

13 August 2023

Disability Services Act Review  
Department of Social Services  
Canberra ACT 2601

[REDACTED]

Dear Colleagues

### **Disability Services and Inclusion Bill 2023 | Exposure Draft**

Thank you for the opportunity to provide feedback on the Disability Services and Inclusion Bill 2023 (the *Bill*), which is intended to replace the *Disability Services Act 1986* (the *Act*). Aged and Disability Advocacy Australia (ADA) appreciates being consulted on the proposed amendments to this important framework.

#### **About ADA Australia**

ADA is a not for profit, independent, community-based advocacy and education service with more than 30 years' experience in informing, supporting, representing and advocating in the interests of older people, and persons with disability in Queensland.

ADA also provides legal advocacy through ADA Law, a community legal centre and a division of ADA. ADA Law provides specialized legal advice to older people and people with disability, including those living with cognitive impairments or questioned capacity, on issues associated with human rights, elder abuse, and health and disability legal issues related to decision-making.

ADA advocates and legal practitioners work with identified First Peoples advocates through the Aboriginal and Torres Strait Islander Disability Network Queensland (ATSIDNQ), a network established to support mob with disability and provide individual advocacy services for Aboriginal and Torres Strait Islander people with disability.

#### **Review of the Bill**

##### *Objectives*

ADA broadly agrees with the proposed objectives set out at clause 3 of the Bill.

We strongly support the reference to international human rights instruments set out under clause 3, (i), (i)-(v), as well as the inclusion of the General Principles in clause 4.

In our view, the application of these instruments and the Guiding Principles will be reinforced by an additional statement in clause 3, clarifying the ability of persons with disability to advocate for and seek enforcement of their human rights.

Is it often the case that the person with disability's views and wishes are not incorporated, or even considered in decision-making generally, and including in relation to choice and use of supports and services, and that both general and legal advocacy plays a critical role in ensuring an individual's rights are protected and their voice is heard.

We suggest that an additional element should be added under objective (c), as follows:

*3(c) accessing advocacy services, including legal advocacy, in relation to a person's social and economic participation and in support of an individual's choices and access to preferred supports and services.*

Alternatively, the inclusion of an additional objective to the effect of ensuring persons with disability have an acknowledged and inherent right to advocate for and seek to enforce their rights in relation to disability supports and services would serve as a strong endorsement for the protection of the rights of persons with disability more broadly.

To this effect the following drafting may be considered:

*3(f) accessing advocacy services, including legal advocacy, to assist persons with disability in accessing supports and services and in accordance with the General Principles.*

#### *Quality and Safeguarding Arrangements*

We note the positive obligations in the Bill with respect to the terms and conditions of the proposed funding arrangements as set out under Part 2, and the code of conduct and certificates of compliance under Part 3.

A certificate of compliance may be revoked or varied by the Secretary of the accredited certification body if satisfied that a person is non-compliant with the compliance standards for the regulated activities covered by the certificate (clause 21(5)).

These provisions are supported. However, it is unclear how effective this alone will be in practice as an intended safeguard to ensure provision of high-level services. ADA notes that the Bill does not provide for a separate complaints mechanism for a consumer, as was considered by the consultation paper. We strongly recommend that the system incorporate an accessible and effective complaints mechanism for persons with disability who are eligible to receive supports and services under this arrangement. Further information is required as to the form and accessibility of this critical safeguard, as well as with respect to the compliance standards referred to in the Bill and regarding associated operation and practical elements of this, including: education for service providers, investigation powers, enforcement and reporting.

#### *Types of Services Funded*

ADA supports the proposed drafting of **eligible activities** as described in clause 13(1) of the Bill. We repeat our previous recommendation that the list should expressly include justice/domestic violence support services (in addition to any legal support services which might be considered 'advocacy'), transport services, and allied health services.

The definitions of various types of supports and services as listed in clause 8 of the Bill are broadly appropriate.

Thank you again for the opportunity to comment. ADA would be pleased to further assist the Department with its inquiry. Should you wish to discuss this submission, please do not hesitate to contact Vanessa Krulin, Solicitor and Senior Policy and Research Officer [REDACTED]  
[REDACTED]

Yours faithfully

A handwritten signature in black ink, appearing to read 'Geoff Rowe', with a long horizontal flourish extending to the right.

**Geoff Rowe**  
Chief Executive Officer