

Review of the Disability Services Act 2011

# Community Consultation Report

May 2022



What **you** have  
to say is  
**important!**

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## Executive Summary

Many Tasmanians took part in discussions about the review of the Disability Services Act.

Ideas were raised about how Tasmania can be more accessible and more inclusive. This includes making places easier to get into, as well as improving health, education, transport, employment, housing and access to the Arts.

The *United Nations Convention on the Rights of Persons with Disabilities* is widely accepted as the principles that the new Act should keep.

There are programs that the Tasmanian government should fund, especially advocacy services. A Quality and Safeguard framework is also needed to make sure any services that are not NDIS registered can provide good and safe supports. Regulating service providers is very important.

There is a lot of support for the Disability Commissioner role. The role should:

- Provide education and training including disability awareness
- Influence policy
- Provide systemic advocacy
- Provide complaints management
- Do research and community development

The Act should help supported decision making.

There were many ideas and suggestions that were raised in discussions about the Act.

Consultation is important and people want to have their say about the Act, and about services and supports.

## Acknowledgements

Annie Curtis Consulting would like to acknowledge the input and engagement of the many people who engaged in this consultation process.

Special mention to the following groups for their input and assistance in promoting and engaging with the consultation process:

- Premiers Disability Advisory Council
- Ministers Disability Consultative Group
- Speak Out Tasmania
- Association for Children with Disability (ACD) Tasmanian
- Local Government – Access and Inclusion Groups

And to staff members of Disability and Community Services team for being responsive to the changing dynamics of the consultation throughout this process.

## Key Terms

DCT	Department of Communities Tasmania
DSA	Disability Services Act
MDCG	Ministers Disability Consultative Group
NDIS	National Disability Insurance Scheme
PDAC	Premiers Disability Advisory Council.

## Introduction

Throughout the consultation there was a consistently strong response that the Disability Services Act should be something that can inform all services (specialist and mainstream) across Tasmania, and for its scope of influence to not be limited to funded services.

The Disability Services Act can be used as a positive and proactive response in Tasmania, that can be referred to and enforced for great outcomes for all Tasmanians.

Opportunity was highlighted through the consultation to increase disability awareness (including psychosocial disability) throughout the Tasmanian community.

It is evident that all levels of government (State, Federal and Local) need to work collaboratively in relation to services, legislation, and commitment to improving and maintaining outcomes for people with lived experience of disability. A number of Tasmanian Local Government Authorities have Access and Inclusion Policy staff and/or Committees. Representatives of these areas of local government engaged in the consultation process which emphasised the importance and benefits of this collaborative approach, as well as the need to ensure that there is not a culture of passing on responsibility for action and change, particularly where gaps are identified.

The Disability Services Act review provides opportunity to develop more user-friendly legislation and to build capacity across Tasmania to be more real and more useful. This extends to the title of the legislation, where many people proposed that the title be changed to reflect broader community focus rather than limiting this to a service focus. Suggestions raised include “Disability Inclusion Act” and “Disability Access and Equity Act”

## Methodology

Utilising the Discussion Papers that Disability and Community Services had developed, to provide the background and framework to undertake the state-wide consultancy, a number of different engagement approaches were undertaken.

While the initial intention had been to offer more in-person forums across the State as part of the consultation process, this approach was revisited due to limitations and risks associated with Covid-19.

Consultation was undertaken with people with lived experience of disability, family members, carers, support workers, service providers and other interested parties.

At the Disability Expos (09 November 2021 and 17 November 2021) the following engagement occurred:

- 153 people engaged through discussion at the Booths.
- Regional representation
  - 55 North West,
  - 1 North (in Burnie)
  - 97 South.
- Age Range
  - 4 people under 17,
  - 140 between 18-64
  - 9 people aged over 65.
- Representing:
  - 44 people with lived experience of disability
  - 29 Family/Carer
  - 15 Support Workers
  - 40 Service Providers
  - 25 Other
- 138 People took a copy of the discussion paper.
- 29 people requested further follow up in relation to the DSA Review (by providing their contact detail).



An online forum was held with members of the MDCG and PDAC on 02 December 2021. This discussion included co-design suggestions in relation to consultation as well as feedback and input into elements of the Disability Services Act Review, as per the discussion paper. The feedback from this group helped inform the format of the group sessions and prompted the inclusion of some contextual information at the commencement of each session.

The state-wide on-line sessions were facilitated utilising EventBrite for registration and Zoom as the platform for each session. There were 1232 views of the EventBrite page and 58 registered attendees at the forums that were conducted over 7 different dates/times (between 31 January 2022 and 16 February 2022). These groups were attended by people with lived experience of disability, family representatives, service providers and other interested parties.

Date	Numbers	Representing	Region
31/01/2022	8	People with lived experience of disability, Parent, ECIS, Service Provider, advocate	N, S
04/02/2022	8	People with lived experience of disability, Service Provider, Board member, Parent, Legal Aid, advocate	NW, S, N
08/2/2022	10	People with lived experience of disability, advocate, Local Government, Service Provider	N, S
09/02/2022	10	People with lived experience of disability, teacher, Service Provider	N, S
10/02/2022	10	People with lived experience of disability, Service Provider, TAFE,	NW, N, S
15/02/2022	2	People with lived experience of disability, Service Provider	S, N
16/02/2022	9	People with lived experience of disability, MDCG, parent, Local Government, Service Provider	N, S

The people with lived experience who were happy to identify their disability during the consultation included people with intellectual disability, physical disability, neurological disability, Autism, psychosocial disability, vision impairment, hearing impairment and acquired brain injury.

Service Providers involved in sessions included: Anglicare, Nexus, Migrant Resource Centre, Langford, Association of Children with Disability, TAFE, Speak Out, Women with Disabilities, Legal Aid, Family Based Care, Glenorchy City Council. Clarence City Council, Kingborough City Council, Mental Health Family and Friends, Guide Dogs of Tasmania, Mosaic. Representatives from these organisations included management, clinical positions and support staff.

In person sessions were held with groups of people through the organisations: Speak Out and Association of Children with Disability Tasmania. These sessions all involved people with lived experience of disability, parents, grandparents and advocates.

- Speak Out Groups (Regional) x 3 - Burnie, Launceston, Hobart.
- Speak Out – staffing group – Statewide
- ACD – Youth Leadership Group - Hobart
- ACD – Parents Forum (My Time) including Grandparent representatives. - Statewide

A number of individual (one on one) consultations were undertaken via phone, Zoom and in person. Three of these sessions were with parents of people with disability, 2 with people with lived experience and 1 with a service provider representative.

Several individuals and groups provided submissions directly to Disability and Community Services.



## Topic I – Inclusion, accessibility, and leadership

- *How could the DSA be changed to advance and drive the inclusion of people with disability in the Tasmanian community?*
- *In what ways, could the DSA contribute to inclusion of people with disability in the social, economic, civic, political and cultural live of Tasmania?*
- *What role could the DSA have in driving action and removing barriers in areas like community attitudes, employment, discrimination and in access to mainstream supports including education, health, transport and housing?*

The topic of inclusion, accessibility and leadership provided the highest level of engagement throughout the consultation.

The review of the Disability Services Act provides opportunity for Tasmania to lead the nation and embed best practise in terms of inclusion ... *“Inclusion is what we do!”*

The areas of inclusion and accessibility discussed included:

- Transport
- Health
- Housing
- Employment
- Education

Transport was raised both as an accessibility issue and a barrier to inclusion in 80% of the consultations. Across all areas of Tasmanian (North West, North and South) transport was highlighted as a significant area that requires vast improvement

Accessibility issues were raised specifically in regards to:

- Shops – entrances and fixtures.
- Public toilets – poor signage and limited options, particularly in terms of turning space for wheelchairs in accessible toilets.
- Need for toilet maps (through Local Councils) so people know where and what toilet facilities are available.
- Streets need ramped gutters at cross points - many do but not all.
- Accessible playground equipment is improving but this needs to continue.
- Accessible buildings – noting that accessible entrances should not be limited to the rear or back entrance of buildings.
- Uneven footpaths are not safe.
- Traffic light clickers are not loud enough.
- Increased beach access for wheelchair users.
- Accessible ferries.
- Changed bus routes impact on community access.

Access to the Arts (live music and theatre) need increased accessibility both physically and economically. In addition, the opportunity for people to engage by directly being involved in the Arts was requested. Access to the community and events also includes the provision of breakout or quiet spaces to ensure people feel safe in the environments they visit.

Tourism opportunities should be increased to ensure that all Tasmanian's are able to access the beauty of the state. Examples provided included ensuring proportions of walks are wheelchair accessible or supported to access through golf carts. This would also result in an increase in Tourism to the State and to build the reputation of the Accessible Island.

Improved options for learning to drive, and subsequently getting a driving license was identified by a number of young people.

Public awareness and information should be made available by government in relation to voting in elections.

Inclusion for people living with disability is impacted by stigma and the sense of not belonging. People felt that there is a degree of ignorance. Shop staff were identified as being poor in this area.

*“Some people think we can't do things because we are different”.*

The language associated with disability was highlighted as important in the context of community awareness, acceptance and understanding.

It was recommended consistently throughout the consultation that there needs to be an advertising campaign that informs people that everyone is equal. This is recommended using television, YouTube, and social media (Facebook, Twitter, Snapchat and Instagram). The Tasmanian government was identified as the key driver of this disability awareness opportunity. Further, the requirement for training and professional development in workplaces and programs was identified as a key element of increased awareness.

People identified that there is little access to “real” jobs in Tasmania and that the Disability Employment Services (DES) are not enabling good outcomes for people in Tasmania. These need to be genuine and not made-up roles. The additional costs of living with disability also impacts on the drive for improved employment conditions including better pay rates in workshop jobs. The option of government services to include mandated caps/quotas in the employment of people with disability was raised.

The limitations of the training opportunities in Tasmania for Auslan interpreters was identified as a barrier to inclusion.

A number of people reflected on the Disability Framework for Action (Accessible Island) is not functionally effective. An example provided is the Justice Framework where it is stated that people with disability have access to advocacy and communication supports, where in reality there is not the services available that have the skill or expertise to assist, particularly in relation to civil matters.

Housing was a consistent theme raised throughout the consultation. The availability of social housing options that are wheelchair accessible or at minimum universal design, is a challenge for people requiring this level of amenity. It was suggested that a clear quota on the construction of accessible housing should be instigated. Further, housing affordability and the capacity to plan for homeownership is a significant barrier for many people with disability.

Further to housing affordability was the additional costs of daily living (e.g., medication, fuel price) that impact people with disability. The cost of diagnostic assessments is prohibitive to people accessing supports and services.

There were many examples provided where engagement with the health system, particularly hospitals, proved highly challenging and unsuccessful for people with disability and/or their families. Generally, the examples reflected a lack of awareness and capacity to accommodate individual needs.

Education was also a consistent theme in the context of inclusion and accessibility across Tasmania. The education system needs a higher level of focus including support options available to students (e.g., supports for deaf people, consistency in resource distribution). Reflection of more robust and reliable educational opportunities was suggested. Education, or particularly, exclusion from education settings, was identified as a contributor to negative impacts in other areas of life. A range of issues associated with educational settings and education programs was raised.

Training and disability awareness for the Tasmanian community is seen as a proactive way to move from a community of “we will tell you”, to a community of asking people “what they need and want”.

Inclusion for a number of people involves the opportunities to make and maintain friendships.

Leadership is an area that should be encouraged particularly in young people. Other suggestions included the need for organisations to include people with disability in their governance and leadership structures.

## Topic 2 - Principles which support the rights of people with disability

- Do the DSA Principles reflect and up to date way of describing disability and the ways in which people with disability live and are supported?
- Do the DSA Principles need to change and if so, how?

The UN Convention on the Rights of Persons with Disabilities were generally understood and accepted throughout the consultation. The option to add further aspirational Tasmanian specific principles was raised as part of the DSA review.

Examples were provided where staff in mainstream services (health, justice, emergency services) do not recognise or understand the rights of people with disability and therefore a sense of discrimination or exclusion from services was identified. Improved disability awareness and mandatory training, particularly of government services, was recommended for Tasmania to improve and ensure that the Convention is adhered to.

The right of people with disability to be a parent was an area that was raised as important in the context of the principles, as well as in relation to supported decision making.

Language is important in the new legislation and the use of the word “care” is not recommended. It is also important to avoid overly clinical terminology.

Principles and standards should be applied to all services – this is non-negotiable.

The new Act should ensure the right to self-determination is reflected in the legislation.

*“Every Tasmanian should be treated fairly.”*

### Topic 3 – The DSA, NDIS, and other national disability programs.

- *What does the DSA need to include to work with Australian Government funded programs?*
- *What rules need to be in the DSA for services which are still funded by the Tasmanian Government?*
- *What other rules in the DSA do we need to keep, change or add?*

Tasmania needs to ensure that nationally there is recognition of the higher number of people with disability (proportionally) in conjunction with a high rate of unemployment or employment opportunities.

It is acknowledged that there is the need for a commitment by State Government for funded programs by the State and a mechanism to monitor these services/programs where there is no other legislated monitoring mechanism. The programs required to be funded by the state government include advocacy services peak bodies and specific groups.

There was extremely strong support for continuation and expansion of advocacy services throughout the consultation process.

The importance of advocacy services for individual advocacy was a common theme throughout the consultation. There were many examples provided where people with disability and/or their family sought advocacy support. Further, the importance of properly resourcing advocacy services was raised consistently throughout the consultation as well as appropriate accountability measures for these services.

*“What happens for people without ‘warrior parents’ to support them?”*

There were also many examples of unpaid or informal advocacy that were provided across Tasmania.

A number of people identified the need for a state funded multi-disciplinary team to support diagnostic assessments and provide pre-NDIS eligibility supports.

It was acknowledged throughout the consultation that while there is legislation that is interconnected, the on-going role of the Senior Practitioner was queried.

## Topic 4 – Quality and safeguards

- *How could the DSA support quality and safeguarding without duplicating the NDIS or NDIS Quality and Safeguards Commission?*
- *How could the DSA provide quality and safeguarding for services that are not part of the NDIS?*
- *Are there other roles or tools which would offer additional quality and safeguarding protections for Tasmanians with disability?*

The capacity for the NDIS Quality and Safeguard Commission monitoring function to expand to include non-registered providers of NDIS funded supports was highlighted as essential both in terms of protecting individuals but also ensuring that there is not duplication of government resources in providing the monitoring role. If not able to fully encompass the monitoring, then the capacity to leverage off existing systems to monitor non-registered providers should be considered.

As a general statement, the need to ensure that there is not duplication with NDIS Q&S was highlighted, particularly in Restrictive Practise space.

The need for and potential through the Disability Services Act, to provide a quality and safety framework across services including mainstream services was consistently supported. Safeguarding frameworks should translate into rural communities.

It was suggested that NDIS need to make the registration process more accessible and affordable (particularly for smaller operators).

A number of people involved in the consultation process identified a Visitors Scheme as a good mechanism.

Several people suggested a return to minimum qualifications for support workers.

## Topic 5 – Regulation of providers

- *As the National Standards for Disability Services cover local providers, does the DSA need to continue to include regulations about the delivery of supports for people with disability.*
- *Are the Regulations still required or do the NDIS Code of Conduct and the NDIS Practice Standards do the same job?*
- *What other regulation might be required and what role could the DSA have in oversight of non-NDIS services?*

The need for Q&S/Regulation response particularly for non-registered providers was raised, generally by NDIS registered providers. There is a strong sense that there is no accountability or consequences if a provider is not registered.

The Disability Services Act needs to reinforce Code of Conduct and Practice Standards expectations for non-registered and mainstream services. This could be a Charter that is required for all Tasmanians. This would need to be published as an official document including accessible versions.

Many people identified that someone needs to check up on Support Workers.

The current Senior Practitioner role is not seen as effective, and it was recommended that the function is integrated elsewhere with the state resources being redirected elsewhere within the State. A number of service providers did however highlight a strength of the Office of the Senior Practitioner having capacity to provide clinical advice.

## Topic 6 – Creating a Tasmanian Disability Commissioner

- *What types of things would this role do?*
- *What powers could they have?*

There was very strong and consistent support for a Disability Commissioner throughout the consultation. The need for clear direction in terms of the role is essential to ensure confusion is avoided. The role should have a seat at the table of decision making in Tasmania. The role should increase accountability and oversight.

The role should be Apolitical, ensuring that there is equal representation and recognition of the value of this role across all parties as well as confirmation of independence to the role.

The function of the Disability Commissioner identified the following:

- Education and Training – disability awareness
- Influence Policy within Tasmanian legislation
- Systemic Advocacy
- Complaints (relationship with other complaints pathways to minimise duplication)
- Research – community development

Suggestions were made that the Disability Commissioner could assist with system navigation.

There was a high level of expectation that the Disability Commissioner is a person with a lived experience of disability. The role is a highly public figure and should be visible in community.

The Disability Commissioner provides opportunity to listen to and resolve local issues. This extends to the opportunity make a difference to local community and attitude.

The resourcing of the Disability Commissioner role was raised as an important aspect to ensure that the role and function provides for real input and real outcomes. Legislation is important to ensure that the Commissioner role has mandated roles, responsibilities, and requirements. It was also suggested that the Disability Commissioner might have their own legislation to ensure the powers of the role are not impacted or absorbed by competing priorities within an Act. It was further proposed that the Disability Commissioner might have greater decision-making power in the context of services and programs, instead of the Minister for Disability Services.

The governance of the role was also seen as important with the opportunity to utilise existing groups and committees (e.g., PDA, MDCG and Local Council Access and Advisory groups) to form advisory and consultation structure for the Disability Commissioner. The independence of the Advisory mechanisms to the Disability Commissioner was also highlighted as essential to this role.

*“There is nothing about us without us”*



Complaint management along with Disability Awareness are the functions highlighted for the Commissioner most frequently.

Many people believe that the Disability Commissioner would take seriously all complaints and allegations of abuse; and manage these with dignity and respect. The Commission should have the power to investigate decisions and complaints, including having good interface with other legislated complaint and issue management bodies (e.g., Equal Opportunity, Anti-Discrimination Commissioner). The Disability Commissioner role should provide support for review and mediation.

Opportunity through the Disability Commissioner for state government to instigate community development grant programs was suggested, particularly pertaining to disability awareness and a more inclusive state. A number of people expressed that the introduction of the NDIS has impacted negatively and directly on community development across the state. The general sense is that services are now operating more in isolation rather than with the collaborative approaches that previously existed.

The Disability Commissioner should lead the development of templates and tools for best practise in accessible and inclusive service delivery. Story telling was also identified as a mechanism to increase disability awareness.

Intentional peer support roles were identified as an opportunity for disability awareness promotion and training. Ensuring the right skill set are in place for roles to support the Disability Commissioner was identified.

The research element of the Disability Commissioner was identified as a mechanism to identify gaps in services for people with disability, especially for those who are not eligible for the NDIS. This includes the gathering of data and evidence to support service models and/or highlight gaps and issues in service delivery. A number of people raised the safeguard options for services of last resort for people with disability and the generally thin market in Tasmania for services, as gaps that need to be addressed.

Many people indicated the importance of the reach of the Disability Commissioner being beyond government services only. For example, education to include independent and Catholic schools to enable occasions of discrimination to have appropriate consequences legislated for.

Many people identified the Disability Commissioner as the means to hold the state service (government) to account.

Other examples of the potential reach of the Disability Commissioner role included:

- The provision of guidance to the Courts, legal and justice (forensic) systems.
- Feedback on new schemes and their impact on people with disability – for example, e-Scooters in Hobart and Launceston.
- Establishment of peer support networks.
- Advice and overview on new facilities and programs.

*“Consult, Action, Change.”*

## Topic 7 – Supported decision making and consultation

- Does the DSA have a role in promoting supported decision making or ensuring that substitute decision makers, disability and other service providers act in the best interests of people with disability when it comes to making informed decisions?
- How can the DSA better ensure that the voices of people with disability are listened to and people with disability are at the centre of decisions made by the Tasmanian Government?
- Could the DSA include stronger guidance about who, when on what issues and how people with disability are included in consultations?
- What could be included in the DSA to encourage consultation?

Across all consultations it was identified that the DSA does have a role in promoting supported decision making.

Supported decision making mechanisms such as TASCAT, are encouraged to provide support for decision making and to ensure there is a clear framework provided in the context of what supported decision making means for each individual. Many examples provided related to the experience of engagement with Guardianship and Administration processes and were not positive.

Training for Police and Emergency Services in relation to supported decision making was suggested as essential.

There was positive response to engagement through the DSA review consultation recognising the need to continue to engage and broaden the scope of input.

The Disability Commissioner (Office) was identified as a pathway to promote consultation and the opportunity to teach people with disability how to raise any concerns. Similarly, the opportunity to provide education and advise to family members about a range of systems and processes was identified as part of the role.

Consultation was identified as essential, noting the importance that consultation is undertaken before a decision is made by Government that may impact on the lives of people with disability.

*“Everyone can interpret the same thing differently.”*

Consultation is also more than inviting people to participate, it is providing opportunity to talk and to be heard. People involved in the consultation indicated that there is too much decision-making being done for people rather than listening to them.

The use of explainer videos to explain services, options, and context, was recommended as a useful consultation element.

Generally, the people involved in the consultation processes are interested in ensuring feedback on the Disability Services Act review as it progresses towards enacting the legislation.

*“Opportunity to have a say is important.”*

Consultation needs to include the opportunity for people with complex support needs to be represented.

Timeframes for consultation need to be realistic and appropriate to ensure people have the chance to have a say.

The Disability Services Act needs to be accessible – easy read and understandable. The option for operational guidelines to assist in interpretation of the Act were raised.

The outcomes of the current Royal Commission were also highlighted as important for consideration in Tasmania's new legislation.

## Other

- *What else do you think we need to know about so that Tasmanian's future disability legislation can help to make things better for people with disability?*
- *What needs to be in the DSA to make these ideas happen?*
- *What else should be included in the DSA??*

There were many issues identified through the consultation that are outside the scope of influence of the Disability Services Act review, however the commitment to gather this information and, where possible, follow up with the relevant government or community services and program area, was well received.

- **NDIS and interface challenges including:**
  - Eligibility processes
  - Access to and capacity of Behaviour Support Practitioners.
  - Responding to the changing needs of children (in a timely manner).
  - Self-management – lack of supports in this area.
- **Complaints and grievance examples**
- **Mental Health Services**
  - Typically, services are not understanding the needs of people with disability who present with mental health issues or have comorbidity.
  - There are incredibly limited services for teenagers with disability needing Child and Adolescent Mental Health Services.
  - Challenges with access to NDIS psychosocial programs and services.
  - Services and programs for people with mental illness who are not eligible for NDIS supports and concerns about the number of programs that have been cut in Tasmania.
- **Police** – as there has been media stories regarding people with disabilities being shot by Police, there is a sense of fear regarding engagement with the Police and concern about reaction and response. This is an area that disability awareness/training across all levels of the Police Department was recommended as essential.
- **The limitations of services and funded supports for people over 65 who acquire a disability is of concern.**
- **Child Care Support** – there is limitations on options where a child needs one to one support. There needs to be greater resources provided in childcare centres (and schools) to provide assistance to children with disability.
- **Health Care Sector** is poor in Tasmania to the extent that some people have challenges accessing diagnostic assessments as well as supports. It was noted that access to allied health services was quicker prior to NDIS and there were also clearer pathways for multidisciplinary input if required.

- Access to reliable internet facilities particularly in regional parts of Tasmania was raised as a barrier to inclusion across the state.
- Quality and Safeguarding in Child Safety Services and Out of Home Care for young people with disability.
- Child Safety Services and the limited understanding of disability was raised as a significant impediment to the Advice and Referral pathway working effectively.
- Building Code of Australia – the construction industry has highlighted the small tolerances related to building compliance requirements which many builders are not engaging in due to the small tolerances. This is then driving prices and people are being overcharged for improving the amenity of builders.