



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON EDUCATION AND COMMUNITY INCLUSION
Mr Michael Pettersson MLA (Chair), Miss Laura Nuttall MLA (Deputy Chair),
Ms Nicole Lawder MLA (Member)

Submission Cover Sheet

Inquiry into Disability Inclusion Bill 2024

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Suzanne Orr MLA
Member for Yerrabi

Standing Committee on Education and Community Inclusion
Inquiry into the Disability Inclusion Bill 2024
ACT Legislative Assembly
CANBERRA ACT 2601

13 March 2024

Dear Mr Pettersson,

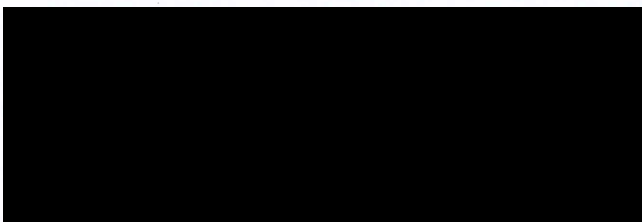
Michael,

Thank you for the opportunity to make a submission on your inquiry into the *Disability Inclusion Bill 2024*.

I am happy to make myself available to appear before the Committee at the hearing stage if required.

Please see my submission attached.

Yours sincerely,



Suzanne Orr MLA
Member for Yerrabi
Government Whip



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Member for Yerrabi

Introduction.

On 8 February 2024 I presented the Disability Inclusion Bill (the Bill) to the Assembly. The Assembly Standing Committee on Education and Inclusion (the Committee) have since resolved to undertake an inquiry into the Bill. I welcome the Committee's interest and submit the following comprehensive report on the Bill and its development for consideration. In particular, this submission will seek to cover the background and context of the Bill, the range of consultation approaches undertaken, and all subsequent amendments made prior to introduction.

About the Disability Inclusion Bill 2024.

The fundamental function of the Bill is to promote disability inclusion in the Territory by approaching disability in a manner consistent with the United Nations Convention on the Rights of Persons with Disabilities, which promotes the social model of disability. The social model of disability understands disability as a social construct, produced by the interaction between people living with disability and a hostile environment of physical, attitudinal, communicative, and social barriers. With this in mind, the social model is concerned with changing society to adapt, empower, and meet the needs of people with disability so that they may participate in society on an equal basis.

Why is this change needed?

Replacing an outdated model.

Current legislative and policy approaches to disability in the Territory are informed by a medical model for understanding disability. This model understands disability as a health condition characterised by an individual's impairments or differences. With this in mind, the medical model is concerned with identifying impairments or differences, regardless of if they cause someone pain or illness, and changing or 'fixing' them, often neglecting to observe what a person needs in the process of looking at what is 'wrong' with them. The medical model is no longer the international standard precisely because it creates low expectations of care and causes people to lose independence, choice, and control over their own lives.

Disability discrimination.

Despite improvement over time, people with disability continue to face discrimination at alarming rates in many facets of their lives. The Australian Bureau of Statistics' latest release of the Disability, Aging and Carers Survey in 2018 found that among people with disability aged 15 years and over, one in ten had experienced discrimination. This is a jump of 8.6 per cent since 2015. In addition, the same survey found that of 3.3 million people with disability aged 15 years and over, one in three had avoided situations because of their disability in the previous 12 months.



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General community support.

While specificities of the Bill's consultation phase are referred to elsewhere in this submission, it is worth noting here that as I continued to speak with everyday Canberrans about the Bill and disability inclusion, support for its implementation has been overwhelming. It is clear to me that most people are receptive to the idea that effective disability inclusion requires full community participation in driving change and accepting responsibility for its realisation.

Alignment with other states and territories.

The Bill will bring the ACT in line with other jurisdictions which have already seen movement in this space. New South Wales and South Australia each have their own Disability Inclusion Acts and Victoria and Tasmania are in the process of developing Disability Inclusion Acts. It is important to clarify that this will not be uniform law, as each Act and the Bill were developed with the intention of complementing existing policy and legislative framework within their own jurisdictions. For instance – the ACT currently writes and implements disability inclusion strategies, and so the Bill directly addresses them, whereas other states do not. Additionally, South Australia's legislation includes screening of workers participating in the NDIS, whereas we have dealt with this through other legislation in the ACT.

Obligations under the national framework.

The national disability framework: *Australia's Disability Strategy 2021 – 2031*, is intended to drive action at all levels of government to improve the lives of people with disability. It similarly supports Australia's commitments under the United Nations' Convention on the Rights of Persons with Disabilities. In 2021, the ACT Government signed a commitment to the roles, responsibilities, and deliverables that the strategy assigns to state and territory governments.

ACT Disability Justice and Health Strategies.

The Bill codifies a framework for an existing ACT Disability Justice Strategy, Disability Health Strategy, Inclusive Education Strategy and will build off of them by requiring further strategies across other key priority areas.

How will this Bill drive change?

Object and Definitions.

The Bill expressly introduces the social model in its Object at section 5, which ensures that people with disability are recognised as an important and valuable part of our diverse community and that it is the responsibility of all in a community to foster an environment where people with disability are included. The Object outlines that disability discrimination must be addressed and that barriers to



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accessibility must be identified and removed. This is essential to moving away from requiring people with disability to adjust in order to fit in with their environment, and moving towards a community which adjusts its own institutions and conventions in a manner which allows people with disability to participate in society on an equal basis.

Definitions in section 6 define terms *disability inclusion* and *ableism* for the purposes of this Act. The concepts involved in these definitions are central to this Act and its implementation. As we move to a social model of disability, commonly held practices and perceptions will be challenged. The concepts outlined in this section are intended to provide a clear basis from which disability inclusion under a social model should be approached as the objects of the Act are implemented.

Government disability inclusion strategies.

Section 9 establishes a requirement for the Government to develop and review a suite of disability strategies to address and remove barriers across a range of priority areas as identified in the national strategy or found by the Minister to be a site of significant barriers which require addressing. The strategies are intended to capture individuals, organisations, and entities from private and public sectors as necessary. Any Minister responsible for a priority inclusion area must make a strategy in consultation with the Minister responsible for the Bill.

Government entity disability inclusion plans.

Section 13 ensures that Government entities make plans which focus on the actions they will take to implement disability inclusion and address ableism within the organisation. Section 14 requires minimum measures of consultation with the Disability Advisory Council in developing a plan which is to be inclusive of people with disability and accessible to those of all abilities. Section 15 prevents the duplication of a plan when a Government entity is already required to prepare one under the requirements of another Act.

The Disability Advisory Council.

Sections 17 – 23 establish a Disability Advisory Council to advise the Government on matters relating to the content of the Bill that ensures people with disability are in a position to directly participate in decisions being made about them. Parameters for the Council's composition ensures fair representation and measures to ensure the Council's autonomy to operate in a way it considers appropriate are also included.



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Consultation.

Early Key Stakeholder Involvement.

The first step of the Bill's consultation phase was in 2022, when I provided a first draft and a general outline/rationale of its key concepts to select disability organisations for their initial feedback. These organisations included the ACT Disability and Aged Care Service, Advocacy for Inclusion, Carers ACT and Women with Disability. All were welcoming and receptive to the Bill and its intention. Where concerns were raised, they generally related to consultation requirements, as stakeholders were keen to ensure appropriate representation for all intersections of the disability community. There was also an interest in emphasising the interaction between existing Human Rights obligations and the Bill's Objects.

General Feedback.

Following initial outreach and consultation, I was confident the Bill was in shape to be presented to the public for further feedback. In the spirit of the social model, I went out of my way to solicit feedback on the Bill from every major sector practicable. The broader disability community, education, employment, health, justice, and social inclusion all informed the kind of organisations I targeted for involvement in the Bill's development. Indeed, no less than 135 organisations were contacted individually for a chance to provide feedback. This feedback was similarly welcoming and receptive. At this stage, concerns were raised in relation to:

- Strengthening definitions, such as including indirect discrimination in defining ableism.
- Defining key areas of disability to complement priority areas.
- Confirming the Bill's protections will cover the education sector in particular.
- The need for guidance on applying Object and General Principles to disability strategies and plans.
- The need for precision and guidance on reporting requirements.
- The need for clarity on the mechanism to identify prospective members of the Disability Advisory Council.
- Ensuring that Human Rights obligations continue to inform the operation of the Bill.
- The need for explicit language when referring to intersectional groups.
- Strengthening consultation requirements and practices.
- Better articulation of the Bill's interaction with current domestic legislation.

I would also note that the feedback I received from individuals was predictably more personalised than the above. However, similar concerns still trended.



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Post-Consultation Amendments.

Below is a brief summary of amendments I made to the Bill following feedback received from public consultation, amendments included:

- strengthening definitions to include the necessary coverage and protections required to meet the bill's object;
- further emphasising and drawing a more direct connection between the operation, administration and enforcement of the bill to external legislation, human rights instruments and existing disability policy;
- better recognising and empowering disabled peoples' organisations throughout the bill;
- better addressing and accounting for intersectionality throughout the bill;
- strengthening and clarifying reporting requirements;
- amending Advisory Council membership requirements to better ensure that the disability community are appropriately represented in creating their own inclusion strategies and plans; and
- providing clarity on the Minister responsible for taking the lead in implementing disability inclusion strategies.

Conclusion.

The Disability Inclusion Bill is a necessary reform to our legislative framework and has support among the disability and broader Canberra community. It is my hope that once passed, the bill might further assist in catalysing even more ambitious projects within the disability inclusion space. I am grateful for the committee's time and consideration of this bill and would be happy to appear before them if required.