers due to multiple, and potentially overlapping, forms of discrimination and disadvantage.

In addition to the groups identified in the Consultation Paper, we consider that the categories of women, and older persons, should also be expressly identified.

Question 3 – Principles to Avoid Duplication

Whilst ADA appreciates that the government will reasonably seek to avoid duplication of services, similar principles have, in our experience, often left individuals 'caught between' two or multiple agencies who interpret the provision of a particular service to be in the purview of a different agency, rather than their own.

As such, ADA supports the general approach set out in a) and b) of the Consultation Paper (located just above question 2 on page 5), with amendment as follows:

*b) where a person is eligible for supports or services under more than one piece of legislation, the agencies and providers involved ~~should~~ **must** work together **and** with the person to coordinate the supports and services, avoid duplication, and ensure alignment with the person's goals.*

Question 4 – Definition of Disability

In so far as the examples provided in the Consultation Paper, ADA considers the broader social definition such as the definition provided by the United Nations Convention on the Rights of Persons with Disability (**UNCRPD**) is preferred. However, we consider the definition which is inserted into the new Act should expressly reference psychosocial disability in addition to those impairments listed in the UNCRPD definition.

Any definition considered necessary to facilitate operative provisions of the new Act must be broad enough to ensure that it does not act restrictively or impose any further elements or requirements on an individual to 'prove' their disability, or to impede access to services or supports.

Question 5 – Quality and Safeguarding Arrangements

Whilst consistency of regulatory alignment is critical to ensure that consistent standards of care are delivered across regulatory frameworks, it is difficult to identify an existing quality and safeguarding framework that could be considered appropriate and fit for purpose. Those currently in place with respect to either the NDIS nor the Aged Care sector are neither appropriate nor sufficient, as has been extensively detailed by the Royal Commission into Aged Care Quality and Safety (the **Aged Care Royal Commission**) and the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the **Disability Royal Commission**).

An effective and accessible complaints mechanism must be incorporated, with the investigation and progression of complaints to an independent body with necessary resources to ensure a timely response and outcome for complainants.

Question 6 – Types of Services Funded

ADA supports the intention of the Department to describe service and support categories broadly. Doing so will better facilitate provision of individualised supports and services, and as such, add protection to upholding rights, choices and preferences of individuals affected by the new Act.

In addition to the categories listed in the Consultation Paper, ADA considers the Department might also include the following categories: justice/domestic violence support services (additional to any legal support services which might be considered ‘advocacy’), transport services, and allied health services.

Question 7 – Disability Employment and Rehabilitation Services

In our view, there is no reasonable rationale for maintaining the separation of the Employment Support Services program (for job seekers with permanent disability) and the rehabilitation Disability Management Program (for job seekers with non-permanent disability). A combination of these programs may facilitate a more inclusive model that benefits all person with disability, and with resulting benefits for stakeholders and the community.

It is difficult to comment on any new model without additional details, however, ADA supports the Department undertaking a design process in consultation with stakeholders and with the public.

Thank you again for the opportunity to comment. ADA would be pleased to further assist the Department 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 [REDACTED]

Yours faithfully



Kathy Chandler

A/Chief Executive Officer