

12 September 2023

COTA Submission Disability Inclusion Bill 2023

Via email: disabilityinclusionbill@dpac.tas.gov.au

Maryanne Lewis, Project Manager, Disability Inclusion Legislation Project
Department of Premier and Cabinet (DPAC)

Introduction

COTA Tasmania welcomes this opportunity to respond to the Disability Inclusion Bill 2023 (the Bill).

In preparing our response we participated in one of the online consultation sessions.

Our response to the Bill has been guided by our mission, which is to advance the rights, interests and futures of Tasmanians as we age.

Intent

The intent, purpose and objectives of the Bill are to be commended as they support the advancement of human rights and the full inclusion of people with disabilities including supported decision-making.

In particular, the recognition of the multiple disadvantage and discrimination created because of the intersection of disability with other personal characteristics such as age, gender, cultural or linguistic diversity, Aboriginality, sexuality and/or religious beliefs.

This intersectionality aligns with the COTA Tasmania Guiding Principles that protect and respect older Tasmanians which include independence and freedom to participate socially and economically; dignity and choice; standards of living and care; participation and self-fulfilment.

Reach/Disability Inclusion Planning

It is understood that the Bill will apply to Defined Entities. This includes a State Government Agency or other agent or instrument of the crown. Local Government has not been included in this definition. It is strongly suggested that Local Government be included as they are a product of the State Government, and the third tier of government.

Patron

*Her Excellency the Honourable Barbara Baker AC,
Governor of Tasmania*

It is not clear if community organisations such as COTA Tasmania who receive State Government funding will come under the definition of a defined entity, particularly in respect of developing Disability Inclusion Plans. Some clarity around this would be beneficial.

Communication/Awareness

The new legislation needs to be clearly understood by the people it is intended for. It is noted that currently an easy read summary on the Bill and consultation process is on the DPAC website.

It is also noted that there is the intention by DPAC to develop more easy read information once the Bill has passed. This is a critical element to communicating and raising understanding and awareness of the Bill.

In addition, including a definition of disability would also enhance community understanding and awareness.

Role of the Disability Commissioner and Advisory Council

While the intent of the Bill is to recognise the intersectionality of disability, the Bill does not specifically mention age criteria in the same way that the National Disability Insurance Scheme (NDIS) criteria does.

The role of the Disability Commissioner and Advisory Council is to assist people to navigate existing complaint mechanisms, pick up appropriate avenues, or to investigate a complaint.

It is understood that the equivalent role in NSW is called the Ageing and Disability Commissioner. Given the landscape in Tasmania is evolving, consideration could be given to explicitly include ageing in the name of the role.

People with Dementia

The rates of Dementia are dramatically increasing for people of all ages globally. An older person with dementia will not be covered under the Bill unless services are funded through the NDIS.

People with dementia who aren't receiving NDIS services or who are living in a Residential Aged Care Facility (RACF) aren't covered or empowered under the Bill. They will have access to referral agencies such as the Office of the Public Guardian and the Aged Care Quality and Safety Commission.

This is where community awareness, education and engagement are essential so that people don't fall between the gaps and referral pathways are clear.

Legislation/Rights navigation

The DPAC expressed they have worked as closely as possible with colleagues who are drafting the *Safeguarding Adults Options for Legislation Reform (Safeguarding)* so that the Bill and this reform should work harmoniously together.

It is recommended that close attention be paid to adopting the triaging aspect outlined in *Safeguarding* as a possible assist in helping people to navigate the Bill. ¹

The Disability Commissioner and Advisory Council and will need to guide navigation of the system. While this amount of detail won't be included in the Bill, the implementation that arises out of the Bill will impact on the complexities that currently exist and the potential cross overs and emerging legislation in other areas.

This is where COTA Tasmania and other key agencies will play a pivotal partnership role in helping the community to understand information, navigate and refer to the appropriate agencies. In particular, within our funded roles across Aged Care Navigation, Active Ageing and Elder Abuse prevention and awareness.

Restrictive practice

It is understood that restrictive practice is in the context of disability services provision (smaller cohort accessing services funded by the NDIS or that the Tasmanian Government funds) and involve seclusion, chemical, physical, and environmental restraints.

Additionally, the Aged Care Quality Commission and restrictive practices for RACF's are being developed separately. However, if people under 65 years receive services through the NDIS or are residents in a RACF, restrictive practice issues would be covered under the Bill.

For this reason, it is recommended to develop simple and clear information about what restrictive practice is, where it applies, and the differentiation between restrictive practice and abuse.

COTA Tasmania supports the appointment of a new senior practitioner role. We stress the importance of making clearer in the Bill the distinction between the safeguards for people with a disability (the program officer) who sits separately within a service, and the independent person (e.g., a friend, informal member, or carer but not a paid person or a volunteer or employee of the provider).

¹ Please see COTA Tasmania's submission on *Safeguarding Adults Options for Legislation Reform*