

Webinar recording on Disability Inclusion Act-- Meeting Recording

7 August 2023



Jane Wardlaw

Welcome everybody.

My name's Jane Wardlaw and I'm a member of the Minister's Disability Consultative group.

I'd like to begin by acknowledging the traditional owners of this land and acknowledge my respect for their culture and identity, which has been bound up in the land, waterway and sky for generations.

I would also like to pay my respect to elders past and present.

The purpose of today's session is to introduce the Tasmanian Disability Inclusion Bill of 2023.

We're going to outline some parts of the Bill, and we're also going to discuss how stakeholders can participate in the consultation of the Bill and we really want to emphasise the importance of the Disability Inclusion Bill for Tasmanians with disability.

Joining me today on this discussion, we have Mary Mallett, who is the Interim Disability Commissioner.

Welcome Mary.



Hobart-15 Murray St-Level 4-Small Meeting Room Mary 2:13

Thanks, Jane.



Jane Wardlaw 2:14

We have Kelly Ford, who's the Manager of Disability Services Policy and Programs. Welcome Kelly.

H Hobart-15 Murray St-Level 4-Small Meeting Room Kelly2:22

Thank you, Jane.

JW Jane Wardlaw 2:22

If you give us a wave and Maryanne Lewis, who's the Project Manager for the Disability Inclusion Legislation Project.

Welcome, Maryanne.

H Hobart-15 Murray St-Level 4-Small Meeting Room Maryanne2:34

Hi, Jane. Hello.

JW Jane Wardlaw 2:37

So let's start with we'll get straight into business.

Mary, why is the Tasmanian government creating a new Disability Act?

H Hobart-15 Murray St-Level 4-Small Meeting Room Mary2:49

The New Disability Act is designed to improve the rights of Tasmanians. Human rights of Tasmanians with disability and make Tasmania safer and more inclusive place for people with disability. That's those human rights are based on the United Nations Convention on the Rights of Persons with Disability (UN CRPD).

And also Australia's Disability Strategy, which is a 10-year plan that Tasmania is part of that 10-year national plan.

And so the Act is going to bring in laws that will strengthen those human rights and the inclusion of Tasmanians with disability, and it will bring in a way for Tasmanian government agencies to show how each of them each department will create their own inclusion plans and how they will, how they will report on what they're doing and it sets out rules about the use of restrictive practices by disability service providers. It creates this new office of a disability inclusion Commissioner and also an updated office of the senior practitioner.

It establishes a Tasmanian Disability Advisory Council and it provides an opportunity

for funding for inclusion activities.

So that's what the Act is going to do.

JW **Jane Wardlaw** 4:12

Thank you.

That's great.

JW **Jane Wardlaw** 4:32

How will the Bill create a more inclusive Tasmania?

H **Hobart-15 Murray St-Level 4-Small Meeting Room** **Mary**4:45

So the inclusion principles are an important part of the Act and they provide a framework for anybody who's doing any work that comes out of the Act.

Those principles are based on the UN CRPD and are very similar to what's in the NDIS Act and it talks about those definite actions that the Tasmanian Government and its Agencies have to do to make Tasmania more inclusive place to live, and that particularly includes rules about consulting with people with disability.

So out of this bill, there will be a new Tasmanian disability inclusion plan and the first one will be created within the first year after the Act comes into being.

Um and each department will have to have their own Tasmanian disability inclusion action Plan, Uh, that will feed into the overall government action plan.

The Office of the Commissioner will have a role in Guiding and supporting the government agencies about what they include in and how they write their action plans, but also monitoring and making sure that that they do what they say they're going to do.

JW **Jane Wardlaw** 6:06

OK.

Thank you.

JW **Jane Wardlaw** 6:59

Mary, would you mind describing then how what is the role of the Disability Commissioner within this Disability Inclusion Act?

So this Act creates a disability inclusion Commissioner. Tasmania hasn't had one before.

This will be the first time they'll be one in Tasmania and it's similar to equivalent roles in several other States and territories, so this bill gives the powers the functions and powers that the Commissioner needs to have at our created by this act, and so the role that I'm doing now is a role that's called an interim Commissioners role because it's working behind the scenes and with stakeholders to scope out what the how this Commissioner role will really make a difference on the ground for Tasmanians with disability.

It is, the Bill says, that the Commissioner should be a person with lived experience of disability. So that's a really important thing. It is the intent of the Bill, and we will be acting to make sure that that's what happens, when the future Disability Inclusion Commissioner is, is found and that they should be independent from government, so that the Commissioner is, is a separate voice that is able to see and respond to and comment on issues that concern Tasmanians with disability.

The Commissioner will work, obviously, with all the other roles that exist already, to keep people with disabilities safe.

There are, you know, an Anti-Discrimination Commissioner, a Children's Commissioner, Health Compliance Commissioner, an Ombudsman. There are multiple other roles who already have play a part in keeping people with disability safe.

This Tasmanian Commissioner new Inclusion Commissioner will help work together with all of those other roles and steer people with disability towards those complaints mechanisms if they need to or but will listen to their concerns and as I mentioned about the inclusion plans, we'll keep an eye on how the government is doing overall in relation to providing services for people with disability, like there's an important role the Commissioner will have about promoting rights and providing education about human rights of people with disability to anywhere that that's needed, really. And then there there's a specifically important role which is about protecting people against abuse and preventing abuse of people with disability.

Uh, it's the issue that the Disability Royal Commission has been focusing on for several years.

It's an important issue and it makes sure that there is a Tasmanian place context where people can raise those really significant concerns that they have about someone with disability being abused.

Either the person themselves or their family, or a support worker, or anybody who has those concerns will have a place to bring them.

And then they'll be assisted to take that issue to the complaint mechanism that needs to go to or and if the Commissioner will have powers of investigation if that's required, um, and the Commissioner would be supported by the Disability Inclusion Advisory Council.

JW Jane Wardlaw 10:31

Right.

So, OK, that's terrific.

And the Disability Inclusion Advisory Council, would you like to elaborate on what that is proposed in this particular disability inclusion Bill?

H Hobart-15 Murray St-Level 4-Small Meeting Room Mary 10:46

So it's a new it's a new body and that hasn't existed before.

It's the majority of the members of the Council are to be people with disability and there'll be a process for how people come on to that Council, but this act sets up the possibility of having the Council um and it's that that's come from the consultation that the department did about the review of the previous Act.

There was a very strong voice for people with disability being included in leadership and having this position of influence, so this new Inclusion Advisory Council will provide advice to both the Commissioner and to the relevant Disability Minister and about inclusion, but about all aspects of making Tasmania safer place for people with disability.

JW Jane Wardlaw 11:37

Thank you, Mary.

So Kelly just briefly and Mary was mentioning about safeguarding the role of the Commissioner will be around safeguarding and monitoring that.

I was just wondering what are the other provisions there are there to promote the human rights of people with disability in this proposed Act?

H Hobart-15 Murray St-Level 4-Small Meeting Room Kelly 12:03

Great question, Jane.

So we have included a few roles in this that have both a human rights and safeguarding function.

One of those is the senior practitioner, and I think we're all aware that at times disability service providers might need to use a practice which is restrictive to a person with disability, and we want to make sure that those practices are the least restrictive for the person and so their senior practitioner has a role to ensure that those practices are the least restrictive, that they are supported by a behaviour support plan and that they are those behaviours, support plans, have strategies to reduce or eliminate the practice, and that those practices are approved in Tasmania by the senior practitioner.

JW Jane Wardlaw 13:09

Right.

And So what will be the role of the Disability Commissioner alongside all of that?

H Hobart-15 Murray St-Level 4-Small Meeting Room Kelly 13:16

So the Disability Commissioner, will have some powers to investigate and will work alongside if you like, the senior practitioner, though the senior practitioner is the decision maker around restrictive practices.

JW Jane Wardlaw 13:35

Yeah, alright.

And how does that interplay or how does that sort of, um, interact with the NDIS Quality and Safeguards Commission?

H **Hobart-15 Murray St-Level 4-Small Meeting Room** Kelly 13:48

Very good question because this is confusing for a lot of people.

The NDIS Act and its rules have talk about restrictive practices and define five types of restrictive practice.

Tasmania wants to bring its legislation into line with that, so that we're talking about the same restrictive practices and that the Tasmanian senior practitioner is making an approval for those restrictive practices that are described in the NDIS Act and rules the NDIS Quality and Safeguards Commission has a role to play in monitoring behaviour, support where restrictive practices are used.

JW **Jane Wardlaw** 14:56

Great.

Thank you for clearing that up.

That's excellent.

Thank you.

So the rights of the person with disability are also protected, um protected, proposed in this bill through the introduction of two new roles.

Can you elaborate on that for us please, Kelly?

H **Hobart-15 Murray St-Level 4-Small Meeting Room** Kelly 5:16

Yeah, absolutely.

So we've introduced 2 roles that we think at to support the person with disability and to ensure that their rights are protected and that the practices that are used are the least restrictive. One of those roles sits with the provider in the appointed program officer.

And we've said in in the drafting of this bill that the appointed program officer needs to represent the provider and has a function to ensure that the practice is reported in the right way, that there is a behaviour support plan and that that the person has an independent person to support them to understand the restrictive practice that's being proposed and to umm, ensure that their human rights are protected in that process. So the independent person is also described in the legislation and the senior practitioner has a role to provide guidelines, guidelines around those roles and to ensure that the people who are undertaking those functions understand their responsibilities under the legislation.

JW **Jane Wardlaw** 16:39

Right, So what about funding for this particular Bill?

So can we, um Kelly, can you talk to the funding that may be required to fund some of the activities that are going to occur in this Bill?

H **Hobart-15 Murray St-Level 4-Small Meeting Room** **Kelly**16:58

Yeah.

So in in our previous legislation in the Disability Services Act, we've talked about funding services and we've moved very much away from that in a disability inclusion bill.

And we are now talking about funding being available, if you like, to support the objects and principles of the Act.

JW **Jane Wardlaw** 17:22

Mm-hmm.

H **Hobart-15 Murray St-Level 4-Small Meeting Room** 17:29

And that allows us to consider the continued funding of activities such as advocacy, for example.

JW **Jane Wardlaw** 17:38

Yep, great.

Alright.

Well, look, thank you very much, Maryanne, over to you.

I was just wondering if you might be able to outline how are you going to consult on this Bill?

H **Hobart-15 Murray St-Level 4-Small Meeting Room** **Maryanne**17:56

Thanks, Jane.

We're going to do consultation on this bill throughout August and September of 2023 and we're creating ways which are accessible for our stakeholders.

So we're going to have online consultation sessions that people can participate in.

So today's been very much about us providing information to our stakeholders, but in the next round of things, we really want to hear from people.

We will also do some face to face consultation sessions around Tasmania in various locations and we're going to work in a more targeted way with some of the organisations that represent people with disability and if there's anyone out there that would like to have a session like that, please get in touch and we'll come and talk with you or work with your group.

People can provide a submission to us so that can be a written submission, a video and audio recording.

We'll have an online submission form so people can provide some information on the Bill to us.

So we're really at the stage where we've, we've listened and we've taken on board everybody's ideas with created this bill and now we really want to hear from our stakeholders to make sure that we've captured what they think we need. Tasmania needs to be more inclusive.

So if people are interested in finding out more about the bill, um, the bill is available online in a um, a PDF and HTML format. If that's what suits people. We've written an overview paper which explains the bill, the various parts, and how to participate in the consultation.

And we've got that overview paper in a plain English.

An easy read, E text audio, all kinds of different versions.

Find something that suits you and we are very happy to answer any questions that people have about the bill.

JW **Jane Wardlaw** 20:25

So look, I'm building on that. You really happy to answer some questions around that?

I just do have a couple of questions that I wouldn't mind throwing to the panel and that is just around the Disability Royal Commission is due to hand down its findings soon and how will the recommendations and advice buy the OR from this Disability Royal Commission be considered as part of this bill?

H**Hobart-15 Murray St-Level 4-Small Meeting Room Mary**20:57

Ohh, I'll have a go and it's actually very timely, isn't it, that the final report of the Royal Commission is due to come out really while this Bill is at hand in Tasmania and while it's going through and I think the once the final report comes out, the final report's gonna be volumes long and I think there'll be a period where both the Commonwealth government and the Tasmanian Government will need to sit back, read the report takes stock and work out how they will respond properly to the multiple recommendations that are gonna be in there.

And this Act will be going ahead regardless, and it's sort of sets the tone really of how Tasmania, uh, acts and behaves and includes people with disabilities. So I think it there may be some things that come out of the royal Commission that will need to be, you know, separate legislation.

This legislation amended somethings we can't know or predict exactly what those will be.

So I think it's fortuitous, uh, that it's coming out at the same time, but it won't have an instant impact on this piece of legislation.

This piece of legislation is going forward anyway too, as we've described to do all the things that it's going to do.

JW**Jane Wardlaw** 22:13

So it's quite historic really at the moment for Tasmania and this disability inclusion, bill like it's you know, really quite a long way away from where we were 20 years ago when we still had places like Willow Court.

So on that note, the interactions as well that we have with other schemes such as the NDIS, how Kelly do you see that this bill will work accordingly with the NDIS?

H**Hobart-15 Murray St-Level 4-Small Meeting Room Kelly**22:46

Good question, Jane.

And we're... I talked a little bit about how that might work with restrictive practices and certainly I know Mary might want to comment about, um, the disability inclusion

Commissioner in Tasmania and the relationship that that might have with the NDIS quality and safeguards, Commissioner.

But I think the things that we've thought about when we've created this bill is how certain parts of it will work with things like the NDIS and the NDIS Quality and Safeguards Commission, but also about what other protections in Tasmania might people with disability need who aren't part of the NDIS, who are not participants in the scheme but might need a range of protections regardless.

JW **Jane Wardlaw** 23:36
Umm.

H **Hobart-15 Murray St-Level 4-Small Meeting Room Kelly** 23:44
And so that has been our consideration all along in, in creating this, this Bill.

JW **Jane Wardlaw** 23:53
It's not just for in NDIS participants, it's for all Tasmanians with disability.

H **Hobart-15 Murray St-Level 4-Small Meeting Room Kelly** 23:59
Yep, exactly.

JW **Jane Wardlaw** 24:01
Well, look, we're running out of time.
So Maryanne, I'd just like to throw one more time to you about how and where people can find the bill for consultation and maybe how they can contact you.

H **Hobart-15 Murray St-Level 4-Small Meeting Room** **Maryanne**24:17

Yes.

So the bill and all the supporting materials will be on the Department of Premier and Cabinet website.

People can email us.

The email address we'll put onto the end of this video.

It's disability inclusion Bill at dpac.tas.gov.AU, or there's a 1 800 number.

So that's 1800 431 211 and we're very happy to answer any questions or provide more information.

JW **Jane Wardlaw** 24:56

Thank you.

And Mary, the Interim Disability Commissioner.

Any final words from you?

H **Hobart-15 Murray St-Level 4-Small Meeting Room** **Mary**25:05

I was taken by you describing it as historic.

Jane and I completely agree that this is such an opportunity, isn't it?

For Tasmanians, for Tasmanians with disability to move into a more forward thinking place, a Tasmania that welcomes and includes them in everything and I think we're all really excited to be part of that.

JW **Jane Wardlaw** 25:28

Thank you.

And Kelly, congratulations, because you've been working very hard for a very long time.

Over the years, you've seen a lot of transformation as well have occurring.

Have you got any final words that you would like to add around encouraging people to have their say?

H **Hobart-15 Murray St-Level 4-Small Meeting Room** **Kelly**25:50

Yes, absolutely.

We want to hear from like it would be great if we heard from every Tasmanian, but

certainly Tasmanians with disability, we want to hear what they have to say and what parts of this bill are important to them and how they feel about how we've shaped this.

So all of the ways in which Marianne described people can contact us or have their say on this Bill, we want to hear that.

And so we're going to be out there, all of us.

Talking with as many people as we can and willing to hear in whatever form people want to share their thoughts about the bill.

JW **Jane Wardlaw** 26:38

Right here is so wrapping up.

Thank you very much for your time today.

My name's Jane Wardlaw.

I'm part of the Minister's Disability Consultative group and we look forward to hearing from all Tasmanians around the disability inclusion Bill.

Thank you.

H **Hobart-15 Murray St-Level 4-Small Meeting Room** 26:57

Thanks Jane.