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Attorney-General's Department
Australian Government
4 National Circuit BARTON ACT 2600

Via email: DDAReview@ag.gov.au

Submission to the *Disability Discrimination Act 1992* (Cth) Review

Thank you for the opportunity to provide a submission in response to the *Disability Discrimination Act 1992* (Cth) review.

I provide this response in my capacity as the South Australian Public Advocate (PA).

In South Australia, the Public Advocate is appointed by the South Australian Civil and Administrative Tribunal (SACAT) to make decisions in relation to accommodation, lifestyle, services, access and/or health matters for over 2400 adults with impaired decision-making ability. These decisions must be least restrictive of the person's rights, and must also ensure their proper care and protection, including from abuse, mistreatment, and exploitation by others.

Due to the circumstances of my clients, who have decision-making impairment and usually lack a supporter network, the priority areas of change in the Disability Discrimination Act are:

1. Burden of proof – support this being situated with the respondent, rather than the applicant, to prove that discriminating treatment was not on the basis of the person's disability.

2. Simplification of language and terms, and clarification of definitions. Resolve confusion around 'special measures' exemptions and 'temporary exemptions'.

3. Positive duty to prevent discrimination - Clients of the Public Advocate often have insufficient informal support networks and so would benefit from the embedding of positive duty to prevent discrimination before it happens, and the suggested 'stand-alone duty' would mean that they could be offered adjustments even if they lack the ability to advocate for themselves.

4. Modernisation – it is appropriate for disability standards to no longer be reliant on individuals making complaints. Many Public Advocate clients would not have the ability to engage with a complaints process, and discrimination they experience may never be addressed if this was the only mechanism for the standards to be ensured. This would assist Public Advocate clients to access premises, education, and transport with the assurance that their needs have been considered in advance.

5. I agree with the suggestion that "The duty will need to ensure that duty holders are not responsible for circumstances outside their knowledge or control" but also suggest that the legislation outline a collaborative approach for adjustments, i.e. a responsibility for duty holders to ask what supports their users might find necessary or helpful, as well as a responsibility for users to provide clear information about their needs to assist the duty holder to understand and provide for the needs of their users.

6. I also support the recommendation requiring a duty holder to consult with the person with disability, discuss alternative options which are available to remove or reduce hardship, and document factors they have considered together. Encouraging a cooperative approach to these options will increase the ability of duty holders to attend appropriately to the needs of people with disability and empower the users of premises and services and their supporters to be specific about their needs.

7. Given the difficult intersection between the guardianship and the police and justice system, I support the opportunities in the DDA review to increase protection for people with disability.

Broadly, the Public Advocate is supportive of any legislative measures that seeks to uphold the wishes and rights of people with disability, and more specifically those who are unable to effectively advocate for themselves.

Yours sincerely



Anne Gale

Public Advocate