

## Background:

Monday 13 February 2023

The Australian Government plans to repeal and replace the *Disability Services Act (1986)* (the Act). This is a significant opportunity to shape the vision and direction for the rights of people with disability in Australia for years to come.

Repealing the Act also provides the opportunity to update the legislative framework. This should make sure people with disability are living their lives as equal citizens, engaging in education, employment, social, political, spiritual and cultural pursuits alongside their peers.

The Department of Social Services (DSS) is consulting about a [New Act to Replace the Disability Services Act \(1986\)](#). This consultation closes on 12 February 2023.

PRECI Submission February 2023:



**QUESTION 1:** Do you agree with the proposed objects for the new Act? What other objects should be included in the new Act?

The proposed objects are appropriate and well considered. However, as written they apply to adults with disability and, it must be added, adults who are able to advocate for themselves. What of those who cannot? The role of advocates needs to be considered and included.

Furthermore, there is another notable and critical omission. What of children with disability and their families? There needs to be an additional object that refers to children with disability and to the role that families play in the early years of their lives as carers, advocates and educators. The NDIS has acknowledged the need for an early childhood approach so must the Disability Services Act.

Finally, object D, “ensure that supports and services provided:

- i. are planned, developed, implemented and reviewed in conjunction with people with disability
- ii. are effective, innovative and high quality”

would be enhanced by the inclusion of “equitable” in ii such that it reads: “are effective, **equitable**, innovative and high quality”.

**QUESTION 2:** Do you agree with the proposed approach to the target group?  
How do you think the target group should be defined?

Yes. Adoption of a social model of disability is long overdue. It acknowledges the complexities experienced by those living with disability (and their families) and points to the additional stresses, needs and strengths that they may bring to their lives.

Recognition of these other factors does not, however, obviate the need for a definition of disability. As this is considered under Question 4 we will comment on what needs to be included there.

**QUESTION 3:** Do you agree with our suggested principles for avoiding duplication and requiring coordination? What other principles do you think should apply?

Yes. It is critical that issues related to duplication and coordination are addressed especially in the context of concerns around the cost of the NDIS. However, there is often a perception across the sectors that it is the disability sector which must lead the coordination and avoid duplication. This is a sector that has not, historically, been as well resourced as its counterparts in health, for example. The mechanisms for ensuring that coordination occurs must therefore be carefully considered.

We would argue that consideration needs to be given to the provision of supports to children with disabilities in educational settings (ECEC and schools) and community settings. Clear principles setting out Commonwealth and State responsibilities are essential as some confusion exists as to what is possible in terms of service delivery and support at the present time. This should also be seen as relating to the preventative and promotional role of health and wellbeing initiatives.

An overriding consideration is ensuring that there is sector and community understanding of how the various Acts relate one to the other. Clarity is needed in this regard in the writing of the legislation.

**QUESTION 4:** Do you think the new Act should include a definition for disability?  
Do you have any additional comments?

Yes, this is critical. While, as stated, language and definitions can shift over time it is essential that there is consistency in how disability is defined in legislation across all relevant Acts. For that reason, the 'disability requirements' specified for eligibility under the *National Disability Insurance Scheme Act 2013* should be used in this Act.

However, here too, consideration needs to be given to the implications of such definitions for children (and especially young children) for whom there may be no firm/final diagnosis (for example, young children who have been identified as having Global Developmental Delay need an additional diagnosis to continue

under the NDIS). Early childhood intervention is critical for their development and ensuring the best possible outcomes. Any definition must allow for the uncertainty of diagnosis especially in the early years and focus on the functional impact on the child's development rather than a specific diagnosis.

**QUESTION 5:** How do you think quality and safeguarding arrangements should be managed by the new Act?

We agree with the intent to ease the regulatory burden for those working in similar ways across sectors. We also strongly believe that there is a need for stronger quality and safeguarding arrangements especially in the early childhood intervention area where professionals are working with young children and their families. The consultation paper speaks of a move to person-centred models but not of a family-centred model which is fundamental to best practice in early childhood intervention.

Thus, while regulatory alignment across sectors will ensure consistent and clear requirements for all providers and allow them to operate across sectors, there needs to be further consideration of the implications of this for the provision of early childhood intervention.

The paper states that a “sector with a wider range of providers will help to support more meaningful choice and control, and will help to support smaller, niche services to remain viable.” We would argue that, far from emphasis being given to there being a “wide range of providers”, the focus needs to be on the implementation of best practice guidelines. The NDIS has adopted the Best Practice Guidelines for Early Childhood Intervention which were, in fact, developed by a number of the current Directors of PRECI. Whether these guidelines are currently being implemented with fidelity is open to question. We seem to be seeing a return to a medical model with an emphasis on child-centred, therapy provision rather than family-centred practices which encompass not only the needs of the child but of the whole family and its functioning. It is therefore critical that best practice principles are part of the quality and safeguarding principles managed under the Act.

It is pleasing to see consideration being given to the question of accreditation. However, we believe that this needs to be more nuanced than is currently the case. Thus, for example, allied health professionals and educators must go through an accreditation process for their disciplines and they must maintain that accreditation to be able to practise. No such requirement exists in the early childhood intervention field, for those working in it to be accredited as having the skills to implement best practice with fidelity. Including the need for such accreditation would greatly enhance the quality and safeguarding arrangements for children and families in receipt of early childhood intervention. Most importantly, there should be no difference between registered and non-registered providers in relation to quality standards. At the present time, under the NDIS, non-registered providers only have to abide by the Code of Ethics.

Management of accreditation and regulations also need to occur in consultation with discipline and sector area experts both in their development and enforcement.

**QUESTION 6:** Do you agree with the supports and services listed above? What other kinds of supports and services should be included in the new Act?

We agree that service and support categories should be described broadly. We would suggest that supports and services for families who have a young child with disability should also be included.

**QUESTION 7:** Do you consider it necessary to retain separate provisions for employment services and rehabilitation employment program, or could they be combined?

As an organisation focused on early childhood intervention, this question falls outside our purview and so have not commented on this.

**COMMENTS:** If you have any other comments, suggestions, concerns, or thoughts about our plans for the new Act, please let us know.

We strongly urge that, in the drafting of this Act, the needs of children with disability and their families are recognised and enacted. The provision of services to adults with disability is different in intent and delivery to that for young children and their families.

It is critical that early childhood intervention operates according to contemporary, evidence-informed practices which will change as research evidence continues to emerge and our understanding of what constitutes best practice is refined. Only through such an iterative process will the best outcomes be achieved for children with disability and their families. This commitment to evidence-based practice and practice-based evidence needs to be visible in the legislation framework and acknowledgement given to the need for a workforce which is accredited to deliver early childhood intervention through best practice.

Finally, the value of research to practice processes must be at the heart of legislation to ensure fidelity, quality practice and optimal outcomes. Supporting knowledge translation is essential for children with disability and their families and is the focus of our organisation: Professionals and Researchers in Early Childhood Intervention (PRECI).

We would be pleased to discuss our comments with you were this to be deemed appropriate.