

COMMUNITY LEGAL CENTRES TASMANIA

22 December 2021

Disability Services Act Review Project
Disability and Community Services
Department of Communities Tasmania
GPO Box 65
HOBART TAS 7001

via email: DSAReview2021@communities.tas.gov.au

To the Disability Services Act Review Project,
Re: Review of the *Disability Services Act 2011*

Community Legal Centres Tasmania (CLC Tas) welcomes the opportunity to respond to the Department of Communities *Review of the Disability Services Act 2011* (Tas) ('the Review'). We strongly support the Government's commitment to "building a more equitable, inclusive and accessible state",¹ which is particularly important in Tasmania where more than one-quarter (26.8 per cent) of Tasmanians have a disability, higher than any other state or territory in Australia.²

CLC Tas is the peak body representing the interests of nine community legal centres (CLCs) located throughout Tasmania. We are a member-based, independent, not-for-profit and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.

Disability Commissioner

We strongly support the Government's commitment to introduce a Disability Commissioner "who will promote the safety, health and wellbeing of people with

¹ Department of Communities Tasmania, *Review of the Disability Services Act 2011 Discussion Paper* (September 2021) at 5. As found at https://www.communities.tas.gov.au/data/assets/pdf_file/0032/188843/Final-DSA-Review-Discussion-Paper-September-2021.pdf (Accessed 15 December 2021).

² Australian Bureau of Statistics, *Disability, Ageing and Carers Australia: Summary of Findings* (2018). As found at <https://www.abs.gov.au/statistics/health/disability/disability-ageing-and-carers-australia-summary-findings/latest-release> (Accessed 15 December 2021).

disability”.³ These are important goals Australia wide with the *Australian Institute of Health and Welfare* findings that:⁴

- 47 per cent of adults with disability have experienced violence after the age of 15, compared with 36 per cent without disability; and
- 32 per cent of adults with disability experience high/very high psychological distress, compared with 8 per cent without disability; and
- 48 per cent of working-age people with disability are employed, compared with 80 per cent without disability; and
- 24 per cent of adults with disability experience very good or excellent health, compared with 65 per cent without disability.

We support the Disability Commissioner model adopted in Victoria which is an “independent oversight body resolving complaints and promoting the right of people with a disability to be free from abuse”.⁵ Pursuant to the *Disability Act 2006* (Vic) the Disability Services Commissioner has broad functions including investigating complaints relating to disability services, conducting research and providing advice to Government.⁶

The importance of appointing a Disability Commissioner is highlighted in the recently published *Independent Review of the Public Trustee* which found “that for 26 years the Public Trustee has genuinely misunderstood the duties of an administrator”.⁷ We strongly believe that the appointment of a Disability Commissioner in Tasmania with broad functions similar to the Victorian model will ensure accountability, improve standards and promote the rights of Tasmanians with a disability, thereby ensuring that breaches and other failings are acted on sooner.

We strongly support the Disability Commissioner having broad powers to accept complaints from persons with disabilities, their families and their carers about organisations providing disability services. We support the Disability Commissioner having broad powers to accept complaints relating to services that are both registered NDIS providers and unregistered NDIS providers but nonetheless provide services to persons with disabilities. We also strongly support the Disability Commissioner having the power to accept complaints in relation to children with disability. Finally, we support the Disability Commissioner having the power to refer complaints to other agencies such as the National Disability Insurance Scheme Quality and Safeguards Commission (NDIS

³ Department of Communities Tasmania, *Review of the Disability Services Act 2011 Discussion Paper* (September 2021) at 10. As found at https://www.communities.tas.gov.au/_data/assets/pdf_file/0032/188843/Final-DSA-Review-Discussion-Paper-September-2021.pdf (Accessed 15 December 2021).

⁴ Australian Institute of Health and Welfare, *People with Disability in Australia* (October 2020). As found at <https://www.aihw.gov.au/reports/disability/people-with-disability-in-australia/contents/summary> (Accessed 15 December 2021).

⁵ Office of the Disability Services Commissioner ‘What we Do?’. As found at <https://www.odsc.vic.gov.au/about-us/what-we-do/> (Accessed 18 December 2021).

⁶ Section 16 of the *Disability Act 2006* (Vic).

⁷ Damian Bugg AM QC, *Independent Review of the Public Trustee* (November 2021) at 24. As found at https://www.justice.tas.gov.au/_data/assets/pdf_file/0008/641663/Report-on-the-Review-of-the-Public-Trustee.pdf (Accessed 18 December 2021).

QSC), Ombudsman or Anti-Discrimination Commissioner. In Victoria for example 87 per cent of enquiries received during 2020-21 were out-of-scope and were referred to other statutory bodies.⁸

Appropriate Funding

We are concerned that the Government's commitment of \$1.2m over four years may not be adequate for the Disability Commissioner to carry out the role effectively. As well as investigating complaints, our preferred model would also see the Disability Commissioner undertaking research, responding to Government inquiries and providing community-wide education. We strongly recommend that the Government commit to appropriate funding that allows the Disability Commissioner to build a more equitable, inclusive and accessible Tasmania.

If you have any queries, or would like to discuss our submission further, please do not hesitate to contact us.

Yours faithfully,



Benedict Bartl
Policy Officer
Community Legal Centres Tasmania

⁸ Disability Services Commissioner, *2020-21 Annual Report* at 10. As found at <https://www.odsc.vic.gov.au/wp-content/uploads/DSC-2021-ANNUAL-REPORT-Final-low-res-web-version.pdf> (Accessed 18 December 2021).

