# Disability Inclusion Bill 2023Consultation Overview Paper

July 2023

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

Department of Premier and Cabinet
Tasmanian Government

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# Introduction

The Tasmanian Government is working on preparing a new Disability Inclusion Act. The purpose of the Act will be to advance the human rights of people with disability and to create a safe and inclusive Tasmania for people with disability.

In 2022 the Tasmanian Government consulted with stakeholders about how the *Disability Services Act 2011* (Tas) (<https://www.legislation.tas.gov.au/view/html/inforce/current/act-2011-027>) needed to change and what else was needed to advance the human rights of people with disability. This consultation provided a large quantity of information for the Government to consider. You can read more about what this consultation found by reading the Disability Services Act (2011) Consultation Outcomes Report. This report is available on the Department of Premier and Cabinet website ([https://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/tasmanian-disability-services-act-2011/tasmanian-disability-services-act-2011-review/consultation-outcomes).](https://www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/tasmanian-disability-services-act-2011/tasmanian-disability-services-act-2011-review/consultation-outcomes%29.)

After considering all the feedback it was decided that an entirely new Disability Inclusion Act is needed. In this consultation, we are seeking your feedback on the Bill (or draft Act). This consultation is seeking to find out if the Bill reflects the ideas you provided in the 2022 consultation. We also need to know if there is anything in the Bill that needs to be made clearer or change.

This overview paper describes and explains the major parts of the Bill. It is intended to assist anyone who wants to provide feedback. Some questions have been included to get you started. You can use the questions or provide feedback in your own way.

This paper is also available in other formats including Easy English on the DPAC consultation page ([https://www.dpac.tas.gov.au/major\_policies).](https://www.dpac.tas.gov.au/major_policies%29.)

If you are having trouble with any of the information or trouble with how it has been provided, we want to hear from you. Because… **what you have to say is important!**

# Some explanation of Terminology and Process

A Bill is a proposed law. It is a draft document used to create a new law or to make changes to an existing law.

A Bill will move through various steps before it becomes an Act, or a law passed by each house of Parliament.

Before a Bill is presented to Parliament the writers will usually consult with stakeholders.

Consultation ensures that the Bill is broadly supported, and any potential problems or disagreements are considered and sorted out.

If there are changes that need to happen to the Bill after consultation, the Bill will be redrafted.

Once it is ready, the Bill will begin its journey through the Tasmanian Parliament. Along the way the content of the Bill will be debated, and changes may be made. The Bill must pass a three-stage reading process in the House of Assembly, and the Legislative Council before it passes and can receive Royal Assent from the Governor of Tasmania.

After the Bill is passed it becomes an Act. There will be a few months before the Act takes effect. During this time, the Tasmanian Government will put into place the resources and structures necessary to make the Act work in a practical way. Ongoing consultation will be an important part of implementation.

# Providing Feedback

There are different ways to provide feedback.

Select a way that suits you.

You can make a submission in writing, in a video or in an audio recording.

You can provide feedback using an online form.

You can participate in an online or face to face consultation session.

You can organise a group conversation with your organisation or group.

If you have questions or need more details, please send us an email disabilityinclusionbill@dpac.tas.gov.au or phone 1800 431 211.

### How can I read the Bill?

The draft Bill is now available online from the DPAC Consultation Page ([https://www.dpac.tas.gov.au/major\_policies).](https://www.dpac.tas.gov.au/major_policies%29.)

The Bill is long and there are many parts. It's fine if you only want to read parts of the Bill or if you only want to read this Overview Paper or the Easy Read version and provide feedback based on this summary.

### Privacy and publication of submissions.

Other than indicated below, submissions will be treated as public information and will be published on the DPAC website at <https://www.dpac.tas.gov.au/major_policies.>

No personal information other than an individual's name or the organisation making a submission will be published.

For further information, please contact: disabilityinclusionbill@dpac.tas.gov.au

### Accessibility of Submissions

People have various ways of accessing and understanding information. It is best practice to ensure that Government information is accessible and easily understood by people with diverse communication needs.

Where possible, when making a submission, please write in plain English and provide your submission in a format such as Microsoft Word or equivalent.

The Government cannot take responsibility for the accessibility of documents written by other people.

## Important Information to Note

Your name (or the name of the organisation) will be published unless you request otherwise.

In the absence of a clear indication that a submission is intended to be treated as confidential (or parts of the submission), the Department will treat the submission as public.

If you would like your submission treated as confidential, whether in whole or in part, please indicate this in writing at the time of making your submission clearly identifying the parts of your submission you want to remain confidential and the reasons why. In this case, your submission will not be published to the extent of that request.

# Parts of the Bill

Part 1 Preliminary

Part 2 Disability Inclusion Planning

Part 3 Disability Inclusion Advisory Council

Part 4 Tasmanian Disability Inclusion Commissioner

Part 5 Disability Services Standards

Part 6 Senior Practitioner

Part 7 Regulation of Restrictive Practices

Part 8 Appointed Program Officers

Part 9 Independent Person

Part 10 Funding

Part 11 Authorised Officers

Part 12 Miscellaneous

Schedule 1 Provisions with respect to membership and meetings of the Disability Inclusion Advisory Council

Schedule 2 Terms of appointment of the Commissioner

# Part 1 Preliminary

This part of the Bill provides introductory information.

It sets out:

* the title
* when the Act will commence
* the objects (or purpose) of the Act
* establishes that the Crown (the Tasmanian Government) is bound to comply with provisions of the Act
* provides information and definitions to assist with interpretation of the Act.

## Title of the Act

The title of the Act will be the Disability Inclusion Act.

After the title there is a short statement which briefly describes the purpose of the Act – “An Act to advance the human rights of people with disability and the full and effective inclusion of people with disability in the Tasmanian community.”

## Commencement

Once the Bill becomes an Act this section will be updated to include the day the Bill will come into effect.

## Objects of the Act

The objects set out the overall purpose of the Act.

The objects set out that the Act has been created to advance the human rights of people with disability. These rights are included within the United Nations Convention on the Rights of Persons with Disabilities and Australia's Disability Strategy.

The objects of this Act are to protect and promote the rights of people with disability and to advance the full and effective inclusion of people with disability by –

1. promoting the human rights of people with disability; and
2. supporting and furthering the purpose and principles of the United Nations Convention on the Rights of Persons with Disabilities and Australia's Disability Strategy; and
3. establishing a framework for a whole of government approach to accountability and transparency in relation to disability inclusion; and
4. regulating the use of restrictive practices on NDIS participants by disability service providers; and
5. establishing the positions of Disability Inclusion Commissioner and Office of the Senior Practitioner; and
6. establishing the Tasmanian Disability Advisory Council; and
7. enabling the provision of funding to support the above objects.

## Act Binds the Crown

This is a short statement which means that the Crown, meaning the Tasmanian Government and all its parts, is bound to comply with the Act.

## Interpretation

This section sets out the meanings of certain words used in the Bill. These definitions support the functioning of the Act.

The interpretation includes a definition of disability built upon a social model of disability and which is inclusive of all Tasmanians with disability.

### Questions

1. Do you agree with the proposed Objects of the Act? Are there any changes you would make?
2. What do you think about the definitions included in the Act? Do any definitions need to be added, changed or removed?

# Inclusion Principles

The Inclusion Principles will provide a framework for anyone deciding or taking an action in relation to the Act.

In the last consultation, stakeholders provided feedback that the principles that were in the *Disability Services Act 2011 (Tas)* were well supported. However, there were a few things which were unclear, or which were missing. The following things have been added:

* an opening statement to make it clear that the principles need to be considered if someone is making decisions or taking an action regarding the Act: “The following principles are to be observed in the operation, administration and enforcement of this Act.”
* strengthened rights-based language using terms such as 'have a right to' or 'must.'
* a wider set of personal characteristics in recognition of the multiple disadvantage and discrimination which is created because of the intersection of disability with other personal characteristics including: cultural or linguistic diversity, Aboriginality, age, gender, sexuality and/or religious beliefs.
* principles relating to supported decision making. These principles aim to guide actions under the Act so that people with disability who require support in decision making are provided with access to the support they need to participate in decision making, to express their will and preference in relation to those decisions and to develop their decision-making ability.
* principles relating to consultation with people with disability, which recognise the importance of advocacy in promoting the rights of people with disability.
* principles relating to restrictive practices have been enhanced so that they are consistent with the National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Services Sector ([https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/policy-research/national-framework-for-reducing-and-eliminating-the-use-of-restrictive-practices-in-the-disability-service-sector).](https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/policy-research/national-framework-for-reducing-and-eliminating-the-use-of-restrictive-practices-in-the-disability-service-sector%29.)

### Questions

1. Are these the right principles to advance the human rights of people with disability and the full and effective inclusion of people with disability in Tasmania?
2. Are there any of the principles that are unclear?

# Part 2: Disability Inclusion Planning

The consultation made it clear that there needed to be a piece of legislation that made a strong commitment to the human rights of Tasmanians with Disability.

In response to this suggestion, the Objects and Principles of the Bill have been written to align with the human rights expressed within the United Nations Convention on the Rights of Persons with Disability (UNCRPD) and Australia's Disability Strategy (ADS).

The Bill contains provisions to strengthen Tasmania's commitment to disability inclusion and to strengthening of requirements relating to consultation, planning, and reporting of progress in delivering actions.

A process for consultation on major policy and planning decisions which will impact on people with disability has been included.

## Main elements

* Establish a requirement for development of a Tasmanian Disability Inclusion Plan. This plan would set out government measures for achieving the objectives of this Act and advancing the inclusion principles. The Plan will also provide for collaboration and coordination among State authorities and other entities in the provision of mainstream supports and services to people with disability. The Act will set out the plan's purpose, responsibilities for development and implementation, consultation, reporting and publication requirements.
* Establish a requirement for Disability Inclusion Action Plans to be developed by Defined Entities. A Defined Entity includes a State Government Agency or other agent or instrument of the crown. The Act defines the purpose of Disability Inclusion Action Plans, consultation requirements, timelines for development and review, reporting and publication requirements.
* Establish a requirement for Disability Consultation to be undertaken by Defined Entities in relation to policies, programs or services provided by that entity that have a direct or significant impact on the public. The Assessment will consider the effects that the policy, program, or service may have on people with disability; and state how the policy, program or service will be developed or varied to ensure accessibility, promote universal design, reduce, remove, and prevent barriers to disability inclusion and promote disability inclusion.
* Establish a requirement for development of Guidelines to assist Defined Entities with consultation, inclusion, and preparation of plans and reporting.

### Questions

1. Do you agree with the provisions outlined in the Bill regarding Disability Inclusion Planning? Is there anything else that should considered?
2. Will these requirements contribute to the advancement of human rights and inclusion?

# Part 3: Disability Inclusion Advisory Council

Feedback through the consultation was that the Act should be a structure for the inclusion of people with disability in leadership through the creation of a Disability Advisory Council.

Creation of a role to provide independent advice, framed by lived experience of disability, to the Minister for Disability Services and the Tasmanian Disability Commissioner on matters relating to disability inclusion and assist in planning and monitoring of progress against the implementation of the Tasmanian Disability Inclusion Plan.

The Advisory Council would also provide independent advice on barriers to access and inclusion, and on matters related to violence, abuse, neglect, and exploitation of people with disability.

It is intended that the majority of members of the council will be people with disability with skills, knowledge and experience in matters relevant to people with disability.

## Main elements:

The Act establishes a Disability Inclusion Advisory Council. This Council will be set up within the first 12 months after the Act begins.

The role of the Advisory Council will include:

* To effectively communicate and consult with people with disability in the development of the Tasmanian Disability Inclusion Plan and provide advice about monitoring and implementation of the plan.
* To provide advice to defined entities regarding the development of disability inclusion plans and progress reports.
* To raise awareness about the rights and contributions of people with disability
* To provide advice to the Commissioner and the Minister about the rights of people with disability and the inclusion of people with disability in the Tasmanian community.
* To provide advice about barriers to inclusion and strategies for the reduction and removal of those barriers.
* To set out provisions relating to membership and meetings of the Disability Inclusion Advisory Council.

### Questions

1. Are there any changes you would make to the proposed functions or the structure of the Disability Inclusion Advisory Council?

# Part 4: Tasmanian Disability Inclusion Commissioner

There was a strong and positive response to the announcement that Tasmania would establish the Disability Commissioner position. Feedback through the consultation was that this position should promote the human rights of people with disability, promoting inclusion, quality standards and safeguarding.

The Disability Inclusion Act will make provision for a Tasmanian Disability Inclusion Commissioner.

It is intended that the Commissioner will ideally be a person with disability who is appointed by the Governor based on a recommendation from the Minister responsible for Disability Services.

It is important that the Commissioner does not duplicate functions which are already provided by entities such as the NDIS Quality and Safeguards Commissioner or which may be investigated by officers such as the Anti-Discrimination Commissioner, Health Complaints Commissioner, Commissioner for Children and Young People, Commissioner for Police, or the Tasmanian Ombudsman.

## Main elements

The Disability Inclusion Bill will establish the position of Tasmanian Disability Inclusion Commissioner.

The Commissioner will be independent of Government and will be appointed by the Governor on the advice of the Minister responsible for Disability Services.

Set out the general functions of the Commissioner including:

* to provide advice and assistance to, and advocate systemically for, people with disability
* to undertake research into any matter related to the operation and objects of the Act
* to advise, and make recommendations to, the Minister, at the Commissioner's initiative or at the request of the Minister, on any matters arising from performance of the Commissioner's functions
* to promote, monitor and review the wellbeing of people with disability
* to provide leadership, foster inclusion, and promote accessibility across government and mainstream services, including monitoring and reporting in relation to the Tasmanian Disability Inclusion Plan
* to support defined entities to comply with this Act
* to promote the rights of people with disability, including rights relating to disability inclusion, accessibility, individual autonomy, self-determination, and choice and control
* to establish and monitor safeguarding mechanisms that address violence, abuse, neglect, and exploitation of people with disability
* to raise awareness in relation to, and education about, the rights of people with disability
* to deal with allegations of violence, abuse, neglect, and exploitation of people with disability, based on a report made to the Commissioner or at the Commissioner's own initiative including by referring matters to appropriate persons or bodies and by conducting investigations
* to inquire into and report on systemic issues relating to the protection and promotion of the rights of people with disability
* to consult with the Disability Inclusion Advisory Council on matters relating to the abuse, neglect, and exploitation of people with disability.

Set out the powers and protections the Commissioner, or their staff, will need to perform these functions including powers to compel sharing of information and powers to investigate.

The Act will also include provisions in relation to reporting.

Schedule 2 of the Bill sets out the Terms of Appointment of the Commissioner.

### Questions

1. What do you think about the proposed functions and powers of the Disability Inclusion Commissioner? Is there anything you would change or add?
2. Is there anything else which needs to be added so that the Commissioner can work effectively with other safeguarding mechanisms?

# Part 5: Disability Services Standards

The consultations noted that it was important that disability service providers, particularly those who are not registered with the NDIS, are held to a standard of practice to protect the rights of individuals and promote outcomes for people with disability. National standards provide a framework for providers to use to assist them to check the quality of the services and supports they provide and find ways to improve them.

The National Standards for Disability Services apply to **all** providers of disability services in Tasmania. This includes any provider who is not registered but provides a disability service to a person with disability. This person may be using their NDIS funds or private funds. Providers of employment services and advocacy services are also covered by the National Standards. In addition, the NDIS Practice Standards and Quality Indicators also apply to providers who are registered with the NDIS.

It was determined that the National Standards for Disability Services provide a robust and well-known framework and there was no need to duplicate these.

The Disability Inclusion Act refers to any national disability standards that may apply.

All disability service providers and workers who are delivering supports to NDIS participants, whether the provider is registered with the NDIS or not, are required to comply with the NDIS Code of Conduct.

All disability service providers and workers must comply with the Tasmanian Government requirements for Working with Vulnerable People and may also need to comply with NDIS Worker Screening requirements.

### Questions

1. Is it important for this Act to continue to include a requirement for all providers to follow the National Standards for Disability Services?
2. Is it clear who these standards apply to?

# Part 6: Senior Practitioner

The role of Senior Practitioner was established by the Tasmanian Disability Services Act in 2011. The Disability Inclusion Bill 2023 proposes changes to the position, to strengthen safeguarding for people with disability and to support changes in the process for authorisation of restrictive practices set out in Part 7 of the Bill.

The Bill provides a model in which the Senior Practitioner is the single pathway for authorisation of restrictive practices. This change streamlines the process and sets up practice changes which will reduce the administrative burden on disability service providers allowing resources to focus on service delivery for people with disability.

The Bill establishes the role of Senior Practitioner and sets provisions in which the Senior Practitioner has increased monitoring and oversight of the use of restrictive practices.

The Senior Practitioner will oversee the use of restrictive practices to ensure that the rights of people who may be subject to a restrictive practice are protected. They also act to ensure that disability service providers comply with guidelines and standards relating to the use of restrictive practices and practices are the least restrictive possible.

The role will cover authorisation of all restrictive practices consistent with the National Disability Insurance (Restrictive Practices and Behaviour Support) Rules 2018 and a process in which the Senior Practitioner can use powers to investigate other practices to determine if they are restrictive.

The Senior Practitioner will issue guidelines and deliver education and training for providers and others involved in the authorisation and implementation of restrictive practices. New roles of Appointed Program Officers and Independent Persons are intended to increase safeguards by ensuring practices are the least restrictive and the human rights of people with disability are protected.

The Senior Practitioner will:

* consider all restrictive practices and applications
* issue guidelines for disability service providers, Appointed Program Officers and Independent Persons
* give disability service providers additional direction through the issuing of conditions which accompany the authorisation of restrictive practices
* issue additional directions to a provider to cease a restrictive practice, if or as required
* evaluate the quality of behaviour support plans containing restrictive practices
* have the power to prohibit the use of restrictive practices, or a specified form of restrictive practice on a person with disability.

## Main Elements

The Bill sets out:

* The process for appointment of the Senior Practitioner by the Secretary
* Functions and powers of the Senior Practitioner in relation to the authorisation of restrictive practice including powers necessary to advance the rights of people with disability and to reduce and eliminate the use of restrictive practices
* Provision for the Senior Practitioner to make guidelines in relation to the use of restrictive practices
* Requirements for reporting by the Senior Practitioner
* The delegation of certain functions and arrangements for staff employed in the Office of the Senior Practitioner and contractors engaged by the Senior Practitioner
* Assistance which must be provided to the Senior Practitioner by persons and disability service providers, including penalties which may apply if assistance is not provided.

### Questions

1. Do you think the functions and powers provided in the Bill for the Senior Practitioner improve safeguards for people with disability?
2. Is there anything else the Act needs to include in relation to the Senior Practitioner role?

# Part 7: Regulation of Restrictive Practices

There was strong support for changing the model used for authorisation of restrictive practices.

A restrictive practice is any action that restricts the rights or freedom of movement or behaviour of a person. The Bill will regulate the use of restrictive practices on people with disability.

In this Bill the regulation by the Senior Practitioner of restrictive practices applies to any disability service provider, as defined in the Bill.

A disability service provider is defined as a person or organisation who receives funding to provide a service for the support of people with disability including:

* an NDIS provider within the meaning of the National Disability Insurance Scheme Act 2013 (<https://www.ndis.gov.au/about-us/governance/legislation>)
* a person or organisation who receives funding under this Bill
* a prescribed person or body
* but does not include – a relative or friend of a person with disability who provides disability supports to the person.

There are some circumstances when a restrictive practice is necessary as a last resort to protect a person with disability and or others from harm. The decision to use a restrictive practice needs careful clinical and ethical consideration, considering a person's human rights and the right to self-determination.

The Bill outlines an updated definition of a restrictive practice which aligns with the NDIS Act 2013 and the National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018. This definition includes chemical restraint, mechanical restraint, physical restraint, environmental restraint, and seclusion. The updated definition also includes any other practice that restricts the freedom of movement of a person with disability and which is determined by the Senior Practitioner to be a restrictive practice.

During consultation all stakeholders supported changes so that the Senior Practitioner would become sole decision maker for the authorisation of restrictive practices. The Bill establishes a single pathway for the authorisation of restrictive practices that safeguards the rights of people who may be subject to restrictive practices and aligns with national requirements.

A restrictive practice must be authorised and used within a positive behaviour support framework that includes proactive, person centred and evidence-informed interventions. The Bill makes provision for requirements that Behaviour Support Plans are developed and sets out consultation that must occur as part of development of the plans.

The rights of the person with disability are further protected through the introduction of additional roles of Appointed Program Officer and Independent Person. These roles are further explained in parts 8 and 9.

The issue of consent has been carefully considered in the process outlined in the Bill. The model included aligns with the UNCRPD and the *National Disability Insurance Scheme Act 2013* (<https://www.ndis.gov.au/about-us/governance/legislation>). It is built on the principles that people with disability are assumed to have capacity to determine their own best interests and make decisions that affect their own lives and are supported so that their capacity to exercise choice and control is maximised. The pathway includes a requirement for consultation with the person with disability or a person they nominate.

The Bill also includes an accessible and independent review/appeal mechanism.

## Main elements

The main elements included in part 7 include:

* definition of key concepts relating to the authorisation of restrictive practices at the beginning of the Bill in Part 1 of the Act in the Interpretation section
* an outline of the process for authorisation of restrictive practices and includes provisions relating to applications, approvals, special conditions, or limitations which may be imposed, and the process for review, amendment or withdrawal of authorisations
* prohibitions of unauthorised restrictive practice
* provisions relating to Behaviour Support Plans, including requirements for plans to be developed and the requirements for consultation
* provisions to establish the Special Powers of the Senior Practitioner in relation to the use of restrictive practices
* sets out the functions and powers in relation to Investigations and directions including powers for the Senior Practitioner required to undertake investigations and issue directions.

### Questions

1. Will the authorisation of restrictive practices process provided for in the Bill contribute to improved safeguarding for people with disability? If not, please expand on your answer?
2. Does aligning the definitions of restrictive practices with the NDIS Quality and Safeguards Commission Behaviour Support and Restrictive Practice Rules 2018 provide better protections and safeguards for people with disability?

# Part 8: Appointed Program Officers

The Bill creates the role of an Appointed Program Officer (APO).

The APO undertakes a quality assurance role which includes, but is not limited to, asking if the restrictive practice is needed, has due process been followed, does the behaviour support plan reduce and/or eliminate the restrictive practice and can the restrictive practice be implemented.

The APO is also responsible for ensuring that any restrictive practice used by the disability service provider is in accordance with the authorisation and conditions provided by the Senior Practitioner, any guidelines issued by the Senior Practitioner and in accordance with the behaviour support plan. It is also the responsibility of the APO to ensure that the restrictive practice is the least restrictive possible in the circumstances.

The APO role is undertaken by an employee of the disability service provider that intends to use a restrictive practice. The APO role sits within an existing position that is not directly involved in the implementation of the restrictive practice.

The disability service provider appoints the APO and must apply to the Senior Practitioner for approval of the person to undertake the role. The Senior Practitioner may revoke the approval or refuse to approve an APO.

The Senior Practitioner will issue guidelines to support the role of APOs, and the provider and APOs will be required to act in accordance with the guideline.

## Main elements

An APO must:

* ensure any restrictive practice proposed to be used by the disability service provider is approved by the Senior Practitioner
* follow any guidelines or conditions set by the Senior Practitioner
* ensure the person's behaviour support plan has strategies to reduce or eliminate the restrictive practice and
* ensure the practice is the least restrictive possible in the circumstances.

### Questions

1. Do you agree that the creation of the Appointed Program Officer will provide greater quality and safeguarding in the implementation of restrictive practices by providers?

# Part 9: Independent Persons

The Bill creates the role of an Independent Person who supports the safety, wellbeing and health of a person with disability for whom a restrictive practice is being considered or where a restrictive practice is being used.

The Independent Person is a voluntary role, responsible for:

* explaining the proposed use of a restrictive practice to the person with disability
* considering if the proposed restrictive practice is the least restrictive approach
* notifying the Senior Practitioner if in the view of the Independent Person the requirements of the Act are not being complied with, and
* promoting the will and preference of a person with disability.

A person with disability may self-select an Independent Person who may be a friend, family member, informal carer or guardian of a person with disability. The Senior Practitioner will establish a register of volunteers who can take on the role if a person with disability does not have anyone who can act as an independent person. The person with disability can then select a person from this register. The Independent Person's role is complementary to any guardianship arrangements.

The Independent Person cannot be a behaviour support practitioner or a staff member/volunteer of the implementing provider/s.

The Independent Person will operate within guidelines issued by the Senior Practitioner.

The Independent Person must provide the Senior Practitioner with an application for approval. The Senior Practitioner may revoke the approval or refuse an application.

## Main elements

The Independent Person is:

* independent of any disability service provider to the person with disability
* to ensure that the person with disability understands the proposal to use a restrictive practice
* able to seek advice from the Senior Practitioner if any part of the Act or NDIS Rules are not complied with.

### Questions

1. The Independent Person is intended to enhance the will and preference of people with disability. Do you think the way the role is described will achieve this intent?
2. Will the establishment of this role improve safeguarding for people with disability?

# Part 10: Funding

Part 10 of the Bill intends to retain the capacity for the Tasmanian Government to fund activities like Individual Disability Advocacy, funding of research or for services for people with disability who are not eligible for the NDIS supports.

The desired outcome is to ensure the Tasmanian Government meets its obligations under the Applied Principles to Determine the Responsibilities of the NDIS and Other Service Systems – not establishing an expectation for funding of shortfalls in systems determined by agreements to be the responsibility of the Australian Government.

## Main elements

* A provision to facilitate the allocation of funding for the purpose of delivering services in line with the objects of the Act.
* A requirement that funds can be provided for the provision of goods and services to an entity who has entered into a funding agreement with the Secretary of the Agency responsible for administration of the Act.

### Questions

1. Does this Part provide for the Minister for Disability Services to fund activities in relation to the objects of this Act? Is anything more required in relation to funding?

# Part 11: Authorised Officers

The function of an Authorised Officer will be established to assist in the safeguarding provisions in the Bill.

An Authorised Officer is authorised by either the Secretary of the department responsible for administration of the Bill or the Disability Inclusion Commissioner.

The authorisation allows officers to enter premises to ensure the safety of the person who resides there or is receiving support at the premises. This section also sets out the requirements which must be met when premises are entered.

This section also lists the things that an Authorised Officer may do or request after they have entered premises. For example, they may view documents or ask questions of any person or employee at the premises.

### Questions

1. Do you think the role, functions and provisions made for Authorised Officers are clear? Is anything else needed in this part of the Bill?

# Part 12: Miscellaneous

This section of the Bill sets out a range of practical provisions to ensure the effective and efficient operation of the other parts of the Bill. These include provisions relating to:

* Appeals – including provision for appeals to be made to the Tasmanian Civil and Administrative Tribunal including the ability to appeal authorisation made by the Senior Practitioner in relation to parts 6 and 7 of the Act.
* Offences which may be made in relation to the Act, including offences relating to Information, reprisals, obstruction, or relating to provision of information.
* Sharing of information – includes the meaning of an information-sharing entity with whom the Minister, Secretary, Disability Inclusion Commissioner, Senior Practitioner, or their delegate may share information in relation to the operation of the Act.
* Confidentiality – sets out that a person who exercises a function under the Act must not disclose protected information and sets out circumstances in which they may disclose information.
* Protection from Liability – provides protection from liability for the Minister, Secretary, Disability Inclusion Commissioner, Senior Practitioner, an authorised officer, a member of the Disability Inclusion Advisory Council or any other person performing a function or exercising a power under the Act.
* Delegation – provides for delegation by the Secretary of powers or functions in the Act.
* Regulations – makes provision for regulations to be made in relation to the objects of the Act.
* Administration of the Act – Sets out that the Act is to be administered by the Minister for Disability Services and that the responsible Government Department is the Department of Premier and Cabinet.

### Questions

1. Are there any provisions made in Part 12 that require further clarification?

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**If you have any other comments, suggestions, or concerns about the Bill please let us know.**

Please send us an email disabilityinclusionbill@dpac.tas.gov.au or phone 1800 431 211.

The Disability Inclusion Bill and versions of the Disability Inclusion Bill Consultation Overview Paper are available from [www.dpac.tas.gov.au.](http://www.dpac.tas.gov.au.)