**Disability Inclusion Bill 2023**

Consultation Overview Paper

**August 2023 – Plain English Summary**

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# Introduction

The Tasmanian Government is creating a new Disability Inclusion Act.

The purpose of the Act will be to:

* improve the human rights of people with disability and
* make Tasmania a safer and more inclusive place for people with disability.

The draft of a new Act is called a Bill.

In this consultation, we are seeking your feedback on the Disability Inclusion Bill.

This summary explains the major parts of the Bill. We have written this summary to help anyone who wants to provide feedback.

We need to know if there is anything in the Bill that needs to be made clearer or change. Feedback will help us to find any problems and rewrite the document if we need to.

After we have consulted we will take the Bill to the Tasmanian Parliament. Members of parliament will vote on the Bill. If the Parliament agrees it will become an Act.

This summary is also available in a more detailed version – The Disability Inclusion Bill Consultation Overview Paper.

# 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 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](mailto:disabilityinclusionbill@dpac.tas.gov.au) or phone 1800 431 211.

### How can I read the Bill?

The Bill is long and there are many parts.

It’s fine if you only want to read this Easy Read Summary and provide feedback based on this summary.

The draft Disability Inclusion Bill is available online at https://www.dpac.tas.gov.au/major\_policies.

## Important Information about written feedback

Written feedback on the Bill is called a submission.

If you write a submission it will be published on the internet along with submissions from other people and organisations. This will include your name. You can tell us if you don’t want your name published.

# Part 1 Preliminary

This part provides an introduction to the Bill.

## Title of the Act

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

After the title there is a short description about 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.”

## Objects of the Act

The objects set out the overall purpose of the Act. The Act will have more than one purpose.

The Act has been created to:

* improve 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.
* create laws that protect and promote the rights of people with disability
* create laws that improves the inclusion of people with disability
* set out a way for the Tasmanian Government to plan what it is going to do to improve inclusion and how it is going to report on what it has done
* set out rules about the use of restrictive practices by disability service providers
* create the position of Disability Inclusion Commissioner and Office of the Senior Practitioner
* establish the Tasmanian Disability Advisory Council
* set up a way for funding to granted for activities which are about disability inclusion.

## Interpretation

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

One of the important words defined is disability. The definition of disability used is based on a social meaning of disability.

In the social model, disability is caused by the way people living with an impairment live in an environment that has physical, attitudinal, communication and social barriers. Inclusion is about changing or removing those barriers so that people with an impairment can live in an equal way.

# Inclusion Principles

The Inclusion Principles are an important part of the Act. The Principles will provide a framework for anyone making a decision or taking an action in relation to the Act.

The principles are the same as in the **UN Convention on the Rights of Persons with Disabilities**. It is called the UNCRPD for short.

**The UNCRPD** is a set of rules that many countries around the world have agreed to.

The principles are also close to the ones in the NDIS laws.

Last year we asked if the principles needed to change. Most people thought the principles were good as they were. There were a few ideas about how they could be improved.

We have made some changes to make the principles more up to date:

* The principles need to be used if anyone is making a decision or taking an action in relation to the Act
* We changed the language so that it is more about rights
* We have said that people need to think about all the areas where a person might face barriers, not only disability. These include disability combined with cultural or linguistic diversity, aboriginality, age, gender, sexuality and/or religious beliefs
* We have included a principles about supported decision making
* We have included a principle about consultation with people with disability
* We have included a principles about the importance of advocacy.

# Part 2: Disability Inclusion Planning

The Act includes ways for the Tasmanian Government to make Tasmania a more inclusive place to live. This includes:

* rules about consulting with people with disability
* writing plans and
* reporting on what it has done about inclusion.

The Act says that:

* the Government must write a Tasmanian Disability Inclusion Plan. This plan will set out how the Government plans to make Tasmania more inclusive
* each part of Government must have its own Disability Inclusion Action Plan about what actions it will take and how it will make the services it provides more inclusive
* the Government must consult about the impact major projects and changes will have on people with disability
* the Disability Inclusion Commissioner will write a guideline to help Government with consultation, writing plans and reporting.

# Part 3: Disability Inclusion Advisory Council

When we consulted we heard that we needed to include people with disability in leadership and a Disability Advisory Council.

The Act sets up a new Disability Inclusion Advisory Council.

The Council will provide advice to the Minister and the Disability Inclusion Commissioner about disability inclusion. It will also provide advice about how to make Tasmania a safer place for people with disability.

The majority of the members of the council will be people with disability.

# Part 4: Tasmanian Disability Inclusion Commissioner

The Tasmanian Government thinks it is important to have a Tasmanian Disability Commissioner.

Their job would be to promote inclusion and the safety, health and wellbeing of people with disability.

We think the Commissioner would help make sure people get good supports and services.

The Act describes the Commissioner’s role and gives them the powers they will need to do their job.

The Act says that the Commissioner should be a person with lived experience of disability and should be independent from the Government.

The Commissioner should work with other laws and roles that help keep people safe.

The Commissioner will be able to do things including:

* promote the rights of Tasmanians with disability
* keep an eye on how well the government is doing in providing services and including people with disability
* do research and give advice about services, gaps and issues
* set up ways of checking on the wellbeing of people with disability
* increase awareness about people with disability and their rights.

The Commissioner will be able to:

* accept and investigate complaints about violence, abuse, neglect or exploitation of people with disability
* send complaints to other people like the NDIS Quality and Safeguards Commission
* increase awareness about disability

The Commissioner will be supported by the Disability Inclusion Advisory Council.

# Part 5: Disability Services Standards

In the consultation we heard it was important that there are rules for disability service providers.

Some rules are set by the NDIS. We heard it was important that there are rules for providers who are not registered with the NDIS.

The National Standards for Disability Services provide rules that **all** providers need to follow.

The rules are about:

* your rights – you have the right to be treated fairly when using disability services.
* participation and inclusion – you can take part in the community and feel included when you use disability services.
* individual outcomes – your service helps you to make choices about what you want to do. You can work towards your goals.
* feedback and complaints – you can tell people what you think about the services you use.
* service access – finding and using services is fair. You can get the services you need.
* service management – disability services should be well run.

The NDIS also has the same rules.

The Disability Inclusion Act will say that service providers still need to follow the National Standards for Disability Services.

# The Senior Practitioner and Regulation of Restrictive Practices (Part 6, 7, 8 and 9)

Sometimes a disability services provider may need to do something, as a last resort to keep a person with disability or other people safe from harm. This is called a restrictive practice.

If a provider wants to use a restrictive practice it must be done very carefully. If a restrictive practice is used it must be approved by an expert like the Senior Practitioner.

The Senior Practitioner helps to keep people with disability safe and helps to make sure that their human rights are protected.

The Senior Practitioner looks at how, when and where a disability service provider wants to use a restrictive practice.

The Senior Practitioner will decide if the restrictive practice is allowed or not. They will also consider whether the restrictive practice is the least restrictive way of keeping the person or other people safe.

When we consulted we heard that the way restrictive practices were approved was confusing. We also found out we needed to update the Tasmanian rules about restrictive practices to line up with the way the NDIS rules work.

The Disability Inclusion Bill sets out changes to the role of the Senior Practitioner and changes to how restrictive practises are approved. These changes will make the use of restrictive practices safer and will make sure the rights of people with disability are protected.

For disability service providers the changes will make the process for getting an approval easy to understand and follow.

The new way or working says that people with disability should be included as much as possible in decisions that affect their own lives. They should also be supported so that their capacity to exercise choice and control is maximised. The new way of approving restrictive practices includes a requirement for consultation with the person with disability or a person they nominate.

A restrictive practice can only be used if a Behaviour Support Plan has been developed with the person with disability. This plan will include:

* how the person with disability was consulted and how their wishes were included in the preparation of the plan
* what other ways of keeping the person safe have been considered
* how the restrictive practice will be used and
* how its use may be reduced or not used in the future.

The rights of the person with disability are also protected through the introduction of two new roles. These are an Appointed Program Officer and an Independent Person.

The Appointed Program Officer (APO) is an employee of the disability service provider. The APO has a role to ask if the restrictive practice is needed, that a behaviour support plan has been developed that considers how the restrictive practice could be reduced or eliminated and that it is practical for the restrictive practices to be implemented.

The APO makes sure that the restrictive practices is implemented in a way that is:

* the least restrictive way of keeping the person or other safe
* in line with the authorisation and conditions set by the Senior Practitioner and
* in line with the behaviour support plan.

The other new role is the Independent Person. The Independent Person supports the safety, wellbeing and health of a person with disability when a restrictive practice is being considered or where a restrictive practice is being used.

A person with disability may select their own Independent Person who may be a friend, family member, informal carer or guardian of a person with disability. The Independent Person can not be an employee of the disability service provider.

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 select a person from this register.

The Independent Person is responsible for:

* explaining the restrictive practice to the person with disability
* considering if the proposed restrictive practice is the least restrictive practice
* notifying the Senior Practitioner if the requirements of the Act are not being complied with, and
* promoting the rights of a person with disability.

# Part 10: Funding

Part 10 of the Bill sets out a way for the Tasmanian Government to fund activities which support the purpose of the Act. These include things like Disability Advocacy, research or services for people with disability who are not eligible for the NDIS supports.

# Part 11: Authorised Officers

The function of an Authorised Officer will assist other roles like the Senior Practitioner or the Disability Inclusion Commissioner.

The authorised officer is allowed to enter a place to ensure the safety of the person who lives there or is receiving support at the place.

This section also sets out the conditions 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, the Authorised Officer may view documents or ask questions of any person or employee at the premises.

# Part 12: Appeals, Part 13: Offences and Part 14: Miscellaneous

This section of the Bill sets practical things to make the Act practical. These include rules relating to:

* Appeals – including provision for appeals to be made to the Tasmanian Civil and Administrative Tribunal
* Offences which may be made in relation to the Act
* Sharing of information – includes who people like the Commissioner or Senior Practitioner can share information with
* Confidentiality
* 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 the Secretary to allow someone else to use 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.

**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](mailto: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/major\_policies](http://www.dpac.tas.gov.au/major_policies)