

Submission 2a – Stephen King

Part I: Preliminary

I. Do the objects, principles and definitions in the Act better reflect human rights and inclusion?

Yes, **but only if** restrictive definitions and limited interpretations of disability that are out of sync with the holistic definitions that are intended to be used are removed by agencies and departments as the new 2023 bill is applied.

In short, if agencies within government departments can continue to apply a different or limited view of disability, the legislation in its actual day-to-day application will be flawed from a holistic definition perspective of removing barriers and promoting full community inclusion.

A cogent example is the current situation of State Growth, Transport Access Scheme, with Australian Disability Parking applications which currently limit applications to **must include** a physical disability even when an intellectual disability applicant meets all relevant criteria for intellectual disability on the application and is signed off by a doctor as having mobility with safety disability.

Other Commonwealth jurisdictions have altered their Australian Disability Parking Permit applications in line with holistic definitions of disability, enabling medical practitioners to support an application in circumstances where a person has cognitive, behavioural or neurological needs that prevent them walking safely without the continuous support of a family member, carer or support person.

VIC Legislation 2020 and ACT Legislation 2023 both apply the comprehensive disability definition used in Australian Disability Strategy.

Transport Access Scheme, Tas, in State Growth, currently does not. They limit disability to **must include** a physical component when issuing an Australian Disability Parking Permit.

To conclude, the government proposes a holistic definition of disability to be used by itself and its departments, yet in practice, will it still mean that limited definitions of disability will be applied by agencies within a department, even though they will be out of sync with the broader definition supposedly used by that entire Department, the Government and the whole community?

If you legislate a holistic definition of disability, you should apply it holistically without restrictive application to disabilities.

Submission 2b – Stephen King

I attended the consultation and raised the issue of exemptions to the Bill. Following points briefly discussed during the consultation and later reflection, a more pertinent issue emerged in relation to the Bill that is more than a part of part twelve- appeals. It goes to the heart of the Inclusion Principles:

Any exemptions, current or proposed, or non-inclusive definitions of disability out of sync with the Bill/Act should be subject to best-practice scrutiny.

The aim of inclusion is to be inclusive. Non-inclusive definitions in current use or intending to remain in use that are not inclusive of best practices should be challenged and held accountable.

A big issue for the future success of inclusion in Tasmania is the integrity of the Bill's definition of disability and the intent to maintain consistency in the principles of the Bill's/Act's inclusive use.

We best go forward all using and applying the same comprehensive and consistent definition of disability.

We can't let it be that all disabilities are equal, but in some not best-practice circumstances, some disabilities are more or less equal than others.

My feedback is any existing or proposed exemptions should be subjected to a rigorous, accountable process identifying current best practices; hence, it is demonstrably clear they are justified versus the inclusive integrity of the Bill.

A consultation session or providing feedback is not the time or place to elaborate on an ongoing complex individual case.

However, the general principles of a case are pertinent for all stakeholders in a future-inclusive Tasmania. Exemptions and the use of non-inclusive definitions of disability are real. Exemptions and the use of non-inclusive definitions of disability can cause inclusion issues because the exemption or the use of non-inclusive definitions of disability may be out of sync with current best practices.

Like everyone at the meeting, I appreciate that each disability case is individual. Many unique cases confront well-intentioned constructed legislation designed at an earlier point in time to fit the then-current disability definition. This results in entities currently having to administer guidelines they know are no longer best practices. Our understanding of disability and its needs is an ongoing fluid process, whilst often current legislation and guidelines have had static periods of function. So, it is clear that many individuals today are challenged by non-inclusive definitions from yesteryear that are out of sync with present-day best practices.

I would appreciate the consultation group forwarding this question as feedback: _

How will exemptions to the Inclusion Bill/eventual Act, by a department, agency, statutory or non-statutory authority or entity not administered under legislation be held accountable to show they are not precluding inclusive best practices?