



Brotherhood
of St Laurence

Working for an Australia free of poverty

Response to the Review of Victoria's Disability Act

1 Introduction

The Brotherhood of St. Laurence (BSL) is a social justice organisation working to prevent and alleviate poverty across Australia. Our mission is to pursue lasting change, to create a more compassionate and just society where everyone can thrive. Our approach is informed directly by the people experiencing disadvantage and uses evidence drawn from our research, together with insights from our programs and services.

BSL is an NDIS Partner in the Community. We have been delivering LAC in five regions across Victoria since July 2016 as part of the first phase of NDIS implementation. We commenced as an ECEI provider in November 2016, and now work with around 40,000 people with a disability in LAC and ECEI.

The Brotherhood of St. Laurence (BSL) welcomes the opportunity to provide input to the consultation for the Review of *Victoria's Disability Act 2006*.

2 Recommendations

- 1. Link the UN Convention on the Rights of People with Disability, and the Victorian Charter of Rights and Responsibilities, to the Disability Act to embed the focus on human rights in the objectives and principles.**
- 2. Recognise specific groups (including women, children, Aboriginal and Torres Strait Islander people, and people from culturally and linguistically diverse backgrounds), and the risks and issues for them in intersection with disability, in the Principles.**
- 3. Broaden the definition of disability in line with the UN Convention.**
- 4. Include psychosocial disability in the definition of disability, recognising the episodic nature and fluctuations of some conditions.**
- 5. Recognise the importance of access to mainstream services and community supports in the Act to underpin the development of Disability Plans by the government and public sector organisations.**
- 6. Include a requirement in the Act that reports on the State Disability Plan are to be tabled in Parliament each year.**
- 7. Include the requirement that Disability Action Plans are made available to the public, to strengthen accountability and transparency.**
- 8. Include requirements in the Act for regular development and reporting on public sector organisation Disability Action Plans, that align with the requirements for State Disability Plan.**

3 BSL supports the intent of the Review of the Act

BSL welcomes the Review of the Disability Act as timely and responsive to the ongoing needs of people with disability, especially as the NDIS continues to develop and mature.

We particularly welcome the Victorian Government's intent to focus on a human rights approach and uphold the UNCRPWD in the Act. We endorse the themes identified through the State Disability Plan consultations, and welcome the intent of the Review consultation to address these concerns:

- ensuring a strong human rights approach in the Disability Act, informed by the rights and principles in the UN Convention
- talking about Victoria's conceptual approach to disability in the Act to promote consistency and strengthen accountability across government for disability inclusion
- laying out the vision and principles for the Victorian Government and the community to better understand and address ableism (negative attitudes toward people with disability), and to identify and remove barriers
- collecting consistent and comprehensive data about disability participation in mainstream services to inform and assess policy and the effectiveness of disability strategies and policies informed by lived experience
- acknowledging in the Act the diversity of the needs, views and experiences of people with disability and the connection to other aspects of identity, spirituality, lived experience and cultural background
- strengthening inclusion mechanisms in the Act, for example, by requiring greater accountability and transparency for reporting on and delivering outcomes under the state disability plan and disability action plans
- strengthening the scope and scale of safeguards and rights protections under the Act, including by continuous quality improvement
- acknowledging the importance of advocacy, self-advocacy and supported decision making where needed.

Review of the Disability Act 2006: consultation paper, p. 15

4 Key areas to be addressed in the Review

In line with the themes identified in the Consultation paper, BSL has identified a number of areas where the Act could be strengthened to support the inclusion of people with disability, and ensure they are able to participate in their communities and lead a good life.

Strengthening the human rights focus in the Objectives and Principles

We believe that Victoria's Disability Act should provide the key legislative framework that informs the other Acts that impact on people with disability, and that its Objectives and Principles should set the approach of the Victorian Government to support the inclusion of people with disability.

Embedding the UN Convention on the Rights of People with Disability (UNCRPWD) in the Act

We note that South Australia's *Disability Inclusion Act 2018* identifies the UNCRPWD in its purpose statement. We suggest the Victorian Government follows this example and specifically links the UN Convention and Victorian Charter of Human Rights and Responsibility to the Act, to strengthen this focus.

Recommendation 1

Link the UN Convention on the Rights of People with Disability, and the Victorian Charter of Rights and Responsibilities, to the Disability Act to embed the focus on human rights in the objectives and principles.

Recognition of the risks and issues for specific groups in the Principles.

We note that the SA Act also specifies particular cohorts and the issues that exist for them in intersection with disability. The cohorts include women, children, Aboriginal and Torres Strait Islander people, and people from culturally and linguistically diverse communities. We would like to see these groups recognised in the Principles, to embed them across all areas of government and the whole-of-government response to inclusion of people with disability.

Recommendation 2

Recognise specific groups (including women, children, Aboriginal and Torres Strait Islander people, and people from culturally and linguistically diverse backgrounds), and the risks and issues for them in intersection with disability, in the Principles.

Inclusion of people with psychosocial disability

Given the intent of the Act to support inclusion of people with disability, and not just determine eligibility for services, BSL suggests the definition of disability should be broadened in line with the UN Convention.

We note that other jurisdictions have included psychiatric impairment or psychosocial disability. We believe it should be included in Victoria's Disability Act, as well as recognising the episodic nature and fluctuations of some conditions. This change would align with the NDIS and give protection as well as support inclusion of people with psychosocial disability.

Recommendation 3

Broaden the definition of disability in line with the UN Convention.

Recommendation 4

Include psychosocial disability in the definition of disability, recognising the episodic nature and fluctuations of some conditions.

Addressing continuing gaps in support for people with disability

We endorse the purpose of the Act to advance a whole-of-government approach to supporting the inclusion of people with disability in their communities and ensuring services are accessible and uphold their rights. However, BSL is concerned that there are continuing gaps between the NDIS funded support available to eligible people and the mainstream services and community supports that are vital for all people with disability to participate in their communities and lead a good life.

Impacts of continuing changes to NDIS

The NDIS continues to undergo the most significant reforms since its inception, resulting in considerable upheaval and change within the disability community. BSL is concerned that some of these changes will result in people being unable to access the NDIS or adequate funding to get the supports they need.

These issues will necessarily increase the demand for mainstream and community support and health services that are the state government's responsibility.

In addition, the intended scope of the NDIS Partners in the Community program for all people with disability has not so far been realised, limiting the essential work of connecting people to existing community supports.

Importance of mainstream services and community supports

Through BSL's NDIS Partner in the Community services, we have identified the following areas of particular concern in the interface between mainstream services and disability supports:

- NDIS participants can have difficulty accessing mainstream health services, such as allied health services. BSL staff have also noted an apparent gap in service staff knowledge about NDIS, for example in relation to discharge planning from hospital. These issues also highlight the often-blurred lines between state-managed and Commonwealth-funded service streams.
- Early childhood services have an important role to play in supporting children with developmental delay and disability, and their families. For example, increasing numbers of children are being identified with developmental delay or disability earlier through initiatives implemented by MCH (e.g. social & communication screening tools). However parents have told us that they are concerned by some nurses' reluctance to make referrals for assessment, preferring a 'wait-and-see' approach. Three-year-old kindergarten is also an important opportunity for families with a child who has developmental delay (DD) or disability. BSL has previously recommended the extension of the Early Start Program to include children with DD or disability, which would assist in their readiness for the transition to school.

We see the Review of the Disability Act as an opportunity to ensure that people who need to access community supports and mainstream services can do so as and where they require them.

We note that it is the intent of the Act to promote a strategic whole-of-government approach to participation and inclusion by identifying and removing barriers, and that the Principles acknowledge that community support may be needed for people with disability to exercise those rights. In its current form the Act does not include principles for mainstream services that integrate with disability services; these largely rest with the State Disability Plan and the Disability Action Plans of public sector organisations.

Recommendation 5

Recognise the importance of access to mainstream services and community supports in the Act, to underpin the development of Disability Plans by the government and public sector organisations.

Strengthened monitoring and reporting

State disability plans

BSL recognises the State Disability Plan as a key method to foster a strategic whole-of-government approach to promoting the rights and needs of Victorians with disability and implement the National Disability Strategy. We also welcome the opportunity for people with disability to contribute to the identification of barriers to their participation and to shape the response to these issues that the State Plan provides.

However, we suggest that accountability mechanisms for the State Disability Plan need to be strengthened, and that these mechanisms be included in the Act. We note that annual reporting is currently at the discretion of the Minister, rather than a legislative requirement.

Recommendation 6

Include a requirement in the Act that reports on the State Disability Plan are to be tabled in Parliament each year.

Disability Action Plans

BSL supports the legislative requirement that public sector organisations must develop disability action plans. We recommend that the Act include the requirement that Disability Action Plans are made available to the public, to strengthen accountability and transparency. We also recommend that requirements for regular development and reporting on Disability Action Plans be included in the Act. The schedule for this should align with the State Disability Plan to support the achievement of that plan's strategic goals and outcomes. We also support the suggestion that people with disability be consulted and supported to participate in the development of Disability Action Plans.

Recommendation 7

Include the requirement that Disability Action Plans are made available to the public, to strengthen accountability and transparency.

Recommendation 8

Include requirements in the Act for regular development and reporting on Disability Action Plans, that align with the requirements for the State Disability Plan.

We look forward to the opportunity to work with the Victorian Government to continue to work towards better outcomes and inclusion of people with disabilities in the Victorian community.

For further information or to discuss our response to the Review please contact

Professor Shelley Mallett

Director, Research and Policy Centre, Brotherhood of St. Laurence

Professorial Fellow, Social Policy, University of Melbourne

Email: smallett@bsl.org.au

Phone: 0438 022 985

Brotherhood of St. Laurence

67 Brunswick Street

Fitzroy Vic. 3065

www.bsl.org.au

October 2021