

Ms Suzanne Orr MLA  
Member for Yerrabi  
Via email: [orr@parliament.act.gov.au](mailto:orr@parliament.act.gov.au)

9 October 2023

Dear Ms Orr

### **Feedback on the revised draft of the *Disability Inclusion Bill 2023***

Thank you for the opportunity to provide feedback on the draft Disability Inclusion Bill 2023.

ACTCOSS welcomes this Bill, which establishes a framework for creating disability inclusion strategies across government in priority areas. The Bill also requires ACT Government agencies to develop disability inclusion plans, as well as establishing a Disability Advisory Council to advise the Minister directly on issues affecting people with disability in the ACT.

We believe the establishment of a standalone Act for disability inclusion is an important step toward whole-of-government action and accountability in pursuing disability inclusion in the ACT. We commend the objectives of the draft Bill, the comprehensive definition of disability inclusion, and the express recognition of the Convention of the Rights of Persons with Disabilities (CRPD).

While supporting the overarching intent and key provisions of the draft Bill, we believe there are parts of the Bill that could be strengthened and certain aspects that warrant additional consideration.

First, while we support the listed objects of the draft Bill, we recommend amending paragraph 5(1)(c) so that it reads:

“Barriers to accessibility *and inclusion* are identified and removed.” [added terms are in italics]

We note that inclusion is a broader concept than accessibility, and achieving full inclusion goes beyond *recognising* the value of people with disability (as per 5(1)(a)) and requires proactive steps to remove barriers and ensure environments, services and systems are safe, welcoming and supportive in ways that enable people to flourish and reach their full potential.

Second, to support a truly comprehensive and whole-of-government approach to overcoming discrimination and promoting disability inclusion, we believe consideration should be given to widening the scope of the draft Bill to incorporate a wider range of priority inclusion areas (subclause 8(1)). We note, for example, that energy and climate change policy, transport, emergency services, housing, and planning and infrastructure are all areas where there are substantial barriers to disability inclusion – and yet these are not included as priority inclusion areas for the purposes of the draft Bill. True inclusion is only possible when it is assumed that every service should be available and accessible to people with disability.

In Part 3 of the draft Bill, which focuses on disability inclusion strategies, we recommend that a clause is added which empowers the Minister to amend existing strategies following consultation with people with disability. The draft Bill provides for the development of disability strategies that are *ten* years in length, and it is important there is scope to amend and update strategies to ensure they are responsive to the aspirations and issues expressed by people with disability and evolving areas of need.

To promote cross-system coordination across government, we also recommend that reference is included to developing disability inclusion strategies that recognise the intersections and overlaps with other priority inclusion areas and strategies – an approach that is consistent with the emphasis placed on intersectionality in Section 2 of the draft Bill. We note that many of ACTCOSS' members work with people who may have disability alongside other complex needs that require support from multiple service systems, yet people often feel frustrated or fall through the cracks between services operating with little cross-system coordination. It is important disability strategies are developed, implemented and evaluated in ways that take into account intersections and synergies and that avoid reinforcing a disjointed and siloed approach.

ACTCOSS supports the establishment of disability inclusion plans for public sector entities, although we note there is little detail about what such action plans should entail. We recommend that additional consideration is given to legislating for mechanisms to further strengthen accountability and ensure ongoing monitoring of quality and outcomes associated with disability inclusion plans. This could include, for example, adopting a framework of duties, obligations, and/or measurable benchmarks and targets that give more substance to and accountability for disability action plans. There is limited benefit in preparing and publishing disability inclusion plans if outcomes are not assessed and measured. We also note that the Bill includes no sanctions for public sector entities that fail to produce a plan. Achieving the Bill's aspirations for an inclusive community involves cultural and attitudinal changes which require long-term and sustained effort. Clear and consistent measuring of outcomes is critical for both monitoring the effectiveness of the legislation and maintaining momentum over the long term.

To ensure Disability Action Plans remain responsive to evolving needs and are given sufficient focus and priority by public sector entities, we recommend that paragraph 13(5)(b) is amended to shorten the period of review from three to *two* years.

ACTCOSS supports the establishment of the Disability Advisory Council, which will effectively elevate the existing ACT Disability Reference Group to Ministerial Council status. To give this Council sufficient scope to support the objects of the draft Bill, we believe the functions set out in subclause 18(1) should be expanded. This could include advising the Minister about:

- whole of government policy directions and strategic planning and the implementation of initiatives for persons with disability;
- the barriers to full inclusion and participation in the ACT community of persons with disability and the strategies for the identification, reduction, removal and prevention of those barriers; and
- strategies for the reduction, removal and prevention of violence against, and the abuse, neglect and exploitation of, people with disability; and
- any matter relating to disability, or disability inclusion, referred to the Disability Advisory Council by the Minister.

In relation to the membership of the Disability Advisory Council, we believe that, *at a minimum*, at least half of the members should be required to be persons with disability.

For the definitions set out in the dictionary of terms in Schedule 1, we recommend the following changes:

- The definition of ‘accessibility’ is augmented to include access to:
  - *housing*
  - the physical *and sensory* environment
- The definition of ‘barrier’ to accessibility is amended to state that barrier “includes any physical, architectural, technological, *financial, policy* or attitudinal barrier to accessibility”.
- The definition of ‘intersectionality’ is amended so that it is not limited to ‘protected attributes’, and instead reads:

“intersectionality means the interconnected nature of attributes, *identities or circumstances* of a person that create overlapping and interdependent systems of disadvantage or discrimination”.

Finally, we believe there may be value in augmenting the draft Bill to include a provision that creates a *positive duty* for all public sector entities to promote disability inclusion, including taking reasonable and proportionate action to advance disability inclusion. This would be a welcome step in further embedding disability inclusion across government, and would be consistent with the ACT’s *Human Rights ACT*. We note that this approach has been adopted in the draft Disability Inclusion Bill developed in Victoria, and could be included alongside a provision stating that this positive duty does not give rise to legal rights (noting that the purpose of the draft Bill is to promote disability inclusion at a systems level rather than giving rise to a civil complaints mechanism).

In summary, ACTCOSS supports the draft Disability Inclusion Bill 2023, and believe its legislative enactment has significant potential for creating positive change. To further strengthen the Bill and ensure it achieves its important objectives, we have proposed a series of amendments and areas for further consideration. These suggestions are based on a preliminary reading of the draft Bill, and we would welcome the opportunity to further comment on the Bill once it has been formally tabled in the Legislative Assembly and we have had an opportunity to consult more widely with our members.

We thank you again for the opportunity to offer our insights on the revised draft Disability Inclusion Bill 2023 and look forward to working with you to support the development of a truly inclusive ACT community that supports all people with disability to live flourishing lives.

Yours sincerely



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