



SUBMISSION

DISABILITY SERVICES ACT 2011 REVIEW

PARAQUAD ASSOCIATION OF TASMANIA
February 2022

PURPOSE

ParaQuad Association of Tasmania Inc. (ParaQuad Tasmania) welcomes the opportunity to provide a submission to the Department of Communities Tasmania's current review of the Disability Services Act 2011. The following submission on behalf of the ParaQuad Committee of Management provides input from our members across Tasmania.

ABOUT US

As a leading disability people organisation of Tasmania, ParaQuad Tasmania is a 'trusted leading voice, advocate and provider of quality services to Tasmanians with spinal cord injury and physical disability' (ParaQuad, 2019, p. 4). This not-for-profit organisation established in 1990 has its values steeply embedded in human rights agendas with the main aim to improve quality of life outcomes, social inclusion, and meaningful participation for disabled people with spinal cord injury and physical disability.

HOW WE APPROACHED THIS SUBMISSION

ParaQuad Tasmania has consulted widely with its membership to provide input into this submission. ParaQuad Tasmania's membership base is predominately people with spinal cord injury and physical disability from diverse backgrounds and situational circumstances. For example, as a decentralised state, members live in remote, regional locations such as the West and North-West regions, Northern and Southern regions. Our members perspectives are vital to inform a new Disability Services Act 2011.

We contracted an independent disability consultant, Jane Wardlaw to work on our behalf to consult with members concerning this work. We coordinated several virtual forums however due to the COVID pandemic at its peak at the same time, these were cancelled because of low interest. Instead, a tailored online survey was distributed amongst members which received a good response from the membership base. This submission reflects those responses including consultation with the ParaQuad Committee, senior staff, meetings with key government stakeholders within Department of Communities Tasmania, and the lead Consultant for the Disability Services Review Act Annie Curtis Consulting.

BACKGROUND

Historically, many Tasmanians with disability have experienced segregation, marginalisation, and oppression through outdated ideas of how societies respond to people with impairments. For example, disability services were modelled on the idea that disability was something people had, it was inherently negative, the fault of the individual and was something that needed to be cured or fixed. In the 20th century because of the decades of disability rights movement, the social model of disability emerged which located disability as socially constructed; it was the policies and the way society acted upon about disability that created barriers and obstacles to participating in society with rights as non-disabled people enjoyed. Since Australia ratified the United Nations Convention of Rights for People with Disability in 2008, a human rights model of disability emerged which provided an obligation to revise, reform and reshape the way society acts towards people with disability. Finally, people with disability became subjects of human rights just as non-disabled people enjoy.

Approximately 25% of the population in Tasmania are people with disability of which about 32% live with severe and profound disabilities. Some people with disability live in care home accommodation or state housing; therefore, independent living and social inclusion are essential. Some children with disability attend segregated school settings or experience segregation within mainstream schools, posing risks to inclusion and self-esteem. People with disability are more likely to be unemployed (approx. 48% employed with disability compared to approx. 80% without disability), have poorer health outcomes and in Tasmania have very limited transport options (particularly in regional areas), especially wheelchair users which effects a majority of ParaQuad members with spinal cord injury and physical disability.

INTRODUCTION

Since the proclamation of the Tasmanian Disability Services Act 2011, there has been considerable change and reform in the disability sector, particularly in funded disability services provision. Most notably, the introduction of Australia's National Disability Insurance Scheme (NDIS), a new Australian Disability Strategy 2021-31, and the Royal Commission into Violence, Abuse, Neglect and Exploitation of Person with Disability.

These key disability reforms and inquiries must shape the Tasmania Disability Services Act. Doing so will reflect the changing landscape towards the human rights of people with disability and protect these rights for all Tasmanians with disability. Many Tasmanians with disability have experienced segregation, marginalisation, and oppression through outdated ideas of how societies respond to people with impairments.

This submission will focus on members' responses to an internal survey which was informed by the Department of Communities Tasmania's Disability Services Act 2011 Review Discussion Paper (Discussion Paper). We designed questions guided by some of the relevant topic themes outlined in the discussion paper. It is anticipated that these survey responses and input from ParaQuad Committee, will help to shape a revised Tasmanian Disability Services Act 2011 to build on promoting the rights, respect for dignity and equality which has emerged through reform and change over the last 10 years. It is important to first provide a snapshot of the disability landscape as a backdrop to informing a revised Disability Services Act 2011.

DISABILITY LANDSCAPE IN 2022

Key points:

- Not all Tasmanians with disability qualify for National Disability Insurance Scheme (NDIS) individualised budget and nor does the NDIS replace mainstream services such as health, education, justice and transport.
- A new Australia Disability Strategy promotes a framework for equality, rights, dignity, and respect.
- Interim findings from the Disability Royal Commission have found that an ableism exists in society which has significant negative impacts on people with disability, particularly at-risk groups.

The NDIS became a reality after considerable lobbying by disability rights advocates and the broader Australian disability sector. Tasmania government showed great courage, leadership, and commitment

through bipartisan agreement to be one of the first trial sites, transitioning youth as the first participants. The NDIS reached full implementation status in July 2020. More than 10,000 Tasmanians now receive individualised support funding packages under the new Scheme promoting self-determination, choice and control and tailored support. However, the NDIS does not replace mainstream services provided by the state government, such as health, education, justice, and transportation. Further, not all people with disability qualify for support through the NDIS; therefore, there remains a need for a state-based legislative instrument to ensure all Tasmania's access services.

The revised and recently launched Australia's National Disability Strategy 2021-2031 sets forth reviewed, revised, and enhanced strategic framework towards equality, inclusion, rights, dignity, and respect of people with disability as a fair and just society. It is our view that this document is providing strategies for all Australians to lend themselves to supporting and progressing the human rights of people with disability to flourish, exercise their right to make decisions, express their will, preferences, and self-determination with dignity and respect. A state-based legislative instrument such as the Disability Services Act will need to reflect these components of justice, equity, inclusion, and rights for Tasmanians with disability.

The Disability Royal Commission will be releasing its final report with recommendations in late 2023/24. Meanwhile, its interim report and research is highlighting the prevalence of violence, abuse, neglect, and exploitation of people with disability. Women and girls with disability are disproportionately victims of these violations. So too, people with disability intersecting with additional areas of disadvantage. For example, living in poverty, being culturally and linguistically diverse, residing in remote rural locations, and Aboriginal Torres Strait Islanders. The interim Disability Royal Commission report identified negative and deeply ingrained societal attitudes about people with disability. Like ageism, racism and sexism, ableism is prevalent in our Australian society, leading to segregation, oppression, and marginalisation. Effectively, a new Disability Services Act for Tasmanians with disability would work towards destigmatising these ingrained negative beliefs.

SURVEY RESULTS

The remainder of this submission reflects the findings from a survey distributed to our members based on the Discussion Paper's following themes of inclusion, human rights, empowerment, and leadership, accountability, and transparency.

INCLUSION, ACCESSIBILITY AND LEADERSHIP

Key recommendations:

- **The Disability Services Act legislates annual funding and oversee a grant program dedicated to grassroots projects that promote community inclusion capacity building initiatives targeting Tasmanians with disability.**
- **The Disability Services Act legislates to oversee funding allocation for disability advocacy services (particularly disability people organisations).**

CAPACITY BUILDING

We asked our members if they thought the Disability Services Act could oversee a dedicated annual grants program for eligible Tasmanian organisations to develop grassroots projects that promote community inclusion and capacity building initiatives targeting disabled Tasmanians. Approximately 87% of respondents thought this was extremely important or very important (60.87% and 26.09% respectively). Such a program is vital to implement grassroots initiatives to identify needs and develop strategies to address those needs particularly pertaining to people with disability.

A dedicated grants program in the legislation, would outline accountability and transparency of the distribution of funds to not-for-profit, non-government, local government, and community groups with an advisory panel of stakeholders to assist with the assessment and allocation of funds based on merit. The grants program would aim to encourage capacity building, self-advocacy, inclusion, and diversity to enhance the human rights of people with disability.

This is not a duplication of resource allocation as the NDIS Information, Linkages and Capability grants are orchestrated for organisations with a national footprint or ability to deliver larger, focussed projects across jurisdictions. There is a gap in funding provision for a dedicated grants program targeting disability empowerment and inclusion in Tasmania. ParaQuad Tasmania identifies a real need to build people with spinal cord injury and physical disabilities' capacity towards inclusion, accessibility, and leadership skills within Tasmania.

DISABILITY ADVOCACY

Disability Advocacy services particularly those disability people organisations such as ParaQuad Tasmania, are best place to enhance the rights of people with disability. Individual advocacy agencies are currently oversubscribed, underfunded, and unable to meet demand to service complaints which require disability advocacy across Tasmania. Approximately 78% of respondents believe it was important for a new

Disability Services Act legislated to oversee funding for disability advocacy service provision for Tasmanians with disability (52.17% extremely important and 26.09% highly important).

PRINCIPLES WHICH SUPPORT THE RIGHTS OF PEOPLE WITH DISABILITY

Key recommendations:

- **Principles of the Act to impress a stronger focus on human rights, respect, dignity and equality and include:**
 - **Diversity, inclusion, and belonging are important priorities**
 - **Tasmanians with disability must be free from violence, abuse, neglect, and exploitation,**
 - **have the right to self-determination, choice and control to pursue their social, economic and cultural development to flourish as equal members of society,**
 - **Respects autonomy of the individual and their right to decision-making, and**
 - **Disability makes up part of the diversity of being human and is an asset to the fabric of society.**

DIVERSITY, INCLUSION AND BELONGING

As stated in the Discussion Paper, the principles of the Disability Services Act are linked to the United Nations of Rights for People with Disability (CRPD) and are like the NDIS Act 2013. In this review of the current Disability Services Act, ParaQuad Tasmania members have impressed a stronger focus on human rights, respect, dignity, and equality. For example, more than 95% of survey respondents identified that 'diversity, inclusion and belonging' are important priorities to include in the principles (78.26% the most important priority or 17.39% a top priority).

FREE FROM VIOLENCE, ABUSE, NEGLECT AND EXPLOITATION

All respondents acknowledge that it is extremely important (95.65%) or very important (4.35%) Tasmanians with disability must be free from violence, abuse, neglect, and exploitation and have a right to live free from such atrocities. Given that the Disability Royal Commission is underway, a revised Disability Services Act must emphasize this within the principles and preamble.

RIGHT TO SELF-DETERMINATION

The right to self-determination is not a term explicitly used in the CRPD – yet it is a catch-all term used within the disability movement to include ideas of personal autonomy, a right to decision-making, expressing will and preferences and the right to be included (Fina, Cera, & Palmisano, 2017, p. 20). There is no statement which specifically uses the term, 'right to self-determination'. Respondents overwhelmingly identified that it was extremely important or very important that Tasmanians with disability have the right to self-determination, choice, and control to pursue their social, economic, and cultural development to reach their full potential as equal citizens.

RIGHT TO AUTONOMY AND DECISION-MAKING

As disability rights progress, there is a growing emphasis on the right to decision-making for people with disability. The highest ranking as extremely important or very important across the survey, 100% of respondents agreed with the statement that the Disability Services Act ensures it respects the inherent

dignity, individual autonomy including the freedom to make one's own choices, and independence of persons. State funded services have an upmost duty as legislators working for people to promote support for decision-making and ensuring the person with disability is able to understand the communication and information being shared. Support for decision-making is becoming an identified barrier and obstacle to ensuring the rights for people with disability.

HUMAN DIVERSITY

Disability studies scholars often discuss from a human rights lens, that disability is part of the fabric of being human and that at some time throughout the lifespan, humans will experience some form of functional limitation or impairment which results in disability. This is clear in aging populations who live with declining functioning for everyday living tasks.

In conceptualising disability and its interaction with society, the diversity model of disability is a growing body of thought that sees disability as a 'unique, diverse, cultural identity...[and] a valued aspect of one's identity' (Andrews, 2020, p. 27). Most respondents (78.26%) said it was extremely important or very important to include a statement that 'disability makes up part of the diversity of being human and is an asset to society'. Only 21.74% thought this statement was somewhat important or not so important.

ACCESS TO STATE-FUNDED SERVICES (Related to topic 3: The DSA, NDIS AND OTHER NATIONAL PROGRAMS).

Key recommendations:

- **Tasmanians have the right to access state-funded services including healthcare, education, transport and other services free from discrimination.**
- **All Tasmanian state and local government jurisdictions and government businesses have a disability access and inclusion plan.**
- **A reporting requirement of all government-funded services (i.e hospitals, education, transport) to set and meet targets of increasing employment of Tasmanians with Disability.**
- **each state government department creates a disability advisory council made up of Tasmanians with Disability to monitor and advise on inclusive communities.**

ACCESS MAINSTREAM SERVICES WITHOUT DISCRIMINATION

There is a misconception in the wider community that the NDIS accommodates all people with disability with an individualised funding plan, however, that is not the case. There are many Tasmanians who are not eligible for an individualised funding plan because their impairment may not be permanent or severe, and/or they may not meet the additional eligibility requirements such as age and citizenship status. The NDIS will only support value for money, reasonable and necessary supports not already funded by other mainstream services such as healthcare, justice, education, transport, community infrastructure.

All respondents agreed it was extremely important (78.26%) or very important (21.74%) for a revised Disability Services Act to ensure that all Tasmanians with Disability have the right to access state-funded services including healthcare, education, transport, and other services free from discrimination.

DISABILITY ACCESS AND INCLUSION PLANS

The Disability Services Act must hold mainstream services funded by the state-government agencies (such as health, education, justice and transport) to account by ensuring they continue to provide services to all Tasmanians with disability, including those individuals who may have NDIS funding. To emphasise accountability and transparency of other state-funded agencies providing mainstream services to people with disability, 95.66% respondents agreed that it was either extremely important or very important that the Disability Services Act legislate that all Tasmanian state and local government jurisdictions and government businesses have a disability access and inclusion plan which reflects the Australian Disability Strategy 2021-2031 key strategic goals.

Whilst most respondents (approximately 70%) agreed it would be highly effective for the Disability Services Act to legislate that each state government department creates a disability advisory council made up of Tasmanians with disability to monitor and advise on inclusive communities it must be noted that 30% felt this may not be as effective. The key point here, is for each state-funded department has a disability access and inclusion plan to demonstrate its accountability about how their policies and operational frameworks include people with disability.

It is understood the Premiers Disability Advisory Council already has a reporting framework requirement for state government agencies to provide disability access and inclusion plans. Therefore, our recommendation is that these reports by state government agencies are promoted and distributed more widely across the disability sector. Further still, that state government agencies make it more transparent for input from the wider Tasmanian disability community for input or feedback, by consulting widely with Tasmanians with disability and displaying its disability accountability in an easily accessible format on the web.

INTRODUCE QUOTAS FOR EMPLOYMENT OF DISABLED PEOPLE

People with disability are often overlooked, under-estimated, or stigmatized as not having the ability to work. However, the opposite is true. The Disability Services Act 2011 review is an opportunity to think outside the box and share ideas for consideration and hence, a strong majority of respondents (approximately 84%) agreed that the Act legislates a reporting requirement of all government-funded services (i.e: hospitals, education, transport) to set and meet targets of increasing employment of Tasmanians with Disability.

CREATING A DISABILITY SERVICES COMMISSIONER

Key recommendations

- **legislative powers to investigate and prosecute alleged discrimination, violence, abuse, neglect and exploitation of Tasmanians with disability across all state-funded services (health, education, justice, transport etc).**
- **has powers to investigate reports of violence, abuse, neglect and exploitation of Tasmanians with disability within state-government and local government agencies.**
- **establish an independent disability advisory council**
- **provide a stipend for independent advisory council**

The Tasmania government is to be congratulated for committing to establishing an independent disability commissioner to monitor, investigate and evaluate complaints. It must be noted here there have been long held concerns by people with disability and their significant others of the role of the Senior Practitioner to investigate reports of abuse, and other complaints concerning violence, abuse, neglect and exploitation within specialised disability services because it was unclear about the rules of transparency and accountability and potential conflicts of interest as the Senior Practitioner is a state public servant. Therefore, the state not only is legislator, funder but also a service provider and here in lies a perceived conflict of interest. Therefore, it is a very welcomed initiative to have an independent disability commissioner role to be developed to support the rights of Tasmanians with disability.

As a starting point, we suggest a thorough and comprehensive consultation process takes place across the Tasmanian community including people with disability and their significant others. This would be separate to this review. The purpose of a comprehensive consultation would be to co-design with people with disability, the role, powers and functions of an independent disability commissioner. In the meantime, for the purposes of this submission, approximately 95% of respondents agreed that the state government establish a Tasmanian Disability Services Commissioner with powers to investigate and prosecute alleged discrimination, violence, abuse, neglect and exploitation of Tasmanians with Disability across all state-funded services (e.g. health, education, transport, etc). Approximately 92% of respondents agreed that a Tasmanian Disability Services Commissioner has powers to investigate reports of violence, abuse, neglect and exploitation of Tasmanians with Disability within state-funded services.

In line with good governance practice, approximately 84% either strongly agreed or agreed that the Disability Services Act establishes a governance framework to establish an Independent Disability Advisory Council made up of 80% Tasmanians with Disability to provide advice and conduct research for development to the Tasmanian Disability Services Commissioner. Less than 20% disagreed or could neither agree or disagree. We also proposed (similarly to the NDIS Act 2013 and its NDIS Independent Advisory Council) that the Independent Disability Advisory Council to the Tasmanian Disability Commissioner receive a stipend for their work. 60% of respondents through it was important whereas 30% somewhat important and less than 10% felt it wasn't important. However, people with disability spend a considerable amount of volunteer time providing information and advice and a transparent and accountable process to include a small stipend to conduct work to improve outcomes for people with disability alongside the Commissioner role, would be an ideal investment.

MISCELLANEOUS

We acknowledge that this review of the Disability Services Act 2011 is an opportunity to share ideas from Tasmanians with disability as to what they want to see included in the revised Act. There has been a range of suggestions about changing the name of the Act to reflect this new era of disability rights and service provision. Therefore, we proposed a range of new names in our survey and the top three suggestions were: Disability Inclusion Act (50%), Disability Services Act (27%), Disability Commission Act (10%), and a respondent suggested Disability Diversity & Inclusion Act.

Finally, we gave an opportunity for members to provide suggestions of what they would like to consider for the Disability Services Act of which some responded:

- *“I think it is important that the reach of the Act and any Commissioner, if possible, is beyond Tas Gov't bodies but also includes local Gov't and bodies that receive funding from the 3 levels of Gov't. I would also like to see a rationalisation of the various representative bodies so a 'single co-ordinated voice', so to speak, is being presented when dealing with the Tas Gov't on common disability issues.”. respondent*
- *“More help for carers with caring for someone with a disability.”. respondent*
- *“A clearer definition of what the term Disability encompasses. This just seems to be the subject matter that is in vogue at this time and people are adopting a 'disability status' view to qualify for financial gain.”. respondent*

CONCLUSION

ParaQuad Association of Tasmania has been established since 1990 and is a leading voice for disabled people with spinal cord injury and physical disabilities. We are a disability people organisation, and our membership is state-wide. We acknowledge that this is a new era of disability rights as we progress through COVID pandemic and its impact across our community and therefore the importance of this review is paramount to ensure people with disability embrace their human rights and are more included and flourishing as members of society.

References

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