

ALRC 79

MAKING RIGHTS COUNT

Services for people with a disability

New disability services legislation for the Commonwealth

Review of legislation administered by the Department of Health and Family Services

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This Report reflects the law as at July 1996.

The policy discussed in this Report reflects that of the Commonwealth government at 2 March 1996.

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Commission Reference: ALRC 79

The Australian Law Reform Commission was established by the *Law Reform Commission Act 1973*. Section 6 provides for the Commission to review, modernise and simplify the law. It started operation in 1975.

Terms of reference

HEALTH AND COMMUNITY SERVICES LEGISLATION

COMMONWEALTH OF AUSTRALIA

Law Reform Commission Act 1973

I, MICHAEL LAVARCH, Attorney-General of Australia,

NOTING that

1. on 18 August 1992 the then Attorney-General, the Hon Michael Duffy, at the request of the then Minister for Health, Housing and Community Services (the Minister), referred to the Law Reform Commission (the Commission) for inquiry and report under the *Law Reform Commission Act 1973* section 6 the laws administered by the Minister that relate to programs for the provision of services by the Commonwealth or for the funding by the Commonwealth of services provided by other persons or agencies (the programs)
2. that reference was for an initial period of three years, until 18 August 1995
3. under the reference the Commission reported on the laws relating to the children's services program (Child care for kids 1994) and the aged care program (The coming of age 1995) administered by the Minister and is now reviewing the laws relating to the disability services program
4. laws relating to the housing program administered by the Minister in 1992 are now administered by the Minister for Housing and Regional Development
5. further laws have been enacted and are now administered by the Minister for Human Services and Health
6. the Minister for Human Services and Health has requested that the Commission continue and complete its review of the laws she administers

REFER to the Commission for inquiry and report under the *Law Reform Commission Act 1973* section 6 the laws administered by the Minister that relate to disability services, home and community care and health programs for the provision of services by the Commonwealth or for the funding by the Commonwealth of services provided by other persons or agencies (the programs). The Commission may also make a further report on legislation for the children's services program if it considers it desirable or necessary.

THIS REFERENCE

1. includes the Acts listed in Part 1 of the Schedule but excludes the Acts listed in Part 2 of the Schedule
2. does not extend to making recommendations about the underlying policy of the programs
3. extends to making recommendations on how Commonwealth legal policies (including administrative law, secrecy, privacy and criminal law), social justice and human rights should be reflected in new program legislation
4. should ensure proper standards of accountability while retaining flexibility and innovation in the delivery of services.

The Commission is to

1. make such interim reports under this reference as may be desirable to enable the progressive implementation of the recommendations on a program by program basis, as settled between the Commission and the Department of Human Services and Health
2. work closely with the Department of Human Services and Health and the Office of Parliamentary Counsel
3. consult, among others, relevant federal departments and agencies including the States and Territories, representatives of service recipients, community welfare organisations and other persons and bodies with a special interest in the programs concerned
4. complete this reference by 18 August 1997.

DATED: 18 August 1995

Michael Lavarch
Attorney-General

Schedule

Part 1 - Acts included in this reference

Child Care Act 1972

Childcare Rebate Act 1993

Defence (Re-establishment) Act 1965 Parts V and VA and section 59 in respect of powers and functions under those Parts, except in relation to payments to individuals

Delivered Meals Subsidy Act 1970

Disability Services Act 1986

Disability Services (Transitional Provisions and Consequential Amendments) Act 1986

Epidemiological Studies (Confidentiality) Act 1981

Handicapped Persons Assistance Act 1974

Health Insurance Act 1973

Home and Community Care Act 1985

Home Nursing Subsidy Act 1956

Medicare Agreements Act 1992

National Health Act 1953

Narcotic Drugs Act 1967 Sections 9, 10, 11, 13, 19 and 23, subsection 24(1) and so much of the rest of the Act (except sections 12 and 22) as relates to powers and functions under those provisions

Nursing Homes Assistance Act 1974

Social Welfare Commission (Repeal) Act 1976

States Grants (Home Care) Act 1969

States Grants (Nurse Education Transfer Assistance) Act 1985

States Grants (Paramedical Services) Act 1969

Supported Accommodation Assistance Acts

Tuberculosis Act 1948

World Health Organization Act 1947

Part 2 - Acts excluded from this reference

Australian Institute of Health and Welfare Act 1987

Australian Nuclear Science and Technology Organisation Act 1987 Part VIIA

Commonwealth Serum Laboratories Act 1961

Environmental Protection (Nuclear Codes) Act 1978

Family Law Act 1975 Part XIVA

Health Insurance Commission Act 1973

Health Insurance (Pathology) (Fees) Act 1991

Health Insurance (Pathology) (Licence Fee) Act 1991

Hearing Services Act 1991

Medical Research Endowment Act 1937

National Food Authority Act 1991

National Health and Medical Research Council Act 1992

Quarantine Act 1908

Quarantine (Validation of Fees) Act 1985

Therapeutic Goods Act 1989

Therapeutic Goods (Charges) Act 1989

Tobacco Advertising Prohibition Act 1992

1. Introduction

The reference

Background

1.1 On 18 August 1992 the then Attorney-General, Mr Michael Duffy, referred to the Australian Law Reform Commission for inquiry and report a large number of Acts administered by the Department of Health, Housing and Community Services (as it then was). The Attorney General did this at the request of Mr Brian Howe, then Minister for Health, Housing and Community Services. The Department is now called the Department of Health and Family Services and its Minister is Dr Michael Wooldridge. The Minister for Family Services is Mrs Judi Moylan. The terms of reference cover Acts that deal with Commonwealth service provision and Commonwealth funded service provision in areas including disability services, aged care, child care and health.

This part of the reference

1.2 Disability services is the third program area being reviewed by the Commission. The Commission has reviewed the Children's Services Program¹ and the Aged Care Program.² This paper is the third and final paper on disability services prepared by the Commission. The Commission released a short issues paper in May 1995³ dealing with issues from the point of view of people who use, who have used or who would like to use disability services. In the discussion paper released in August 1995⁴ those and other issues were covered in more detail. The Commission has examined the responses to both papers together in this report.

The terms of reference

1.3 The terms of reference outline some specific tasks for the Commission. They ask the Commission to

- make recommendations on how Commonwealth legal policies (including administrative law, secrecy, privacy and criminal law), social justice and human rights should be reflected in new legislation
- advise on the common elements to be included in the program legislation (with a view to achieving consistency as far as possible across programs)
- have regard to the need to ensure proper standards of accountability while retaining flexibility and innovation in the delivery of services.

The terms of reference state expressly that the reference does not extend to making recommendations about the underlying policy of the programs.

Aims of the project

1.4 The ultimate goal of the reference is to produce a series of new Acts for the major program areas of the Department. These are expected to be introduced into Parliament over several years. The Commission expects to work with the program areas to develop drafting instructions for the new legislation. The Office of Parliamentary Counsel will draft the legislation.

Constitutional issues

1.5 There are a number of heads of constitutional power that support disability services legislation. They include the appropriations power,⁵ the power to make grants to the States,⁶ the Territories power,⁷ the corporations power⁸ and the external affairs power.⁹ The power to provide invalid pensions¹⁰ and the social welfare power¹¹ are the principal sources of Constitutional authority. The social welfare power includes providing services for people who, because of their disability, experience barriers to participating fully in the community. The new legislation will draw on relevant heads of federal Constitutional power.

This report

What this report is about

1.6 This report looks at how the Commonwealth, through the Department of Health and Family Services (the Department), is meeting its responsibilities towards people with a disability. The *Disability Services Act 1986* (Cth) is the Department's main way of funding support services for people with a disability. The Commission makes recommendations in this report about how the new legislation should better reflect the Commonwealth's goals of fairness and equity. This report looks at the social justice and human rights responsibilities of the Commonwealth and assesses how effectively the Commonwealth is meeting those obligations through its disability programs. This report also looks at how the Act funds and regulates service providers and protects community resources.

Report divided into parts

1.7 This report is divided into four parts.

- Part 1 - Current arrangements for disability services and principles for the new legislation. In this part
 - chapter 2 sets out the services currently provided for people with a disability by the Commonwealth, the legislative authority for Commonwealth disability services and the national context in which those services are provided
 - chapter 3 examines the international and domestic legal and social justice responsibilities of the Commonwealth in providing disability services
 - chapter 4 sets out the broad principles for the new legislation based largely on the Commission's consideration of issues raised during public consultations.
- Part 2 - Access and equity. In this part
 - chapter 5 examines various definitions of disability and makes recommendations about those who should be caught by the scope of the new legislation
 - chapter 6 discusses the Commonwealth's techniques for planning disability services and recommends that the legislation should provide for a transparent planning process utilising objective, reliable data based on need and demand compiled following community consultation
 - chapter 7 examines the eligibility criteria for Commonwealth disability services and recommends that the new legislation provide for eligibility criteria based on need
 - chapter 8 looks at how people currently obtain access to disability services and recommends strategies to improve access, especially for people with particular needs
 - chapter 9 discusses how people's needs are assessed by services and recommends that the new legislation streamline assessment procedures and involve people with a disability more in their own assessments.
- Part 3 - Promoting the rights and needs of people who use disability services. In this part
 - chapter 10 examines the information needs of people with a disability and makes recommendations about better availability and co-ordination of information
 - chapter 11 makes recommendations about how the new legislation can ensure good quality services
 - chapter 12 examines the role of advocacy services in promoting the rights of people with a disability and makes recommendations about how advocacy services should be reflected in the new legislation
 - chapter 13 looks at employment issues affecting people with a disability and makes recommendations designed to promote justice for people with a disability in the workplace
 - chapter 14 recommends that the new legislation require the establishment of an internal complaints mechanism within services and an external body to deal independently with complaints and review of decisions made by services

- chapter 15 makes recommendations about how the new legislation can protect the physical privacy of and personal information about people using disability services.
- Part 4 - Funding and accountability of services. In this part
 - chapter 16 examines the current funding arrangements for disability services and the proposed new arrangements for disability employment services and recommends that the new legislation provide for funding to services based on them achieving outcomes for people with a disability
 - chapter 17 makes recommendations about how the new legislation should require services to account for the capital and recurrent funding they receive from the Commonwealth, the powers that Commonwealth officers should have, the corresponding duties to be placed on service providers and the sanctions the new legislation should impose for non-compliance by services with the legislation or the terms and conditions of funding
 - chapter 18 makes recommendations about how the new legislation should provide services with an avenue for review of decisions made by the Commonwealth and discusses whether the new legislation should protect commercial information about services.

Report reflects government policy up to 2 March 1996

1.8 In the course of researching and writing this report the Commission worked with the Department of Health and Family Services to gain an understanding of the Commonwealth's disability policy. At the time of publishing this report the disability policies of the new government following the March 1996 election had not yet been clarified. The policy discussed in this report, therefore, is that of the former government up until 2 March 1996.

The consultation process

Consultation

1.9 ***Consultation with federal, State and Territory agencies.*** In its work on this reference the Commission has worked closely with officers of the Department and consulted each State and Territory and some regional offices of the Department. It consulted a number of federal bodies whose interests and work were relevant to this inquiry, including the Human Rights and Equal Opportunity Commission, the Department of Employment, Education, Training and Youth Affairs and the Department of Social Security. The Commission also consulted State and Territory agencies with responsibilities for disability services.

1.10 ***Appointment of honorary consultants.*** Following its usual practice the Commission appointed a number of honorary consultants from a range of relevant organisations to help it with its inquiry. The names of consultants are listed at the end of this report. The Commission acknowledges with appreciation the contribution they have made to its work.

1.11 ***General community consultation.*** Following the publication of the disability services discussion paper in August 1995 the Commission consulted a wide range of organisations and individuals with a special interest in disability services in every State and Territory.

- ***Distribution of issues paper and discussion paper.*** The Commission distributed the issues paper and discussion paper widely (over 10 000 copies of the issues paper and almost 5 000 discussion papers were distributed). It sent them to every disability service provider receiving Commonwealth funding and to relevant peak organisations and interest groups. The Commission also made special efforts to reach people with a disability and their carers.
- ***Information workshops.*** Every person receiving an issues paper or discussion paper was invited to attend an information workshop. The workshops were advertised in the national and regional press. They were held in every capital city and in some regional areas. At the workshops the Commission gave information about the reference, talked about the issues paper and discussion paper and gave participants an opportunity to make comments. The workshops were attended by industry

representatives, service providers, people with a disability and their relatives, carers, academics and other people with an interest in disability services.

- **Public hearings.** In each Australian capital city the Commission held a public hearing at which members of the public were invited to speak. Ninety four organisations and individuals made oral submissions at these hearings.
- **Questionnaires and submissions.** The Commission received 444 responses to the questionnaire contained in the issues paper¹² and 186 written and oral submissions on the discussion paper. Submissions were from State and Territory governments, service providers, advocacy services, people with a disability and their carers, people from non-English speaking backgrounds, people living in rural and remote areas and trade unions. The names of the people who made submissions are listed in Appendix C.

1.12 **Focus groups.** A research consultant to the Commission conducted a number of focus group discussions comprising people with a disability and their carers. The information received from the focus group report helped the Commission gain an impression of the views of people with a disability and their carers who may otherwise have found it difficult to participate in the Commission's community consultations.

1.13 **Consultation with Aboriginal and Torres Strait Islander groups.** The Commission contacted representatives of Aboriginal and Torres Strait Islander councils and Aboriginal and Torres Strait Islander disability services and health care services asking for their comments on the discussion paper. Special focus group discussions were held with Aboriginal people.

Views expressed in consultations

1.14 This report recounts views expressed by people during many public consultations and in written and oral submissions to the Commission. These views are recited for the information they contain on specific issues addressed in this report and more broadly because they reflect the ideas, aspirations and frustrations of people who use and who provide services to people with a disability.

Recent and current reviews of disability services

1.15 The Commonwealth Disability Services Program and the Commonwealth Rehabilitation Service have undergone a number of reviews in recent times. They include

- Handicapped Programs Review¹³
- National Employment Initiatives for People with Disabilities¹⁴
- Senate Standing Committee on Community Affairs Report on Employment of People with Disabilities¹⁵
- Review of the Commonwealth Rehabilitation Service¹⁶
- National Inquiry into the Human Rights of People with Mental Illness¹⁷
- Investigation of privacy and disability issues¹⁸
- Strategic Review of the Disability Services Program¹⁹
- Evaluation of the Disability Reform Package²⁰
- Disability Advocacy Effectiveness Project²¹
- The demand for disability support services in Australia.²²

Another review due to release its final report at the time this report went to print is the

- Evaluation of the Commonwealth/State Disability Agreement.²³

The Commission has taken the findings of these reviews into consideration in making its recommendations in this report.

It does not cover the Home and Community Care (HACC) program

1.16 This report does not address the HACC program.²⁴ The HACC program involves the Commonwealth and State and Territory governments jointly funding services to help younger people with a disability and frail older people to stay in their own homes. The program also supports their carers. State and Territory governments administer the day to day aspects of the HACC program. Projects and funding levels are approved jointly by State and Territory and Commonwealth Ministers. The HACC program has recently been reviewed

- by the House of Representatives Standing Committee on Community Affairs
- jointly by the Commonwealth, States and Territories.

The federal government has provided an interim response to the report of the House of Representatives Standing Committee on Community Affairs, *Home But Not Alone: Report on the Home and Community Care Program*.²⁵ It is understood that the government will provide a more detailed response to both reviews once the Commonwealth/State review has been finalised.

Administrative review

1.17 The Administrative Review Council (ARC) has examined administrative review of programs funded by the Department. Its final report was published in July 1994. The Commission has taken account of the recommendations made by the ARC in its report to the extent that they relate to the application of Commonwealth legal policy in this program area.

Law and policy specifically relating to people with a disability

The Disability Services Act 1986 (Cth)

1.18 **Purpose of the Act.** The introduction of the *Disability Services Act 1986* (Cth) marked a turning point in the Commonwealth's legislative regulation of services for people with a disability. The Act was the result of a review of the *Handicapped Persons Assistance Act 1974* (Cth).²⁶ The review found that people with a disability wanted to participate in community life but were disadvantaged and prevented from doing so by not being able to access the same community services as everyone else. The *Disability Services Act 1986* (Cth) was intended to help meet the Commonwealth's obligations to people with a disability by assisting them to take their place in the community and to overcome some of those disadvantages. The objects of the Act are to assist people with a disability to

- participate fully and be integrated as members of the community and
- achieve increased independence, employment opportunities and self esteem.

In his second reading speech on the Bill, Senator Don Grimes, then Minister for Community Services, said that the new Act would provide a legislatively sanctioned framework for maximising the potential of people with a disability through the provision of appropriate, responsive and well managed services within a flexible program. He said that the new Act would give proper recognition to the rights and dignity of people with a disability and afford them the opportunity for the fullest possible participation in the community.²⁷

1.19 **Scope of the Act.** The *Disability Services Act 1986* (Cth) is essentially a funding mechanism. It provides that the Commonwealth (through the Minister for Health and Family Services) may approve funding to eligible organisations or to States and Territories to provide services for people with a disability.²⁸ The Act provides that the Minister may approve a class of service including

- accommodation support services
- advocacy services
- competitive employment training and placement services
- independent living training services
- information services
- print disability services

- recreation services
- respite care services
- supported employment services
- finance for research and development activity.

Services receiving funding for the first time after the Act became effective in 1987 are expected to meet high standards and provide people with greater opportunities to develop their skills. Services that existed before the Act continue to be funded but are required to develop and meet the higher standards required of new services. The Act also provides for the Commonwealth to provide rehabilitation services directly. It does this through the Commonwealth Rehabilitation Service (CRS). The Act provides that rehabilitation programs may include

- employment and vocational training, educational courses and programs, and mobility and other independent living training
- diagnostic and assessment services, occupational therapy, physiotherapy, speech therapy, and counselling and social work services
- accommodation, transportation and personal support services
- prostheses and aids, including home, workplace, vehicle, appliance and equipment modifications
- maintenance and repair of prostheses and aids
- books, tools of trade and other equipment and appliances
- any other goods and services the Secretary of the Department considers necessary or desirable.²⁹

The Act affords clients of the CRS protection against the unauthorised use of personal information and the opportunity to have certain decisions of the CRS reviewed by the Administrative Appeals Tribunal. No similar protections are afforded under the Act to consumers of services provided by funded organisations. The Commission discusses in this report whether this approach adequately discharges the obligations owed by the Commonwealth to people with a disability.

1.20 *Principles and objectives.* In 1987 the then Minister for Community Services, following community consultation, developed principles and objectives setting out the rights of people who use services funded and provided by the Department. The rights derive from human rights and social justice principles. The CRS and organisations receiving funding under the *Disability Services Act 1986* (Cth) are required to follow these principles in the way they provide services. The principles are not set out in the Act but are published in the government Gazette. The principles state that people with a disability have the right to respect for their individual human worth and dignity regardless of the origin, type and degree of their disability. The principles and objectives state that every person with a disability should have the chance to

- develop fully his or her physical, social, emotional and intellectual abilities
- use services which help him or her to achieve a reasonable quality of life
- participate in decisions which affect his or her life
- receive services in ways which result in the least possible restrictions of his or her life and opportunities
- make a complaint about services he or she receives.

The objectives require service providers to deliver their services in a way which enables a person with a disability as far as possible to

- mix with his or her local and the wider community, be independent and get a job
- have a place to live of the kind that people in the general community would like to have
- have his or her individual needs and goals met
- have his or her skills recognised.

Other objectives are aimed at ensuring that services

- meet the needs of people who are doubly disadvantaged by their gender, ethnic origin or Aboriginality

- are answerable to their users and their advocates, to the Commonwealth and to the community for the quality of the services they provide
- make sure that people with a disability have access to advocacy support
- have appropriate ways for people with a disability to make complaints about services
- involve people with a disability in the planning and operation of the services they receive
- respect the rights of people with a disability to privacy and confidentiality.

In addition, the objectives provide that no single service should have control over all or most aspects of the life of a person with a disability.

Disability Discrimination Act 1992 (Cth)

1.21 ***Purpose of the Act.*** The *Disability Discrimination Act 1992* (Cth) is the other principal piece of legislation discharging the Commonwealth's responsibility to people with a disability. The major purpose of the Act is to achieve effective access for people with a disability to the services and opportunities afforded to other Australians. In his second reading speech, the then Attorney General Mr Michael Duffy said that the legislation would constitute the legal basis for the protection and promotion of the rights of people with a disability and would subsequently help to overcome social and economic disadvantage by assisting people with a disability to participate as equals in Australian society. He said that the legislation grew out of a vision of a fairer Australia where people with a disability were regarded as equals, with the same rights as all other citizens, with recourse to systems that redress infringements of their rights and with the opportunity to participate in the life of the community to any degree they wish.³⁰ Most States and Territories have their own legislation which promotes, to varying degrees, equal opportunities and prevents discrimination against a person because of his or her disability.³¹

1.22 ***Scope of the Act.*** The *Disability Discrimination Act 1992* (Cth) makes it unlawful to discriminate against any person because that person has a disability, in the area of

- employment
- education
- access to premises used by the public
- provision of goods, services and facilities
- accommodation
- buying or selling land
- activities or clubs
- sport
- administration of Commonwealth government laws and programs.

The Act is administered by the Human Rights and Equal Opportunity Commission (HREOC) through the Disability Discrimination Commissioner. The Disability Discrimination Commissioner may receive a complaint in writing from a person with a disability (or someone may complain on his or her behalf) alleging he or she has been unlawfully discriminated against. The Disability Discrimination Commissioner must, subject to certain conditions, investigate the allegation and attempt to resolve the problem by conciliation. If the problem cannot be resolved by conciliation, the Commission may conduct an inquiry into the complaint and determine whether the act was discriminatory. If the Commission finds the complaint substantiated, it may, among other things, declare that the respondent behaved in a discriminatory way and should not behave in such a way again. It can also make an order to be endorsed by the Federal Court declaring that the respondent should pay the complainant damages by way of compensation. Together with the *Disability Services Act 1986* (Cth), the *Disability Discrimination Act 1992* (Cth) provides the legislative base through which the Commonwealth discharges its obligations to people with a disability.

Scope of the Disability Services Act

Current legislation lacks important elements

1.23 The current *Disability Services Act 1986* (Cth) does not set out a comprehensive legal framework for disability services. A number of important provisions that affect the rights of people with a disability and the interests of service providers are not contained in the Act but are found in delegated legislation or funding agreements. The Act itself does not provide for the rights of people who use disability services or the outcomes they are entitled to expect, the conditions on which funding is given, how service quality is monitored or how the provisions of the Act can be enforced. As a result, the Act tends to concentrate more on the operation of funding mechanisms for services than on matters directly affecting people with a disability.

What services are discussed?

1.24 This report makes recommendations about how new legislation should contribute to meeting the needs of people with a disability. Since the new legislation will be Commonwealth legislation, the report concentrates on the services that are currently the responsibility of the Commonwealth, such as the CRS and employment as well as other services provided by the range of organisations which receive funding from the Department. These services include

- open labour market employment services
- supported employment or business services
- sheltered workshops and Activity Therapy Centres
- advocacy services
- print disability services
- information services
- other initiatives to improve the independence of people with a disability.

Need for an integrated approach

1.25 The Attorney General has asked the Commission to look at legislation administered by the Department of Health and Family Services. He has not asked it to look directly at services provided by other departments or by States and Territories. This report therefore does not deal directly with accommodation support, recreation, respite and similar services for people with a disability where funding support is the responsibility of the States and Territories. However, the Commission recognises the importance of an integrated approach to providing the whole range of services that people with a disability are likely to need. The *Disability Services Act 1986* (Cth) refers to services generally and is not limited to services the Commonwealth currently provides. The administrative arrangements that define services for which the Commonwealth and the States and Territories are responsible are currently under review and may change in the future. The Commission has considered the impact that the division in administrative responsibility has on people with a disability and how the Commonwealth should co-ordinate disability services at the national level. Based on its consideration of the views expressed in submissions and consultations, the Commission identifies the division of responsibility for service provision between the Commonwealth and the States and Territories as a major obstacle to the effectiveness of disability services.³²

Tension in the terms of reference

1.26 *Not to look at policy.* The terms of reference for the Commission's inquiry state expressly that the reference does not extend to making recommendations about the underlying policy of the programs'. The Commission cannot therefore recommend that the Department only fund particular types of services or that it spend more money on services. The terms of reference do, however, ask the Commission to make recommendations about how social justice and human rights should be reflected in the new program legislation' and whether or not the Department is meeting legal requirements and human rights and social justice goals in the way it funds and provides disability services.

1.27 **Recognising inequities.** In order to consider how legislation should reflect legal policy, human rights and social justice concerns it was necessary for the Commission to ask some basic questions in its inquiry about program policy and about services administered by the States and Territories. In the course of its examination of the Commonwealth's disability programs, the Commission became aware of many inequities between individuals, including between individuals in one State and those in another. The Commission takes the view that its terms of reference require it to recognise these equity issues and to comment on the tension which exists between programs and legal, social justice and human rights policies. The new legislation should not entrench aspects of program policy and divisions of responsibility which would perpetuate the present inequitable outcomes for people with a disability and their carers.

1.28 **Reconciling social justice policies and budget-caps.** The Commission is aware of the limited resources available for disability services. The Commonwealth's disability program is not an entitlement program but is constrained by a budget cap. This budget is part of the underlying program policy. The Commission cannot make recommendations about this. However, where there are limited resources available for disability services a particular responsibility is placed on program administrators by Commonwealth legal, social justice and human rights policies to ensure that those people who need assistance and for whom the Commonwealth acknowledges responsibility are treated fairly. The Commission discusses those responsibilities in this report and makes a number of recommendations designed to ensure that those responsibilities are fully discharged.

The future for disability services legislation

1.29 **Consultations revealed flaws in existing law and its implementation.** A significant number of submissions received by the Commission and views expressed in consultations were critical of the *Disability Services Act 1986* (Cth). The major criticisms were that the Act

- operates more as a mechanism for funding services and provides little of substance relating to the rights and needs of people with a disability
- is not implemented in a nationally co-ordinated way by a single agency that advances the interests of people with a disability regardless of which service they use or which State or Territory they live in
- does not give legal effect to the principles and objectives gazetted under it
- is not directed to the full community of people with a disability but is restricted to a target group based on type and cause of disability
- does not provide for funding to be distributed on the basis of a national planning model that is open to legal challenge and takes into account the needs of people with a disability and the principles and objectives of the Act
- does not provide sufficient redress for complaints people may have about services or adequate administrative review of decisions made under the Act by the Commonwealth or by services.

1.30 **Law based on people not on services.** Throughout this report the Commission recommends that the focus of the new disability legislation be changed to reflect more effectively the rights and interests of people with a disability as influenced by international law and Australian domestic law and social justice policy.³³ The Commission's recommendations in this report if implemented would not enable people with a disability directly to access Commonwealth funding. Nor would they guarantee access to services. The recommendations are aimed at providing a legislative base to allow for funding to be channelled through services to achieve fair, equitable, efficient and effective service provision for people with a disability. People with a disability should, under the new legislation, have the right to fair treatment and equal opportunity and to have their grievances about services addressed.

1.31 **Principles for the new legislation.** The Commission recommends in this report principles for fairer, rights-based legislation.

- This report recommends that the new legislation have as its focus the rights and interests of the ultimate consumer of disability services rather than the service provider. This change of focus should be achieved by

- having as the primary objective of the legislation respect for the right of people with a disability to fair and equal treatment in the provision of services³⁴
 - including a statement of principles in the legislation and an explanation of how those principles should be applied to ensure, regardless of type, cause or severity of disability
 - (i) equal access to services
 - (ii) fair assessment of need
 - (iii) the right to be consulted about planning issues and matters that affect people as service users
 - (iv) the right to privacy
 - (v) the right to complain about services³⁵
 - clarifying that the services provided under the legislation are open to any person with a disability, regardless of the type or cause of disability, provided they meet eligibility criteria.³⁶
- This report recommends that the new legislation should aim to achieve equitable access to services and to identify and meet the greatest need in the community within the budget available. It should achieve this by
 - providing for effective data collection and community consultation to ensure planners are aware of the greatest areas of need³⁷
 - providing for eligibility criteria to be developed based on need³⁸
 - streamlining the ways in which people can access services³⁹
 - obliging the Commonwealth to identify people with particular needs and develop strategies to improve their access to services⁴⁰
 - stating that the major outcome of any assessment process should be that people have their needs, abilities and aims in life properly identified and acted upon⁴¹
 - This report recommends that the new legislation should ensure that decision makers (whether they be government agencies or service providers) are accountable to consumers for their actions. It should achieve this by
 - establishing a model of decision making to implement the legislation that focuses the mind of the decision-maker on meeting the principles of the legislation and on the paramount need to respect the rights and needs of people with a disability
 - outlining the broad criteria on which planning, funding and other significant decisions made under the legislation are based so that such decisions are made transparently and are open to legal challenge⁴²
 - establishing a mechanism through which people can enforce their rights by complaining or seeking judicial or administrative review of decisions made in the course of implementing the legislation.⁴³
 - This report recommends that the new legislation should facilitate greater national co-ordination of disability policy and service delivery. It should achieve this by
 - establishing an Office on the Equal Status of People with a Disability within the Office of Prime Minister and Cabinet to drive policy development and co-ordinate national policy and service delivery across Commonwealth agencies and between States and Territories⁴⁴
 - establishing a mechanism to ensure States and Territories account to the Commonwealth for the proper use of Commonwealth funding they receive to administer disability services.⁴⁵

Recommendation 1

The Commission recommends that the object of the new Disability Services legislation should be the provision of services to people with a disability rather than simply the provision of funds to service providers as is currently the case. The new legislation should be based on respect for the rights of people with a disability and its administration should aim to achieve high quality services to meet their needs.

PART 1 - PRINCIPLES FOR THE NEW LEGISLATION

2. An overview of services available to people with a disability

Introduction

2.1 This chapter gives an overview of how services are provided in Australia for people with a disability. It focuses on the Commonwealth's responsibilities but features the Commonwealth's role in the context of the number of people in Australia with a disability, the services provided by community organisations and carers and services provided by States and Territories and local government. It is a descriptive chapter only and does not evaluate the effectiveness of the services.

Australians with a disability

Numbers are difficult to estimate

2.2 There has been no coherent system for collecting data on the number of Australians with a disability. This has resulted in a general lack of data. The occasional study has presented figures which, due to an ad hoc approach, must be regarded as unreliable. Since 1983 there have been a number of studies, all of which have faced the problem of defining what a disability actually is, its severity and of identifying people with a disability including those who do not identify themselves as having a disability although they meet the criteria set out in the study. Despite these problems, some rough estimation of the number of people in Australia with a disability can be made. Two recent studies, conducted by the Australian Bureau of Statistics (ABS)⁴⁶ and the Australian Institute of Health and Welfare (AIHW)⁴⁷ put the figure at roughly three million Australians or 18% of the population.

For whom should the Commonwealth be responsible?

2.3 *Not everyone needs or uses Commonwealth services.* This broad figure obviously includes those with a diverse range and differing severity of disability. Not all of the three million people receive, or have a need for disability services provided by the Commonwealth. The Commonwealth funds the provision of certain services for 20% of people with a disability. Some people are able to manage using mainstream services generally available to all Australians, either because their disability is not particularly severe or their financial or social circumstances allow them to cope without disability specific services provided by the Commonwealth. Other people need services provided only by State or Territory governments. However, many people who may need assistance from Commonwealth disability services are not able to access them either because there are not enough services available, because people do not have enough information about services, the services are not located conveniently or the persons do not fall within the target group or the service's eligibility criteria. The Commission will address these issues in this report.

2.4 *Current Act defines target groups.* The *Disability Services Act 1986* (Cth) (the Act) does not contain a definition of disability. It defines the target group for which the Department and the Commonwealth Rehabilitation Service (CRS) can provide services.⁴⁸ To be included in the target group for services that the Commonwealth funds other organisations to provide, and for the services that the Commonwealth provides directly through the CRS, people must, among other things, have a disability that is caused by a physical, intellectual, psychiatric or sensory impairment or a combination of those impairments.

2.5 *A broad definition of disability.* At para 5.10-5.12 of this report the Commission recommends a broad inclusive definition of disability. People are different and have different needs. The Commission is of the view that exclusion from services based on the type or cause of disability is an inadequate and unfair method of determining who should receive services. The definition of disability recommended by the Commission combines the broad definition currently in the *Disability Discrimination Act 1992* (Cth) and the concept of impairment used by the World Health Organisation.⁴⁹

An overview of services available to people with a disability

How are services currently provided?

2.6 Services are not provided in any one way or by a single organisation. Services are provided by a range of different agencies and individuals, each with its own method of doing things. Some disability services are provided directly by the Commonwealth, others are provided by organisations which are funded by the Commonwealth. The Commonwealth also gives money to the States and Territories to provide services, and States and Territories likewise contribute funding for the provision of services within their own jurisdictions. Local governments, carers and community organisations also fund and provide services. Some services are directed to people with a disability and others are general mainstream services. This report looks mainly at Commonwealth services but considers the relationship between Commonwealth services and the services provided by other agencies.

Support provided to people with a disability by carers

2.7 The majority of people with a disability who require some form of assistance are cared for on an informal basis by relatives or friends. A 1988 study by the Australian Bureau of Statistics estimated that 322 600 people were providing care on a full-time basis for 337 800 people with a disability.⁵⁰ In 1993 the Australian Bureau of Statistics reported their findings on a major study of disability, ageing and caring.⁵¹ They found that 1 161 800 people with a disability who stated that they received some help said that it was provided by their spouse or partner, where the carers lived with the person with the disability and such spouse or partner provided all the major needs of the people they cared for. 168 400 people (or 14.5%) with a disability said that they received most of their help from a friend or neighbour. In the same study, it was found that of 577 500 people who were principal carers of a person with a disability, 425 200 cared for a person in the same household and 152 300 cared for a person who lived outside their household. The study found that on average informal care givers provide 82.5% of the total needs of a significant number of Australians with a disability. A more recent study found that 1.5 million people currently provide part-time assistance to people with a disability.⁵² This study also found that among people with a disability who live with friends or family, the majority do not rely totally on formal assistance from organisations or services. For example, 68.6% of people with a disability who live with their families do not receive any type of formal assistance outside the care their families provide while 3.2% of people living with family only received formal care. 28.2% relied on a combination of both informal and formal care.

Support provided to people with a disability by community organisations

2.8 A number of community organisations support people with a disability by representing and promoting their rights and interests at government forums and in the public arena. Some groups represent the interests of particular disability groups⁵³ while others represent all people with a disability.⁵⁴ Other groups represent the carers of people with a disability.⁵⁵ Branches of the Aboriginal and Torres Strait Islander Commission and the Federation of Ethnic Communities' Councils of Australia promote the interests of Aboriginal and Torres Strait Islander people with a disability and people with a disability from non-English speaking backgrounds respectively. Service providers are co-ordinated and represented by ACROD and ACE (Association of Competitive Employment).

Support provided to people with a disability by local government

2.9 Local governments often provide land or buildings to be used for disability services and also primary services such as footpath access and provision for car parking. Many local government organisations also provide services for people with a disability and many local councils have a Disability Services Co-ordinator and/or Access Committees.

Support provided to people with a disability by States and Territories

Services provided under disability services legislation

2.10 **Responsibility divided with the Commonwealth.** The *Disability Services Act 1986* (Cth) states that the Commonwealth may provide a range of disability services. Since 1992 the Commonwealth has divided responsibility for administering disability services with the States and Territories.

2.11 **The Commonwealth/State Disability Agreement.** In 1991 the Commonwealth and the States and Territories signed the Commonwealth/State Disability Agreement (the CSDA). The CSDA is a five year agreement intended to clarify the responsibilities of the Commonwealth and States and Territories. States and Territories were required to and did develop legislation complementary to the *Disability Services Act 1986* (Cth). The CSDA came into effect progressively in different States and Territories during 1992 and 1993. Under the CSDA the Commonwealth is responsible for administering services designed to improve employment options for people with a disability. The Commonwealth also administers a small number of national services that are designed to improve the independence of people with a disability, such as national information services and print disability services. The States and Territories have responsibility for administering accommodation support, respite, independent living training, recreation and other similar services. The Commonwealth gives money to the States and Territories to assist them to provide quality services. Both the Commonwealth and States and Territories can fund advocacy services. The CSDA does not include the Commonwealth Rehabilitation Service.

Services provided by the States and Territories outside disability services legislation

2.12 State and Territory governments provide a range of services supporting people with a disability apart from the services that fall within the Disability Services Act. States and Territories provide services through the public hospital system and mental health facilities.⁵⁶ State and Territory governments are responsible for administering aids and appliance schemes,⁵⁷ wheelchairs and other assistance to people with a disability. States and Territories also provide training, apprenticeships and labour market programs funded by the Department of Employment, Education, Training and Youth Affairs (DEETYA) for long term unemployed people including people with a disability. States and Territories provide public housing for people with a disability and administer the Home and Community Care (HACC) program.⁵⁸

Attempts to co-ordinate Commonwealth and State and Territory responsibilities

2.13 Measures have been introduced to attempt to co-ordinate Commonwealth and State and Territory services to make them more accessible to people with a disability.

- **Standing Committee of Community Services and Income Security Administrators.** The Disability Services Sub-Committee (DSSC) is a sub-committee of the Standing Committee of Community Services and Income Security Administrators. The DSSC consists of the disability services program managers of the Commonwealth and each State and Territory community services department. The committee meets to discuss policy and implementation issues relating to the CSDA and to provide a national focus for disability service issues as they relate to policy, planning, practice, management trends and co-ordination of services.
- **Council of Australian Governments (COAG).** The Council of Australian Governments is a regular meeting of Commonwealth, State and Territory heads of government to attempt to seek better co-ordination of policy and service delivery between governments across a range of issues including disability services.
- **National transport strategy.** The Australian Transport Council, which includes Federal, State and Territory Ministers for Transport, has established a taskforce of representatives of transport departments, the disability community, local government, private transport operators and the Disability Discrimination Commissioner. In June 1996 the Australian Transport Council adopted draft standards prepared by the taskforce as part of a national action plan for full equality of access to public

transport for people with a disability. The taskforce is currently developing a regulatory impact statement for consideration by the Attorney General.

Support provided to people with a disability by the Commonwealth

History of the Commonwealth's involvement in disability services

2.14 *Establishing the invalid pension.* The Commonwealth has been involved in providing funding for people with a disability since 1908 when it introduced the invalid pension. Caring for, or providing services for people with a disability was seen as a charitable, rather than a government responsibility at that time. The current invalid pensions include the Disability Support Pension and the Sickness Allowance. They are administered under the *Social Security Act 1991* (Cth). The Commission is not considering issues concerning the Disability Support Pension in this report.

2.15 *Early rehabilitation and other support services.* In the 1940s, largely as a result of the Second World War, the number of Australians with a disability increased dramatically. Rehabilitating people with a disability became a public issue requiring a government response. The Commonwealth, through the CRS, began to provide rehabilitation and other disability services in large institutions, mainly in capital cities. The CRS operated under the old *Social Security Act 1947* (Cth). Sheltered workshops and accommodation services were set up by volunteer organisations. In the 1960s and 1970s the Commonwealth introduced a series of legislative measures funding these services. The *Handicapped Persons Assistance Act 1974* (Cth) enabled the Commonwealth to fund organisations to provide accommodation, employment and other support services for people with a disability to assist them to live full and productive lives. That Act helped promote community awareness of the difficulties faced by and the needs of people with a disability.

2.16 *International Year of Disabled Persons.* This awareness was heightened by the United Nations International Year of Disabled Persons in 1981 with its theme of breaking down the barriers that prevented people with a disability from achieving full equality. The focus of attention at that time, however, was on looking after people with a disability and providing sheltered support in large institutions, not on recognising the rights of people with a disability to take their place fully in the general community.

2.17 *The situation today.* The philosophy of integration into the general community continues today in the current *Disability Services Act 1986* (Cth). The CRS and the new services funded by the Commonwealth since the Act came into operation are not institutions but small units or businesses located in large cities and in rural areas. The aim is to provide support to people in their own communities so that they can increase their independence and live in the community as other citizens. A number of institutional services (or sheltered workshops) still exist but are expected to strive to meet the goals of integration and independence set down by the Act.

Support provided by the Commonwealth

2.18 The Commonwealth, through the Department of Health and Family Services (the Department), supports people with a disability by

- direct service provision through the CRS
- funding organisations to provide employment services
- funding organisations to provide other services such as advocacy services, information services, print disability services and the Continence Aids Assistance Scheme
- sponsoring industry projects
- funding research and development projects
- funding State and Territory governments (who also contribute their own funding) to provide accommodation support, respite, independent living and recreation services

- providing grants to State and Territory governments to administer aids and appliance schemes for people with a disability
- jointly funding with the States and Territories the Home and Community Care Program (HACC)
- paying an allowance to individuals caring for people with a disability through the Domiciliary Nursing Care Benefit (DNCB)
- providing pharmaceutical and other medical benefits.

Other Commonwealth Departments support people with a disability by

- providing employment and training programs (Department of Employment, Education, Training and Youth Affairs)
- providing income support (Department of Social Security)
- providing services for Veterans (Department of Veterans Affairs)
- providing tax and tariff concessions on aids and modifications (Department of Industry, Science and Tourism through the Australian Customs Service).

The Commission has been asked to look only at the services provided by the Department of Health and Family Services.

Attempting to co-ordinate Commonwealth services

2.19 It can be difficult for people with a disability to find out about and get access to services administered by many different agencies. In an attempt to improve awareness of and access to Commonwealth services, the Commonwealth has introduced two major strategies.

- ***Disability Task Force.*** The Disability Task Force is an inter-departmental committee chaired by the Department of Health and Family Services. It was established in 1988 and co-ordinates disability related policy development and implementation across all government departments. Since that time its role has evolved from a focus on employment programs to broad rights and access issues across the Commonwealth. A key area for the Task Force is the development of mechanisms to improve the links between departments to ensure people with a disability have access to all relevant programs and services.
- ***The Disability Reform Package.*** The Disability Reform Package (DRP) is a Commonwealth Government initiative introduced in 1991 to provide a more active system of payment and support for people with a disability. The aims of the DRP are to
 - improve the participation of people with a disability in employment, education and training activities
 - make it easier for people with a disability to participate in, and contribute to, the life and work of the community
 - make sure that people who are severely disabled and who have limited prospects get adequate and secure income support.

Staff from the departments of Health and Family Services, Employment, Education, Training and Youth Affairs (DEETYA) and Social Security (DSS) work on disability panels.⁵⁹ The DSS may refer people to the panels when they apply for the Disability Support Pension or Sickness Allowance, even if they are not eligible to receive those benefits, or when those benefits are being reviewed. It is not compulsory to be assessed by a panel. The panel members jointly assess the capacity of people with a

disability who have employment related goals to see if they would benefit from receiving assistance. The panels may refer people capable of employment or training outcomes to the CRS or to other employment services funded by the Department or to DEETYA programs depending on their needs and goals. The operation and effectiveness of the DRP has recently been evaluated. The DRP was found to be generally successful in achieving employment outcomes for people with a disability although there was scope for improvement.⁶⁰

The Commonwealth as a direct service provider

The Commonwealth Rehabilitation Service

2.20 What is the CRS? The CRS is a direct service provider operating under Part 3 of the *Disability Services Act 1986* (Cth).⁶¹ It aims to reduce the personal, social and financial cost of disability to the individual and to the community through the direct provision of rehabilitation services. Its major functions are to

- provide social and vocational rehabilitation to people with a disability to help them find and keep employment
- assist people with a disability to live independently.

While the Act gives equal weight to vocational and independent living goals, CRS guidelines restrict the provision of independent living services to people whose disability or personal circumstances prevent them from working or from achieving a satisfactory level of independence without assistance. The CRS guidelines also state that the objects of the Act are more likely to be met through the provision of vocational programs rather than non-vocational programs.

2.21 Structure is decentralised. Historically the provision of rehabilitation services was largely confined to major cities. In an attempt to become more accessible and responsive to local needs and as a result of the Handicapped Program Review, the CRS, in 1986, expanded its network of regional units in urban and rural areas.⁶² Regional units are located in metropolitan and country areas. The national office in Canberra co-ordinates the program and develops national policy. It distributes funding to State and Territory offices which manage the distribution of resources and provide administrative support to the regional units. All actual rehabilitation work is done at the regional level. The regional manager has control of the unit's budget and is responsible for efficient and effective service delivery. Each regional unit has a team of case managers who may include counsellors, social workers and other health professionals who work with individual clients to plan and monitor programs. Some regional units also have a Job Development Officer to specialise in seeking and securing employment for clients. In other units, the case manager is responsible for placing the client in employment if that is the client's goal. Some units have an Aboriginal Rehabilitation Officer to assist Aboriginal clients to receive the services they need.⁶³ The CRS has also established specialist units to help people with a psychiatric disability or with an Acquired Brain Injury (ABI).

2.22 What needs is the CRS supposed to meet? The CRS provides individualised rehabilitation programs for people of working age (14 to 65 years) with a disability attributable to an intellectual, psychiatric, sensory or physical impairment or a combination of those impairments. Before approving a rehabilitation program the Secretary of the Department or his or her delegate must be satisfied that it will result in the person having a substantially increased capacity to retain paid employment or live independently. Most people who use the CRS want to

- prepare for, find and retain employment or
- live independently, that is, to participate in normal daily activities such as leisure pursuits and to have the ability to interact with the community.

The CRS does not provide continuing support. The average CRS program lasts about six to nine months.

2.23 How many people does it help? In the 1994-5 financial year, 41 509 clients received support from the CRS. Of these clients, 6 840 were placed in employment.⁶⁴

What rehabilitation services does the CRS provide?

2.24 Vocational assistance and training. The majority of programs the CRS provides are vocational and training assistance programs. The CRS provides services to assist people whose goal is either to return to work after an accident or illness or to prepare for work and be placed in a job. The programs may include

- career counselling and planning
- information about disability and how to manage its effects
- improving the client's job seeking skills
- identifying suitable work
- training in specific skills
- stress management
- modifying home, workplace or car (where appropriate)
- providing equipment to increase the client's independence at work or home
- developing recreational and leisure activities
- linking to community support groups
- assistance in job seeking and job placement
- work training placements.

The CRS does not offer continuing support once a person has been placed in employment.

2.25 Purchase of services. If the regional unit cannot provide the appropriate support from its existing staff it can purchase specialist services from local providers and buy or hire necessary equipment or services to help each client.

2.26 Independent living. The Act says that the CRS can provide independent living rehabilitation programs.⁶⁵ A small percentage of the CRS' clients have independent living goals only.⁶⁶ This means that they want to live more independently but do not want to get a job as the outcome of their involvement with the CRS. The aim of an independent living program is to give a person greater independence in the home and greater access to the community. Programs vary from individual to individual and may include

- assessment of the person's abilities
- skills training and development in personal care, mobility, transport, domestic tasks and the use of community resources
- personal development programs including stress management and the building of confidence, self-esteem and assertiveness
- the provision of aids and appliances and training in their use
- home modifications
- individual and family counselling
- vehicle modifications and driver training

- the identification of a person's leisure options and development of appropriate skills
- the provision of advice and advocacy to help the person assert his or her rights
- introducing the person to support groups or services.

These programs may be provided on a personal or group basis or as a combination of both.

2.27 *Workers' compensation and occupational health and safety matters.* The CRS is an accredited provider to the major statutory workers' compensation insurers and regulators.⁶⁷ The CRS also conducts occupational health and safety workplace inspections on a cost recovery basis.

What funding does the CRS receive?

2.28 The CRS receives an allocation of funds from the budget each financial year.⁶⁸ Those funds are held in a trust account for the exclusive use of the CRS. The trust account also contains money recovered from insurers of clients and revenue generated from Occupational Health and Safety and workplace inspections. Funding is allocated to each State and Territory headquarters taking into consideration working age population, the cost of rehabilitation programs in each State and Territory, overheads associated with rural and remote communities and the provision of services to Aboriginal people and people from non English speaking backgrounds. States and Territories distribute the funds to the regional units. The amount that each unit receives depends on the number of people in the target group, the demand for CRS services in each area and other local factors. The money covers the salaries of staff and the cost of providing and buying specialist staff and services for those clients entitled to receive free services.

What do clients pay?

2.29 People who receive a pension or other Commonwealth allowance do not pay for the CRS services they receive.⁶⁹ The CRS recovers costs against

- insurers of people who are covered under workers compensation
- people who are potentially covered by insurance, that is, people involved in litigation with insurance companies (the CRS will put the potential insurer on notice that it is to pay for the client's services in the event of the client being successful in the litigation or if the matter is settled; if the client is not successful, the CRS does not recover the costs)
- companies that use the Occupational Health and Safety and disability prevention services offered by the CRS.

Insurance companies that accept liability approve the client's rehabilitation program and pay the CRS on a monthly basis.

Services funded by the Commonwealth - the Disability Services Program

Commonwealth may fund eligible organisations'

2.30 The *Disability Services Act 1986* (Cth) provides that the Minister may approve eligible organisations' and State and Territory governments to provide services for people with a disability. Eligible organisations are defined to mean

- a non-profit body corporate
- a local governing body established by or under the law of a State or Territory
- a tertiary institution within the meaning of the *Employment, Education and Training Act 1988* (Cth)

- any other society, association or body approved by the Minister.⁷⁰

The Minister has approved a small number of for profit organisations to provide services.

Services provided for people in the target group'

2.31 Eligible organisations must provide services for people who are substantially in the target group'. The target group is defined as people with a disability that

- is the result of an intellectual, psychiatric, sensory or physical impairment or a combination of such impairments
- is permanent or likely to be permanent and
- results in a substantially reduced capacity for communication, learning or mobility and the need for continuing support services.⁷¹

Employment services funded by the Commonwealth

The Department funds approaches to service delivery rather than particular types of services

2.32 There are a number of models of service delivery funded by the Department. This section describes some current examples. The Commission notes that the recent Strategic Review of the Disability Services Program (the Baume report) recommended that the existing employment service types be replaced with employment and employment preparation support for individuals.

Services to assist people with a disability to find and keep work in the open labour market

2.33 **Types of open labour market services.** The Commonwealth funds organisations to provide services to enable people with a disability to find, compete for, train for and keep employment in the open labour market, that is, in the ordinary or general workplace. Open labour market services did not exist before the *Disability Services Act 1986* (Cth). They are known as eligible services' and most are funded under s 10 of the Act. A small number of services are funded under sections 12a and 13 of the Act. All open labour market services are expected to reflect the objectives of the Act to assist people with a disability to become fully integrated and independent members of the community. The major types of open labour market services the Department currently funds are Competitive Employment Training and Placement (CETP) services and Individual Supported Jobs (ISJs). CETP and ISJ services offer training for a particular job, help with finding a job and starting employment in the general labour market and continuing support once the client has started employment. That support can involve visiting the client at work to see if he or she is having trouble adjusting to the workplace or further training if necessary, for example, if the nature of the job changes. Continuing support may mean assisting people with everyday tasks so they can function effectively at work but may not be specifically related to the job. The Commonwealth funds open labour market services to provide employment support for people with a disability. It does not fund the business or commercial side of the organisation.

2.34 **What needs do open labour market services meet?** Open labour market services place and support people in jobs that pay an award wage or a productivity wage based on an award. Services assisting people with a disability to obtain and keep employment in the open labour market are designed for people who wish to

- find suitable employment in the general work force with on-the-job support
- gain wages and employment conditions equivalent to those of workers without a disability
- undertake satisfying work with career advancement opportunities
- develop a positive self image

- enjoy physical and social integration with people without a disability.

2.35 *What funding do open labour market services receive?* Open labour market employment service providers negotiate with the Department the type of funding they require. Services have no automatic entitlement to any particular type or level of funding. The types of funding available under the *Disability Services Act 1986* (Cth) include

- recurrent expenses
- the cost of purchasing land
- the cost of purchasing, erecting, altering or extending buildings
- the cost of purchasing, altering or installing equipment.

2.36 *People do not pay to use open labour market services.* The Disability Services Standards prevent services from charging fees.⁷²

2.37 *How many people use open labour market services.* Based on the latest figures available, 8 267 people used open labour market services in the particular 12 months being surveyed. This represents 22.73% of people who used Commonwealth funded services (excluding the CRS) during that year. 2 590 of these were placed in employment.⁷³

Services which employ and provide job support for people with a disability

2.38 *Supported employment services.* Supported employment services (or business services) differ from open labour market services in that they employ people or groups of people with a disability in specialist working environments and provide continuing support. Supported employment services are intended to help people with a disability who want to work but because they have higher support needs may find it difficult to find and keep a job in the general work force or work for a full or productivity based award wage. The major types of supported employment services funded by the Department are

- ***Mobile work crews.*** These services are usually small businesses that employ people with a disability to work in crews to carry out contract work such as gardening or cleaning. This work may be seasonal or casual.
- ***Enclaves.*** Enclaves are small groups of people with a disability who work in specialist units within a commercial business. Workers receive continuing support to help them with their tasks and to help them integrate with other workers.
- ***Small businesses.*** Existing businesses may employ small groups of workers with a disability to carry out specific activities such as maintenance and assembly work. Specific businesses may also be set up to provide employment opportunities for people with a disability.

Workers should receive wages based either on their productivity or on the wage system the employer has in place. The former Commonwealth Government has accepted the recommendation in the Baume report that wages should be award based productivity wages. The Commonwealth does not fund the business or commercial operation of the service.

2.39 *What needs do supported employment services meet?* Supported employment services are designed to meet the needs of people with a disability who wish to be employed in regular business settings and integrate with other workers, but who may not be able to work for a full award or productivity based wage or who require extensive continuing support to perform effectively. Like open labour market employment services, supported employment services are expected to enable people with a disability to

- experience employment conditions similar to those of workers without a disability

- earn wages
- undertake satisfying work with career advancement opportunities
- develop a positive self image
- enjoy physical and social integration with people without a disability.

2.40 ***What funding do they receive?*** Supported employment services can receive the same types of funding as open labour market services (see para 2.35).

2.41 ***How many people are employed by supported employment services.*** Based on the latest figures, 3 828 people were employed by supported employment services during the year surveyed. This represents 10.52% of people who used Commonwealth funded services (excluding the CRS) during that year.⁷⁴

Services which provide activities for people in a sheltered environment

2.42 ***Types of services.*** Sheltered employment services are those that existed before the *Disability Services Act 1986* (Cth) to provide work and activities specifically for people with a disability. They include

- sheltered workshops
- vocationally focused Activity Therapy Centres
- training services introduced in 1980 to prepare young people aged 18-21 with a disability for work.

The majority of Disability Services Program clients (that is, not CRS clients) use sheltered workshops. These services operate under s 13 of the Act and are known as prescribed services. As long as these services remain prescribed services, they only have to meet minimum standards. They are expected to change their operations and structure over time to meet the higher standards required by the Act. Prescribed services that are in the process of upgrading and are meeting some of the higher standards are funded under s 12A of the Act. If they succeed in meeting the eligibility standards that s 10 services must meet they will be funded under s 10 as eligible services.

2.43 ***What needs do they meet?*** Sheltered workshops and other similar services give people with a disability the opportunity to

- receive some payment
- receive supervision in vocationally related activities for up to five days a week
- interact with fellow workers.

They are generally more appropriate for people who have higher support needs and who would benefit from working in a more supported environment.

2.44 ***What funding do they receive?*** Because of the change in policy direction brought about by the *Disability Services Act 1986* (Cth), no new funding is given to establish prescribed or sheltered services. Existing services receive continuing funding to maintain operations and to encourage them to improve their standards. The types of funding sheltered workshops and other prescribed services may receive include

- recurrent costs for supporting people with a disability
- the cost of altering or extending buildings
- the cost of purchasing, altering or installing equipment

- funding to help the service upgrade to meet higher standards.

The amount of recurrent funding is determined each financial year based on the amount the service received the previous year plus indexation based on price and cost movements. It is government policy that people should not be charged for a service.

2.45 **How many people are employed in sheltered employment.** The latest figures available say that 24 276 people were employed by sheltered workshops during the year surveyed. This represents 66.75% of people who used Commonwealth funded services (excluding the CRS) during that year.⁷⁵ 1 936 of these people were unpaid.⁷⁶

Other projects which assist people to find employment or become more independent

2.46 The Department funds a number of projects outside the *Disability Services Act 1986* (Cth) aimed at increasing the employment prospects and the independence of people with a disability.

- **Special Employment Placement Officers** (SEPOs) work within particular companies to increase awareness and acceptance of people with a disability in the workplace. They identify suitable positions for people with a disability within corporate organisations. When the SEPO identifies a suitable vacancy he or she will contact the CRS or an employment placement service funded by the Department.
- The **Partnership with Industry Project** (PWIP) has been established to improve awareness about employing people with a disability across a range of industries. The PWIP is jointly funded by the Disability Services Program and the CRS.
- The **Supported Wage System** (SWS) gives people whose disability significantly affects their work capacity the opportunity to enter the open workforce. People's productive capacity is assessed against co-worker productivity standards in a particular job. They receive a percentage of the award wage based on their productive capacity. The system makes funding available for on-the-job support, making changes to the workplace and a one-off payment to employers to cover their costs. The SWS operates within the mainstream industrial relations system which means that the SWS can only operate under awards or agreements which have been varied to include SWS provisions. The SWS currently applies to eligible services receiving funding under s 10 of the Act and transitional services receiving funding under s 12A. It specifically excludes prescribed services. An announcement was made in the 1995-96 Budget that a productivity assessment process is to be developed for all employment services including prescribed services in so far as these services can be regarded as employers under SWS provisions.
- The **Continence Aids Assistance Scheme** (CAAS) provides eligible people with subsidised continence items to the value of about \$450 a year to help them live more independently and find and keep a job. The Commonwealth funds approved agencies to distribute the continence aids. People with a disability between 16 and 65 years of age are eligible for assistance if they have a continence condition that is the result of a severe and permanent disability and if they work, are looking for work or if they participate in the community. They must receive the Disability Support Pension, the Rehabilitation Allowance, the Disability Wage Supplement or Mobility Allowance or have received a sales tax exemption on a motor vehicle instead of receiving Mobility Allowance.

Other services funded by the Department

Advocacy services

2.47 **What are advocacy services?** Advocacy services assist people with a disability, their families and supporters to become informed about their rights and how to exercise them and to represent their interests in the community, either individually or as a group. Advocacy services may be funded by the Commonwealth or the States and Territories or by both jointly. About 75 advocacy services are funded around Australia

under the *Disability Services Act 1986* (Cth).⁷⁷ Advocacy services are expected to meet the principles and objectives of the Act.

2.48 *What funding do they receive?* Advocacy services are funded under s 10 of the *Disability Services Act 1986* (Cth). There is no per client' funding formula for advocacy services because of the unique nature of the work they do. The services negotiate annually with the Department the amount of funding they receive. The amount will be based on the nature of the service, the number and type of clients, other sources of funding and projected need. The Act says that advocacy services may receive grants for

- recurrent expenses
- the cost of purchasing land
- the cost of purchasing, erecting, altering or extending buildings
- the cost of purchasing, altering or installing equipment

National information services

2.49 National information services are designed to improve access to information for people with a disability to help them become fully integrated in the community. The Department funds two national information services. They are the National Information and Community Awareness Network and the Australian Caption Centre. The information services may receive grants for

- recurrent expenses
- the cost of purchasing land
- the cost of purchasing, erecting, altering or extending buildings
- the cost of purchasing, altering or installing equipment.

The amount of funding is negotiated between service providers and the Department on an annual basis. The amount will vary depending on the nature of the service, any other sources of income and the projected need.

Print disability services

2.50 *What are print disability services?* Print disability services help to reduce the social disadvantage faced by people who have difficulty seeing, reading or understanding written material produced in standard form. The Department funds fourteen print disability services under s 10 of the *Disability Services Act 1986* (Cth). The services are non-profit organisations which produce braille and audio tape material.

2.51 *Funding new services is now a State responsibility.* Funding for new print disability services is now a State responsibility under the CSDA. However, the Commonwealth continues to provide funding to existing print disability services to help meet their operating costs. The amount of recurrent funding print disability services receive each year is based on agreed levels of production. The Commonwealth continues to have a national policy monitoring role.

Research and development projects

2.52 The Act provides for funding to be given to research and development activities.⁷⁸ Organisations may apply for funding under the Act or the Department may call for submissions from organisations to conduct research into existing services or to develop proposals to increase public awareness of or improve the nature of services for people with a disability. Research projects can contribute to the development of new policy. Some of the research currently funded by the Department includes

- the study of abuse of people with an intellectual disability in institutions

- national advocacy for people with alcohol and substance related brain injury
- providing training to unions and employment agencies about disability issues
- involving people with a disability in developing standards under the *Disability Discrimination Act 1992* (Cth).

Two pilot programs are also being funded:

- The **Jobnet program** assists young people aged 15-25 years with an intellectual disability to make the transition from school or a sheltered workshop into open employment. Jobnet services use an individualised case management approach and clients receive relevant work experience to help them to get a job. At the end of the program those who have not obtained employment are referred on to further education or training or to a funded employment service.
- The **Employment Skills Development Program** aims to assist people in sheltered workshops into open employment by providing them with relevant skills through structured training.

3. The Disability Services Act - its human rights, legal and policy context

Introduction

Australia's international human rights commitments

3.1 Australia has committed itself under international domestic law and policy to advancing the interests of people with a disability. Australia has played a significant role in the development of international human rights instruments. The impact of international law in the framing, implementation and interpretation of domestic law and policy in Australia has been considerable. This chapter outlines what these commitments mean for Australia in terms of legal rights for people with a disability.

The Commission's duty to consider Australia's treaty obligations

3.2 The *Law Reform Commission Act 1973* (Cth) requires the Commission to review laws and consider proposals with a view to ensuring that they do not trespass unduly on personal rights and liberties and that as far as possible they are consistent with the Articles of the International Covenant on Civil and Political Rights 1966 [ICCPR].⁷⁹ The House of Representatives Standing Committee on Legal and Constitutional Affairs in its 1994 review of the Commission's work recommended that this aspect of the Commission's work be extended to include the critical evaluation of all of Australia's treaty obligations relevant to any reference.⁸⁰

The Disability Services Act is inadequate

3.3 At the level of domestic legal and social policy as well as law, Australia recognises the rights of people with a disability through the provision of services and anti-discrimination measures. The *Disability Discrimination Act 1992* (Cth) enshrines in law the right of people not to be discriminated against on account of their disability. There is no legal right under the *Disability Services Act 1986* (Cth) (the Act) giving people with a disability a right to disability services.

3.4 In the Commission's view the Act does not provide a legal framework that advances Australia's efforts to discharge its international human rights commitments. The Act fails to focus on people with a disability themselves and their needs and rights. It focuses instead on funding services which provide disability support.

The legal rights recommended by the Commission

3.5 In this report the Commission recommends that the Act be restructured to give effect to the social justice principles the Commonwealth has embraced. The Commission realises the realities of budget capped disability programs.⁸¹ This report does not recommend that the new legislation give individuals a right to a particular disability service or benefit. For example, in ch 6 the Commission recommends that the new legislation set out the criteria on which planning decisions are based.⁸² The practical effect of this recommendation would be to provide a basis upon which judicial review may be sought regarding aspects of the planning and co-ordination of disability services. The government would retain its discretion to determine the underlying policy and funding for the provision of services. It would however, be obliged to exercise that discretion in furtherance of Australia's commitments to people with a disability.

The structure of this chapter

3.6 This chapter outlines Australia's human rights commitments to people with a disability under international law and the manner in which these commitments can acquire legal force in Australia. It describes the extent to which human rights are currently recognised in domestic law and policy, and in the Disability Services Act in particular, and discusses how the Commonwealth can meet its responsibilities in providing services for people with a disability more effectively. The Commission is of the view that whilst the intention of the Act has been to work towards fulfilling Australia's international human rights obligations

regarding people with a disability, it fails to recognise either the rights of those people or the responsibility of government to assist them to exercise their rights. The final section of the chapter sets out the Commission's view of the appropriate legal framework for recognising the rights of people with a disability.

Australia's human rights commitments under international law

Relevant international instruments to which Australia is a party

3.7 Australia is a party to a number of international instruments that require it to uphold the basic human rights of all Australians. Many of these human rights have particular relevance to people with a disability. They include the right to respect for human dignity and freedom, equality before the law, privacy, protection against discrimination and equal opportunity in employment.⁸³ Australia can discharge its international obligations and responsibilities by legislative reform or by Executive action.

Implied recognition of rights of people with a disability

3.8 ***The primary human rights conventions.*** There is no multilateral treaty or covenant dedicated exclusively to the protection and promotion of the rights of people with a disability. However, the rights of people with a disability are impliedly recognised.⁸⁴ The preambles to the Universal Declaration of Human Rights and the two legally binding covenants which grew from the Declaration - the International Covenant on Economic Social and Cultural Rights (ICESCR) and the ICCPR - refer to the inherent dignity and equality of all people as the foundation of freedom, justice and peace.

3.9 ***The importance of economic and social rights.*** These general guarantees of equality by implication cover people with a disability.⁸⁵ If, however, people with a disability cannot get access to adequate transport, communication, employment or other public facilities and support, then their capacity to assert their full range of civil and political rights is diminished.

Unless the economic and social rights dimension is also addressed the enjoyment of civil and political rights can easily become illusory.⁸⁶

If civil and political rights which are available to all Australians cannot be exercised by people with a disability because they lack the social and economic equality necessary for the practical exercise of those rights, then they are effectively locked out of Australia's representative democracy. The Disability Services Act should not merely be a means to fund disability services. It should play an integral role in discharging Australia's international human rights obligations to people with a disability.

Express recognition of the rights of people with a disability

3.10 ***United Nations declarations.*** The rights of people with a disability are expressly covered in the UN Declarations on the Rights of Mentally Retarded Persons 1971 and in the Rights of Disabled Persons 1975. These declarations are not enforceable at international law. Even so, the United Nations has said that there is a strong expectation that members of the international community will abide by them.⁸⁷ The declarations marked an important shift in perspective. Individuals with a disability became the *subject* of action rather than its *object*. In other words, reliance on welfare strategies was replaced at the international level by a recognition that people with a disability must be treated as having the same rights as all other citizens.⁸⁸

3.11 ***Standard Rules.*** Following the UN's International Year of Disabled Persons in 1981, the World Program of Action Concerning Disabled Persons in 1982 and the International Decade of Disabled Persons (1983-92), the UN adopted the Standard Rules on the Equalisation of Opportunities for Persons with Disabilities in 1993. These Rules do not comprise a convention on the rights of people with a disability. The Rules may in time, however, through their observance become international customary rules,⁸⁹ and be binding at international law.⁹⁰ The Rules require all UN member States to take appropriate action to ensure that all people with a disability exercise the same rights and obligations as others in their societies.⁹¹ The Rules set pre-conditions for equal participation in society. The pre-conditions say that signatory States should

- take action to raise awareness in society about people with a disability

- ensure the provision of effective medical care and rehabilitation services to people with a disability
- ensure the development and supply of support services in order to assist people to increase their level of independence and exercise their rights.

The Rules provide that the target areas for equal participation are accessibility; education; employment; income maintenance and social security; family life and personal integrity; culture; recreation and sport and religion. The Rules state that equal participation can be implemented through information and research; policy making and planning; legislation; economic policies; coordination of work; organisations for people with a disability; personnel training; national monitoring and evaluation of programs; technical and economic co-operation and international co-operation.

3.12 *Convention on the Rights of the Child.* Specific provisions concerning the rights of children with a disability are found in the Convention on the Rights of the Child 1989 (CROC). This provides that a child with a disability shall enjoy 'a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community'.⁹² It also requires that governments recognise that children with a disability have a right to special care, to access education, training, health care services, employment preparation services and recreation opportunities in a way that will help them achieve the fullest possible integration and individual development.

3.13 *Other international Conventions.* The right not to be discriminated against on the grounds of disability is found in the Convention on the Elimination of All Forms of Discrimination Against Women 1979,⁹³ and the Convention on the Elimination of All Forms of Racial Discrimination 1965. The UNESCO Convention Against Discrimination in Education 1960 also applies to people with a disability.

3.14 *International Labour Organisation Conventions.* A number of ILO Conventions also relate to the rights and interests of people with a disability. ILO Convention No 159 on Vocational Rehabilitation and Employment (Disabled Persons) 1985, and ILO Convention No 168 concerning Employment Promotion and Protection Against Unemployment 1991 both impose obligations on member States to act in the interests of people with a disability. ILO Convention No 111 on Discrimination (Employment and Occupation) 1958, has a provision which allows States themselves to impose additional obligations.⁹⁴ As evidence of Australia's legal commitment to people with a disability under international and domestic law, Australia has made use of this provision to impose upon itself, under the Disability Discrimination Act, a regime to protect people with a disability against discrimination in employment.

Effect at international law of instruments to which Australia is a party

3.15 Where they so provide, and where it is clear on their face, international instruments are binding at international law. This is so in respect of specific obligations to be found in individual instruments and the general obligation found in the Vienna Convention on the Law of Treaties (1969). For example, Article 2(1) of the ICCPR pronounces that the rights it contains shall be respected and guaranteed by each party, and Article 2 of the ICESCR obliges each signatory State to guarantee the rights it contains. According to the Vienna Convention, such obligations are to be met regardless of any internal constitutional or political difficulties that a state may encounter in the process. The binding nature of such international instruments (as well as customary international law) forms the basis upon which the International Court of Justice enforces international law.⁹⁵

Application in domestic law of Australia's international legal obligations

Extent of application

3.16 International law takes effect in domestic law in a number of ways. Its impact and influence on the development of domestic law is, as the Minister for Foreign Affairs, Mr Alexander Downer has noted, of growing importance'.⁹⁶

Enactment in legislation

3.17 The clearest and most effective way in which treaties obtain the force of law in Australia is by being incorporated into domestic law by statute enacted under an appropriate head or heads of power in the Constitution.⁹⁷ The most obvious examples of this in the human rights field are the *Racial Discrimination Act 1975* (Cth) implementing the Convention on the Elimination of All Forms of Racial Discrimination 1965 (CERD); the *Sex Discrimination Act 1984* (Cth) implementing the Convention on the Elimination of All Forms of Discrimination Against Women 1979 (CEDAW) and, of greatest relevance to this report, the *Disability Discrimination Act 1992* (Cth) which implements a number of international treaty obligations that relate to or touch upon the rights of people with a disability. Five international human rights instruments are appended to the *Human Rights and Equal Opportunity Act 1986* (Cth) which grants the Human Rights and Equal Opportunity Commission wide powers to investigate domestic legislation and practice in the light of international human rights principles.

Presumption that international obligation applies

3.18 Conventions may also be given domestic legal effect without the need for the Commonwealth Parliament to legislate. As a matter of long-standing policy, the Commonwealth will not ratify a treaty unless it is satisfied that Australian law already complies, or will conform, with its provisions.⁹⁸ There flows from this presumption a rule of judicial interpretation that where there are a number of equally valid interpretations of legislative provisions available, judges will presume that Parliament intended the law to conform with the relevant international obligation.⁹⁹ When interpreting common or judge-made law, judges regard international human rights obligations as having a powerful influence.¹⁰⁰

Implementation through Executive action

3.19 Australia's treaty obligations may also be implemented in domestic law by executive action. The Commonwealth considers international human rights obligations in the exercise of discretion and the making of decisions. Since the High Court's judgment in *Teoh*,¹⁰¹ consideration of and consultation about the obligations in treaties is now required of decision makers. A majority of the High Court stated that this obligation stems from the fact that Australia, by ratifying a convention, creates an expectation that decisions made by government will be consistent with the provisions of the ratified convention.¹⁰² Further weight is given to this expectation when additional instruments are ratified which provide citizens with the power directly to lodge petitions of complaint against their State with, for example, the Human Rights Committee.¹⁰³ As a result, the Commission is of the view that there now exists an obligation on all public servants to ensure that their actions and decisions comply with the provisions of relevant international treaties which Australia has ratified.¹⁰⁴

Recognition through government policy statements

3.20 International law also finds domestic expression at the level of government policy and decision-making. Many social justice principles can be traced back to international instruments which Australia has signed, whether or not it is bound by such instruments.

3.21 Government policies that instigate and result from Australia's commitment to international instruments ought, specifically, to accord with the objectives of those instruments. In practice, there exist many policy statements that relate directly to people with a disability. For example, in respect of general human rights obligations, the former Commonwealth government stated in its *National Action Plan on Human Rights* (1994) that

[t]he universal enjoyment of human rights remains a matter of fundamental importance for Australia. As such, Australia accords a high priority to the promotion and protection of human rights, both internationally and domestically.¹⁰⁵

More specifically, the Commonwealth's Social Justice Statement in 1994, reaffirmed

the Government's commitment to ensuring that people with a disability have the same rights to access, equality and participation in the community as other Australians.¹⁰⁶

3.22 Such policy statements are not legally binding in themselves, but are not without practical legal effect. They play a role in directing the way the government develops policies and administers the services it provides for people with a disability and can give rise to legitimate expectations as to how the government will act.¹⁰⁷

Recognition through social justice principles

3.23 It is possible to infer from the various legal and policy sources discussed throughout this report a number of basic social justice principles directed to the services which the Government provides for people with a disability. These basic social justice principles seek to

- ensure all people, irrespective of race, sex, disability or financial status, have equal access to government programs
- ensure access to opportunities to assist people to live as equal citizens
- provide services in a way that best meets their needs and respects their rights
- provide people with the opportunity to complain if the support they receive is inadequate or unsatisfactory in some way
- uphold their dignity and protect their privacy
- allow free access to government-held information, especially information held about an individual
- protect personal information the government holds about its citizens
- ensure all people have an avenue of redress against discriminatory conduct
- ensure all employees of the Commonwealth have equal employment opportunities
- ensure all Australian workers have an opportunity to seek settlement of industrial disputes and review of unfair industrial practices
- promote awareness of disability issues in the general community.

Recognition through the development of practices which conform with international instruments

3.24 There was a significant Australian involvement in the formulation and writing of the Standard Rules (see para 3.11). Australia's involvement in the establishment of the Standard Rules points both to our commitment to people with a disability and to our recognition of the importance of international obligations. The Commonwealth Disability Strategy comprises a broad plan of action aimed at realising the Rules in domestic policy.

3.25 The Commonwealth Government is currently developing a set of Disability Standards under the Disability Discrimination Act¹⁰⁸ which echo in part the Standard Rules.¹⁰⁹ The proposed standards cover the areas of employment, access to premises, transport, education and Commonwealth information services.

Implementing rights for people with a disability in Australia

Enforcement through judicial and administrative review

3.26 The enhancement of the Australian administrative law system in the mid 1970's by way of the *Administrative Decisions (Judicial Review) Act 1975* (ADJR Act) provided a more effective mechanism by which the exercise of powers and discretion by Ministers and government officials was opened to review. Certain government decisions are subject to merits review. Where decisions are judicially reviewed by the Federal court, the court decides whether the decision is taken according to law. The court considers, for

example, whether decision makers acted fairly, considered relevant matters, avoided consideration of irrelevant matters, and correctly directed themselves on the law. Where the court exercises judicial review the court quashes the erroneous decision and sends it back to the government decision-maker who must reconsider the decision in accordance with the law. Tribunals undertaking merits review such as the Administrative Appeals Tribunal look at whether a decision made by a public official was the right decision given all the relevant circumstances and may substitute its own decision for that of the official.

Current legislation recognising disability rights

3.27 *Disability Discrimination Act.* The *Disability Discrimination Act 1992* (Cth) has implemented, in part, three international covenants.¹¹⁰ The guarantees provided in the Act centre on eliminating certain discrimination against people with a disability and promoting community understanding of the rights of people with a disability. Discrimination on grounds of disability in work, accommodation and education, in access to premises and clubs, in the provision of goods and services, and in the administration of laws and government programs, is now illegal under the Act. The Act is directed at equality of opportunity. The legislation does not create positive rights which guarantee equality of outcome for people with a disability. As a result, the Act does little to bring rights into play when the rights are not tied to programs or services which already exist to benefit the whole of society.

The Disability Services Act and Australia's international human rights obligations

A focus on people with a disability

3.28 In terms of policy and law it is clear to the Commission that the Disability Services Act needs to play a vital role in complementing the Disability Discrimination Act to ensure that Australia meets its international and domestic obligations and responsibilities to people with a disability. The goal ought to be to ensure that equality is advanced in practice and not merely through rhetoric.

3.29 In this review the Commission has been asked to assess the effectiveness of the Disability Services Act in meeting and applying the legal policy and social justice objectives that Australia has set itself with respect to people with a disability. The legislation falls short of providing services that meet this objective. It is upon this basis that the Commission recommends in this report that the legislation be altered so that the rights of those with a disability comprise its focus. This would replace the Act's current focus on funding and bureaucratic arrangements between the Commonwealth and service providers. The Commission considers that such a change in focus is necessary if the stated object of the Act - to establish a legislative structure for service provision that is more flexible and more responsive to the needs and aspirations of people with a disability - is to be fulfilled. The Commission recognises that service provision must be adequately and efficiently regulated, but to place that goal ahead of the rights and needs of the people for whom the services are provided distorts the Act's declared aim. In order for services to be delivered effectively and efficiently, the first priority in any legislative regime must be given to consideration of the requirements of people with a disability.

A rights based approach - the Swedish example

3.30 In certain countries relevant international obligations have been interpreted as requiring the signatory state to give positive, legally enforceable rights to some people with a disability. For example, Sweden has enacted legislation which gives people with severe functional disabilities, either physical or mental, the legal right to ten specified kinds of support and service.¹¹¹ The Act guarantees

- the right to advice and personal support
- the right to personal assistance
- the right to personal escorts
- the right to a contact person

- the right to a relief service in the home
- the right to short term stays away from home
- the right to short term minding of school children over twelve
- the right to foster homes and special housing for children and young people
- the right to special housing for adults
- the right to daily activities.

Any individual with a disability whose rights have been denied under the legislation may bring an action in the County Administrative Court. It is estimated that 100 000 people will benefit from the provisions of the Act, about 7 000 of them receiving personal assistance for more than 20 hours per week. This Act was passed at a time when Sweden began cutting back public services, and general welfare benefits were under scrutiny. The Act was seen as necessary to ensure equality and provide basic rights for those who often find it difficult to make themselves heard.¹¹²

The rights based approach recommended by the Commission

3.31 ***No right to services.*** The nature and extent of the rights provided in the Swedish legislation are clearly more far-reaching than those the Commission is permitted under its terms of reference to recommend in this report. The Swedish model presents an example of how far rights protection has gone in jurisdictions of a comparable size to Australia's. The present Australian position, far from recognising the rights of people with a disability, is largely the result of the presumption, apparent in the legislation, that government and service providers know what is in the best interests of people with a disability and necessarily will act accordingly.

3.32 ***Fairer decision-making.*** The Commission in this report seeks to remove this apparent presumption. Through its recommendations for new legislation, it places on the Commonwealth and service providers a set of obligations which would focus decision-making on the rights and needs of people with a disability and open decisions for judicial and administrative review. The Commission is of the view that its recommendations, if implemented, would form the basis for a legislative regime that provides fair, efficient and effective service provision that meets the rights and needs of people with a disability. People with a disability should expect and be able to demand that their needs be fairly assessed and that appropriate services be available. Where no, or limited services were made available, justification in the form of reasons would be required. The Commission recognises that under this proposed legislative scheme some people with a disability would still miss out on the services they need. The Commission is constrained by its terms of reference to recommend restructuring the Disability Services Act within existing policy and budget parameters. The Commission does not suggest that the legislation should place upon government the duty to meet all the rights based demands of people with a disability, whatever the cost. The proposals for new legislation are intended to provide the basis of a model for a more equitable distribution of available funding and better decision-making in respect of the provision of services to people with a disability.

4. Commonwealth disability law, policy and service delivery

Introduction

4.1 This chapter looks at the different frameworks for service delivery the Commonwealth has developed to implement the *Disability Services Act 1986* (Cth). It examines direct Commonwealth service delivery through the Commonwealth Rehabilitation Service (CRS) and services delivered by private organisations which receive Commonwealth funding under the Act (funded services). It looks at the role of the States and Territories in delivering disability services and the effect on people with a disability of the division in service delivery and policy between levels of government. This chapter discusses what people want, need and expect from the Commonwealth as evidenced by comments received in submissions and public consultations. The Commission makes recommendations for more effective disability law, policy co-ordination and service delivery across Australia.

Two models of service delivery at Commonwealth level

Direct and indirect service delivery

4.2 The *Disability Services Act 1986* (Cth) provides for two models of service provision. Part 2 of the Act covers services that are funded by the Commonwealth but are provided by another agency or by the States and Territories. Part 3 of the Act covers rehabilitation services provided to clients by the Commonwealth directly through the CRS. Services provided under each model are listed in chapter 2.

CRS and funded services have different histories

4.3 The CRS and the organisations the Commonwealth funds to provide services developed in isolation from one another. They have different histories, structures and philosophies and different approaches to meeting the needs of the people they serve. Until 1986 they were separately regulated: the CRS by the *Social Security Act 1947* (Cth) and funded organisations by the *Handicapped Persons' Assistance Act 1974* (Cth). The *Disability Services Act 1986* (Cth) brought the services within the same piece of legislation. Despite this, the two models of service delivery continue to exist as separate entities and are dealt with in separate parts of the Act. This represents a missed opportunity to co-ordinate the two parts of the legislation.

Similarities and overlaps between the models

4.4 The CRS and open labour market services funded by the Commonwealth's Disability Services Program provide services for people with a disability aimed at improving their access to the competitive job market. The need to be competitive in the open job market may mean that the CRS competes with other Commonwealth funded employment services in finding suitable jobs for their respective clients. This could be an issue in areas where there are limited employment opportunities. The Commonwealth has recognised that there may be an element of overlap between the CRS and funded open labour market services especially in the area of job search and placement. There is a national strategy in place to promote co-operation between funded open labour market services and the CRS.¹¹³

Differences between the two models

4.5 There are some differences in the way the CRS and funded open labour market services are provided and in the people for whom the services are intended. The CRS sees the major differences as being

- the CRS is a direct Commonwealth service provider
- the CRS provides time limited rehabilitation services for clients with identified goals and outcomes whereas open labour market services can provide continuing employment support
- the CRS provides more general job readiness support while open labour market services typically offer more intensive training for specific jobs

- the CRS can offer a broader range of services to assist clients to achieve vocational goals and live more independently
- the CRS operates partly on a commercial cost recovery basis
- CRS clients are more likely to be people with a physical or psychiatric disability while almost three quarters of the clients of other Commonwealth funded services are people with an intellectual disability.¹¹⁴

Effects of direct service provision

4.6 Subject to Commonwealth law. Services that are provided directly by the Commonwealth through the CRS are subject to Commonwealth law. For example, the *Public Service Act 1922* (Cth) applies to the CRS. The CRS receives a budget allocation from the government each financial year and must comply with the *Audit Act 1901* (Cth) in accounting for that funding in the same way as other Commonwealth departments and agencies. As a Commonwealth government agency the CRS is bound to protect the personal information of its clients under the *Privacy Act 1988* (Cth) and is required to provide access to official documents under the *Freedom of Information Act 1982* (Cth). Its decisions are subject to review by the Administrative Appeals Tribunal, the Commonwealth Ombudsman and the Federal Court under the *Administrative Decisions (Judicial Review) Act 1978* (Cth).

4.7 Disability Services Act also offers protection. The *Disability Services Act 1986* (Cth) mirrors the obligations that are imposed on the Commonwealth under general law by containing provisions protecting clients' personal information and providing avenues of review if clients are not satisfied with certain decisions made by the CRS.¹¹⁵

4.8 Accountable to other Commonwealth agencies. Being a Commonwealth agency, the CRS is accountable to other Commonwealth agencies and the Parliament for its financial performance but not for its service performance or outcomes.

Effects of indirect service provision

4.9 Limited legal protection. When the Commonwealth funds other organisations to provide services, those organisations are generally not covered by other Commonwealth legislation unless legislation is drafted specifically to apply to them. Under the *Disability Services Act*, funded organisations do not have to protect the privacy of their clients or establish complaints mechanisms. Consequently, consumers of services provided by funded organisations do not have a legal right to privacy or to complain about the service. The Act does, however, require funded services to meet service standards which cover privacy, complaints mechanisms and accountability. Under the Act, funded service providers do not have a right to seek review of decisions made by the Commonwealth that affect their interests and have no protection against unauthorised release by the Commonwealth of commercial information about services.

4.10 Accountability mechanisms. Because the Commonwealth is not directly responsible for the use of its funds or for the quality of services when it funds other organisations to provide them, it has developed accountability procedures to ensure things are done properly. The Commission discusses the mechanisms for achieving accountability by service providers for funds and for quality, and the effectiveness of those mechanisms in chapters 17 and 11, respectively.

Discussion paper

4.11 In its discussion paper the Commission asked if there were any reasons why consumers of the services provided by funded organisations should not have the same legal rights and protections as clients of the CRS. The Commission also asked whether the new legislation should clarify the relationship between the CRS and funded services and, if so, what that relationship should be.

What consultations revealed

4.12 Consumers should have the same rights. Responses in submissions and in consultations were unanimously of the opinion that all people who use services provided directly or indirectly by the Commonwealth should have the same rights under the new legislation.¹¹⁶ It was also argued that the CRS and funded services should have the same standards monitoring and broad assessment processes to ensure clients the same quality of service and a consistent service philosophy.¹¹⁷ Specific issues relating to standards monitoring and assessment are discussed in chapters 11 and 9, respectively.

4.13 Need for better co-ordination. In consultations the Commission heard that the differences between the CRS and other open labour market employment services are not so marked at the service delivery level as they are at the policy level.¹¹⁸ In many areas, especially rural or remote areas, CRS provides initial short term rehabilitation for a client who is then referred to an employment service for continuing support and job placement.¹¹⁹ The majority of submissions considered that there should be a close relationship between the CRS and Commonwealth funded employment services as they perform complementary roles.¹²⁰ Submissions stated that there should be consistent dialogue' and co-operation and resource sharing between the two service models.¹²¹ Submissions suggested the CRS and other funded services should form links to provide a comprehensive package of support if the focus of the new legislation is truly to be on meeting the needs of people with a disability.¹²² Submissions argued that guidelines under the legislation should be issued to provide for cross-referrals and links between the two service models.¹²³

4.14 Legislation should specify outcomes for Commonwealth service delivery. Responses to the Commission's discussion paper indicated very clearly that the outcomes that people desire from the CRS and other services the Commonwealth funds are very similar. Respondents stated that the CRS should aim

- to assist people to live as independently as possible and to access community facilities¹²⁴
- to meet individual needs¹²⁵
- for a consistent approach to service delivery.¹²⁶

Submissions stated that other Commonwealth funded services should aim to

- promote a positive attitude towards people with a disability and to give people with a disability the same life opportunities as other Australians.¹²⁷
- meet individual needs and goals¹²⁸
- co-ordinate services properly.¹²⁹

The overwhelming concern of participants in the Commission's review was that the new legislation should meet the needs of individual people with a disability. Whether those needs are met through the CRS or other funded services is not as important as the requirement that both types of services have mechanisms in place which allow proper assessment of and appropriate response to people's needs.¹³⁰

The Commission's view

4.15 Consumers of CRS and funded services should have the same rights. The Commission considers that there are no sound reasons why the new legislation should not offer the same rights and protections to people using services whether provided directly or indirectly under the legislation.

4.16 Legislation should define what the Commonwealth wants to achieve. The Commission considers that the new legislation should define what the Commonwealth wants to achieve from the two models of service delivery. It should specify the outcomes expected from the CRS and from the services the Commonwealth funds others to provide. Those outcomes should be the enhancement of the capacity of people with a disability to gain access to the range of services and opportunities they need in order to promote independence as far as this is possible and desirable.

4.17 *Legislation should promote flexible Commonwealth service provision.* The Commonwealth has to date taken a top down' approach to its two models of service delivery. The focus has been on the differences in structure, history and philosophy. Earlier in this report the Commission recommended that the new legislation be focused on the people receiving services rather than channelling money into services.¹³¹ The funding and regulation of services should be seen in this context and not as ends in themselves. As long as needs are met within a framework that respects the rights of consumers, it should not matter which type of service meets those needs. In some cases, particularly in regional areas, both the CRS and funded services work together to meet the needs of particular individuals. This flexibility should be reflected in the new legislation. The legislation should not continue the approach of the current Act and treat the CRS and funded services as though they have no common ground. The new legislation should provide for guidelines to be developed to identify links between the two models and areas where cross-referral would be appropriate. Those guidelines would be most effective if they were developed at a regional level where knowledge of local need is greatest.

Recommendation 2

The Commission recommends that all people with a disability using services under the new legislation should have the same rights and protections regardless of which service they use.

Recommendation 3

The Commission recommends that the new legislation should define the outcomes the CRS and the services provided by Commonwealth funded organisations are expected to achieve. The focus of these outcomes should be the enhancement of the capacity of people with a disability to gain access to the range of services and opportunities they need in order to promote independence as far as this is possible and desirable.

Recommendation 4

The Commission recommends that the new legislation authorise the Minister to issue guidelines which outline links and promote flexibility between the CRS and other services funded by the Commonwealth. Those guidelines should be developed at a regional level depending on the needs in each area.

Consultations revealed flaws in disability law and its implementation

Commission consulted broadly

4.18 Since releasing its issues paper and discussion paper in 1995, the Commission has consulted with over 600 people in public meetings and meetings with government agencies. Public meetings were held in every State and Territory and in some regional centres. Participants included people with a disability, representatives of peak organisations, representatives of services, parents and carers of people with a disability and other interested members of the public. The Commission received 444 responses from people with a disability and their carers to the questionnaire in the issues paper and 186 written and oral submissions addressing the issues raised in the discussion paper. A research consultant was commissioned to conduct focus groups throughout urban and rural New South Wales. The focus group sample included a range of people with different disabilities, carers, Aboriginal people and people from non-English speaking backgrounds. Ten focus groups were held, each with between six and ten participants. Nine individual interviews were also held. From these consultations the Commission gained an impression of what people want from the Commonwealth in relation to disability services and how effectively the Commonwealth is meeting the needs and wishes of people with a disability. The following paragraphs are indicative of the themes raised repeatedly throughout the Commission's consultations.

Most submissions indicated that the current legislation expresses the right sentiments

4.19 The majority of submissions and consultations considered that the principles and objectives¹³² of the *Disability Services Act 1986* (Cth) express the right sentiments in the broad sense.¹³³ Submissions stated that the principles and objectives have contributed to raising the consciousness of the community about people with a disability and the issues that affect them.¹³⁴ Some submissions stated that the current principles and objectives are very good and are adequate to meet the needs of people with a disability.¹³⁵ The vast majority of submissions, written and oral, stated that the principles and objectives should be included in the text of any new legislation rather than be gazetted under the Act.¹³⁶

Criticisms made of the principles and objectives

4.20 During consultations, some people were critical of the principles and objectives of the Disability Services Act. Criticisms included that the principles and objectives

- lack impact across Commonwealth portfolios and lack enforcement power¹³⁷
- fail to guarantee people with a disability the same rights as other Australians¹³⁸
- fail to understand what is really important to people with a disability¹³⁹
- are too vague and too easy to get around,¹⁴⁰ leaving the interpretation of the Act very much to the eyes of the beholder¹⁴¹
- fail to meet the needs of all people with a disability, especially people with an intellectual or a psychiatric disability or an acquired brain injury, and to acknowledge their different needs and experiences¹⁴²
- should provide for adequate care and protection' for people against exploitation and abuse¹⁴³
- should have a broader focus than service provision¹⁴⁴
- reflect the bureaucratisation of service provision rather than the needs and goals of people with a disability¹⁴⁵
- are based on 'mistaken ideologies about the dependence of people with a disability'¹⁴⁶ and idealistic notions' of integration into the community¹⁴⁷
- need to recognise carers or the right to an advocate¹⁴⁸
- need to adequately recognise culture and race issues¹⁴⁹
- should include a provision about community attitudes towards people with a disability.¹⁵⁰

Does the Disability Services Act enable the Commonwealth to meet its obligations?

4.21 Many submissions and people who gave evidence in public consultations indicated that the Disability Services Act, in itself, was a step forward in reflecting the Commonwealth's human rights and social justice obligations to people with a disability.¹⁵¹ However submissions also stated that the problem remaining is the lack of legal enforceability of the principles and objectives developed by the Minister (which are not contained in the Act itself) which are the most important policy statements giving effect to Australia's international obligations.¹⁵² Other submissions commented that the Act could go further in meeting the needs of people with very high support needs, with a psychiatric or an intellectual disability or with an acquired brain injury.¹⁵³ Others suggested that the Act alone cannot fulfil the Commonwealth's obligations without a commitment on the part of the whole community.¹⁵⁴ Some submissions considered that the good intentions of the Act are undermined by a lack of commitment on the part of governments to back up the rhetoric with sufficient funding or to create an infrastructure where the principles and objectives of the Act can be

implemented in a practical sense.¹⁵⁵ Most people who participated in focus groups stated that putting the rights on paper was not enough. It was suggested that rights and principles only mean something when they are properly implemented.

There are already plenty of rights. But how many of them actually exist in reality?¹⁵⁶ (Person with a psychiatric disability)

Some submissions stated funding is insufficient

4.22 In almost every public consultation and in many submissions people criticised the lack of funding available to implement the Act which is said to prevent the Commonwealth from giving full effect to human rights and social justice principles for people with a disability.¹⁵⁷ Consultations and submissions suggested that the Commonwealth will never live up to the principles and objectives in the Act unless the legislation *guarantees* every person with a disability the right to appropriate support to assist them to live as equal citizens.¹⁵⁸ People stated that the Commonwealth is placing dollars before people's right to equality and that this limits opportunities for people with a disability and continues to marginalise them.¹⁵⁹ While the Commission records such views it is prevented by its terms of reference from making a recommendation about funding levels for disability services.

Consultations revealed the Disability Services Act is too service focused'

4.23 Some people the Commission spoke with in public consultations were concerned that the rights and needs of people with a disability have become lost in an overly bureaucratised service industry.¹⁶⁰ In Wagga, the Commission was told that before deinstitutionalisation in 1986, one service (generally a large institution) was responsible for meeting the whole range of people's support needs. The Commission heard that while this resulted in limitations on people's independence and ability to choose how best to meet their own support needs, it generally meant that at least people's basic needs were met. People expressed concern that since the Disability Services Act was introduced in 1986, the proper sentiments about rights, needs, independence and choice are there, but the focus of the Act seems to be on funding services rather than looking at people's lives and needs as a whole and funding support to meet those needs appropriately.¹⁶¹ Submissions stated that the new legislation should have a clear focus and that focus should be respecting the rights and meeting the needs of people with a disability.¹⁶²

Submissions stated some services not meeting needs

4.24 Many submissions stated that the services people with a disability are receiving do not actually meet their needs.¹⁶³ The Commission heard that some services were not targeted properly to provide the support people need to achieve their goals.

The ultimate problem with services at the moment is that the individual has been forced to fit the mould of the service.¹⁶⁴ (Person with a vision impairment)

They [the CRS] get everyone to do the same courses, like desktop publishing.¹⁶⁵ (Person with a physical disability)

Consultations indicated needs extend beyond employment

4.25 The major focus of the Commonwealth's disability policy and service delivery is on generating employment opportunities for people with a disability. Many submissions stated, however, that if the new legislation is to focus appropriately on people rather than services, it should focus on the whole person and not just their employment needs.¹⁶⁶

All other sorts of services can have effects on employment. If there's a lack of flexibility in the other services, like if you can't get someone to help you in and out of bed and you can't get onto transport, there's no point in having a job.¹⁶⁷ (Person with a physical disability)

Most submissions commented that the legislation should cover all services, or at least a comprehensive range of services.¹⁶⁸ It was suggested that Commonwealth legislation should provide a broad national framework for effective policy and service delivery and enforcement mechanisms to ensure the legislation is implemented properly.¹⁶⁹

A divided approach to disability services in Australia

4.26 Service delivery and policy divided between the Commonwealth and the States and Territories. At para 2.10-2.12 the Commission discusses the division of responsibility between the Commonwealth and the States and Territories for providing and regulating disability services.

4.27 Consultations raised problems caused by divided responsibilities. The Commission heard in consultations and submissions that the division of responsibility between the Commonwealth and the States and Territories undermines the principles and objectives of the Disability Services Act as not all States and Territories fund appropriate support.¹⁷⁰ Submissions indicated that the current fragmented approach is more in the interests of administrative convenience than the interests of people with a disability as it does not reflect the way they live their lives.¹⁷¹ The Commission heard repeatedly that the Commonwealth/State Disability Agreement (CSDA) has been detrimental and has contributed to the isolation of people with a disability.¹⁷² The Commission heard that services are harder to get than ever before.¹⁷³ This is partly because there are insufficient services. It is also because the system has developed into a tangled web of bureaucratic layers, each with its own rules and requirements, carving people's lives into sections and placing support services further out of reach of the people who would most benefit from them.¹⁷⁴ Submissions stated that the current divided system results in

- inequitable distribution of support services across Australia to the detriment of the residents of some States and Territories¹⁷⁵
- difficulty for people who need a range of services¹⁷⁶
- cost shifting and buck passing' between Commonwealth departments and the States and Territories with each one refusing to accept responsibility for particular services¹⁷⁷
- lack of communication and co-operation between different bodies administering disability services,¹⁷⁸ resulting in poor planning¹⁷⁹
- confusion and a lack of information located in a central place about a range of services provided by different agencies¹⁸⁰ (the Commission looks specifically at this issue in ch 10)
- multiple assessments and invasions of the privacy and dignity of people with a disability¹⁸¹ (the Commission looks specifically at this issue in ch 9)
- particular access problems for some groups, for example, people with very high support needs, people with more than one disability, young people aged 16-18, and people with an acquired brain injury¹⁸² (the Commission looks at these and other specific access issues in ch 8)
- gaps in service provision¹⁸³
- a lack of integration between the State and Territory education systems and Commonwealth employment and training programs which makes transition difficult¹⁸⁴
- unnecessary duplication of administrative resources as different agencies collect the same information about people¹⁸⁵
- inability of people to move easily between services or between States and Territories.¹⁸⁶

There is no similarity or consistency in the way people's support needs are met or the outcomes that are achieved from service to service.¹⁸⁷

Programs have specific eligibility criteria and assessment processes which result in people undergoing multiple assessments which can be personally intrusive. Separation of Commonwealth and State responsibility for employment and community access programs, and for disability, aged care and Home and Community Care (HACC) are particularly problematic. These administrative boundaries are not congruent with an individual's need to properly integrate the range of services they require.¹⁸⁸

One submission also considered that the lack of enforceability of the CSDA counteracts any positive effects it may have had.¹⁸⁹

What do people with a disability want from the Commonwealth?

Consultations pointed to the Commonwealth's responsibilities

4.28 *Duty to all Australians with a disability.* One of the major points made by people around the country was that the Commonwealth has a specific duty to ensure that Australia's obligations and responsibilities to people with a disability are carried out.¹⁹⁰

The Commonwealth has a Constitutional power in relation to social welfare' and Australia is party to a number of international agreements. The Commonwealth therefore has a responsibility to protect consumers.¹⁹¹

The Commonwealth's responsibility to people with a disability was perceived by participants in the Commission's review to be all-encompassing. The Commonwealth was seen as ultimately responsible for ensuring that all disability support is adequately funded, regardless of whether it is provided by the Commonwealth or the States and Territories, and for ensuring that money is spent properly.¹⁹²

4.29 *Obligation to take on an educative role.* Consultations and submissions indicated that the Commonwealth must take on a leadership role. Submissions suggested the Commonwealth's job is to lead, not wait to be prodded¹⁹³ in the areas of community education about disability¹⁹⁴ and community involvement of people with a disability.¹⁹⁵ Submissions stated the Commonwealth should be responsible for advancing the interests of people with a disability by changing attitudes in the Australian population and by creating an inclusive society.¹⁹⁶

The Commonwealth should, through service funding and community participation support and legislation, demonstrate a real commitment to networking people with a disability into community/social living. Work and home can be addressed by service providers. However, community involvement is a necessary goal for real living.¹⁹⁷

Submissions noted the importance of legislation such as the Disability Discrimination Act¹⁹⁸ and schemes such as the Prime Minister's Employer of the Year Awards¹⁹⁹ in changing community attitudes about disability. Participants in public meetings consistently called for the Commonwealth government to set a good example by employing more people with a disability, by involving people with a disability in policy decision making and by appointing people with a disability to positions of power within the bureaucracy.²⁰⁰

Get people with disabilities at all levels of policy making.²⁰¹

Be responsible for the big vision and thus be the ally of consumers where our needs are concerned.²⁰²

4.30 *Obligation to enforce rights and to prevent discrimination.* The Commonwealth is seen by people as the appropriate agency to enforce established rights through legislation such as the Disability Discrimination Act.²⁰³ Consultations revealed, however, that people want more clarity about the rights they have and how to enforce them.²⁰⁴ The Commission was told of the difficulties of bringing an action under the Disability Discrimination Act,²⁰⁵ citing confusion about how the Act works,²⁰⁶ the costliness of bringing an action²⁰⁷ and difficulties of identifying with whom to talk about discrimination claims as the main reasons for the relatively small number of actions brought by people with a disability under that Act.

With the anti-discrimination legislation, EEO and all the other things to think about, like clauses in various acts, it's turned into a maze, a legal nightmare. It's created vast uncertainty, because people are no longer certain about their position.²⁰⁸ (Person with a vision impairment)

4.31 *Obligation to ensure quality services that meet needs.* Most participants in consultations suggested it is the Commonwealth's obligation to ensure that people with a disability receive quality services.²⁰⁹ Quality services are stated to be services which meet the real needs of people in an appropriate way²¹⁰ and which achieve the kinds of outcomes that people want for themselves.²¹¹

The Commonwealth should be establishing appropriate quality services, ensuring established services are quality services, ensuring that service users benefit from funding as opposed to the benefits going mainly to service providers, organisations and administrators.²¹²

Take notice of what people with a disability need not what bureaucrats feel we might need and make services truly flexible and not given on a charity basis.²¹³

The Commonwealth should make private organisations who are receiving funding from Commonwealth and State governments accountable for services and rights of clients.²¹⁴

Submissions and consultations indicated that the Commonwealth can improve service quality by introducing measures to ensure

- a national or uniform approach to assessing people's needs properly²¹⁵
- people's privacy and dignity is maintained at all times²¹⁶
- respect for other cultures.²¹⁷

Submissions recommended greater national co-ordination

4.32 In consultations the Commission heard that people want disability services to be better co-ordinated.²¹⁸ They want to have access to an employment service which is not prohibitively far from where they live and which they can get to using available transport.²¹⁹ Other people wanted somewhere to go when they finish school,²²⁰ some wanted to combine part time work and respite services²²¹ and others wanted access to mainstream education systems and other mainstream services.²²² The majority of submissions stated that it would be in the interests of people with a disability for the new legislation to adopt a more integrated national focus.²²³

Rights and lifestyle choices should not be limited to within State boundaries.²²⁴

The CSDA evaluation

4.33 ***Interim and final report.*** The Commonwealth/State Disability Agreement made provision for an independent, external review of the CSDA prior to the development of the new agreement in 1997. The interim report and the Executive Summary of the final report of the review of the CSDA, which was based on consultation with people with a disability about what they want, have been released.²²⁵ The reports credited the CSDA with several achievements including

- an increase in funding for disability services nationally
- the enactment of disability services legislation which reflects the Commonwealth's legislation in all States
- the capacity for a joint governmental approach to policy, planning and funding
- greater clarity about which level of government deals with and is accountable for different services.

The reports also listed several shortcomings of the CSDA, most of which centre around the problem of lack of co-ordination between the Commonwealth and State programs and between services. The reports noted that the CSDA

- has done little to improve co-ordination between services, especially between employment and accommodation service systems
- has resulted in inequities across jurisdictions and services due to differing use of definitions, eligibility criteria, targeting policies and service development priorities
- has failed to address the growing nationwide demand for support
- has created gaps for people accessing multiples services or moving between service types.

4.34 ***Need for greater co-ordination.*** The reports recommended that a national co-ordination system characterised by genuine co-operation across jurisdictions is both needed and desired. The system should be designed to

- promote coherence and consistency across disability programs and policies
- ensure that people with a disability know what they can expect as service users
- facilitate innovation, competition, exchange and best practice
- bring a systematic approach to addressing need in the disability sector.

The future of disability law, policy and service delivery

Legislation should focus on the rights of people with a disability

4.35 ***New Act should focus on people with a disability.*** The Disability Services Act is effectively an instrument to facilitate the Commonwealth's direct provision of rehabilitation services and to fund other services and States and Territories to provide support for people with a disability. In its focus, structure and impact, the Disability Services Act has very little to do with people with a disability. The Commonwealth cannot effectively meet its obligations to people with a disability unless it identifies them as the focus of disability policy development and service delivery. The new legislation should clearly state that its major focus is to facilitate appropriate, quality support for people with a disability. It should note the central importance of people with a disability in all decisions made under the Act and in all aspects of the Act's implementation.

4.36 ***Principles and objectives.*** The Commission considers that the principles and objectives of the *Disability Services Act 1986* (Cth) generally express the right sentiments. The principles and objectives are a valuable tool in raising awareness of the rights of people with a disability and are capable of serving as an effective 'coathanger' for rights-based legislation. In some respects the principles and objectives are too vague and lack real meaning. Their significance is also diminished as they do not appear in the body of the actual legislation. The Commission considers that principles and objectives based on human rights doctrines should lead the new legislation, not follow it. At para 1.29-1.31 the Commission outlines its view that the focus of new legislation should be the rights and interests of people with a disability. The principles and objectives of the new legislation should spell out how that change in focus is to be achieved.

Recommendation 5 - Focus on people with a disability

The Commission recommends that the object of the new Disability Services legislation should be the effective provision of services to people with a disability. It should be based on a respect for the rights of people with a disability and its administration should aim to achieve high quality services to meet their needs. To this end, the legislation should also set out the binding principles and objectives which will become the fundamental conditions under which disability services must operate.

Recommendation 6 - Principles of the new legislation

The Commission recommends that the new legislation contain principles for fair, effective and efficient service delivery and an explanation of how those principles are to be applied. The aim of these principles should be to assist

- people with a disability to give effect to their fundamental human rights and to achieve positive outcomes
- the Commonwealth to meet effectively its human rights and social justice goals in relation to people with a disability.

Recommendation 7

The Commission recommends that the principles of the new legislation should state that all people with a disability, regardless of the type, cause or severity of their disability, have the same opportunities as other Australians to

- access services to assist them to maximise their potential
- exercise choice and be consulted about and participate in decisions which affect their lives
- support so as to facilitate their independence
- have their privacy and human dignity respected at all times
- pursue grievances they may have concerning disability services.

Recommendation 8 - Objectives of the new legislation

The Commission recommends that the primary objective of the new legislation should be to respect the right to fair process of people with a disability and to identify and meet the needs of people with a disability. It should achieve this by

- facilitating support through services, including rehabilitation and awareness raising, to assist people to give effect to their rights and to achieve positive outcomes
- guaranteeing equality of access to support and rehabilitation services
- regulating the quality of support and rehabilitation services
- establishing mechanisms to enable people to complain about support and rehabilitation services
- providing mechanisms by which people can enforce their rights
- recognising the role of advocates, guardians, carers and the general community in

assisting people with a disability to achieve positive outcomes

- promoting awareness about the rights of people with a disability
- establishing general principles for disability policy development.

Legislation should aim to meet the needs of people with a disability

4.37 Practical effects of the Act do not meet the Commonwealth's legal obligations. The Disability Services Act should be one of the means through which the Commonwealth acquits its responsibilities to people with a disability. It should be a vehicle for meeting certain support needs of people with a disability to assist them to overcome social and employment barriers. The evidence from consultations and other reviews of the area suggests, however, that the laudable sentiments of the Act do not always translate into practices that meet the human rights and social justice responsibilities or the other legal obligations that bind the Commonwealth. Recent demand studies revealed that many people who want Commonwealth services are missing out.²²⁶ The Commission's consultations suggest that many of the people who do receive support do not receive services that adequately meet their needs.

4.38 Act should enable support needs to be met flexibly. The Commonwealth will not be able to meet its obligations through legislation alone. It will be of little benefit to have legislation that respects rights and needs but results in inappropriate support being provided. Each person with a disability is unique and has different needs and goals. The new legislation should promote flexibility to meet need. Rather than concentrate on funding particular types of services, the new legislation should establish a framework to fund support to meet people's needs in the most appropriate way for each individual. The individual should not have to fit the mould of the service.

4.39 Act should set out general principles. The Commission is of the view that the new legislation should not set out rules which specifically apply to services provided at the moment. Since services and programs may change in the future, the new legislation should be flexible enough to accommodate such change. It should contain basic principles that will apply to whatever type of service the Commonwealth develops and that will apply regardless of which level of government has responsibility for the service.

Recommendation 9

The Commission recommends that the new legislation make provision for flexible service delivery policies that meet the support needs of people with a disability. To this end, overly prescriptive rules should not be included in the legislation.

Legislation should promote greater national co-ordination

4.40 Divided structure works against the interests of people with a disability. The current system of divided responsibility between the Commonwealth and the States and Territories appears to have evolved, notwithstanding the rhetoric surrounding the development of the system, because it is administratively convenient and financially constraining. The Commission is confirmed in this view by the lack of adequate preparation before the CSDA was settled, the lack of firm identification of funding at the outset, or year by year, and the complete lack even now of any co-ordinated planning. The CSDA does not essentially operate in the interests of people with a disability. Without putting the interests of people first, it is very difficult for the Commonwealth to fulfil its international and domestic human rights and social justice obligations. From the evidence received in consultations, the Commission has concluded that the current way of dividing responsibility works against the best interests of the people who should benefit most. The effect of the split means that funding is distributed inequitably between States and Territories to the particular disadvantage of some people, and people across Australia do not have the same opportunities to access the services they need. This environment does not accord with the social justice, access and equity principles the Commonwealth has adopted.

4.41 ***Other models suggested in consultations.*** During consultations the Commission received a number of suggestions for different types of service models, such as national direct client funding and voucher systems. The Commission's terms of reference prevent it from recommending any alternative model. The recommendations in this report develop a social justice and human rights framework to accommodate the current system and any future changes the Commonwealth may make. Recommending any radical changes to the structure of the current system is the domain of the CSDA evaluation which is presently underway.

4.42 ***Commonwealth should ensure national accountability.***²²⁷ Introducing a new Disability Services Act with a focus on individual needs and rights will not be enough to achieve equality for people with a disability if that Act operates in an environment that isolates an already vulnerable client group. At present the Commonwealth Department of Health and Family Services focuses primarily on its role as a direct provider of rehabilitation services and funder and administrator of employment, advocacy and a few other services. It does not see itself as ultimately responsible for and accountable to people receiving accommodation support, recreation or respite services administered by the States and Territories despite the fact that millions of dollars in federal funding is given to State governments for disability services. Regardless of the outcome of the CSDA evaluation and whatever administrative arrangements the Commonwealth and the States and Territories agree on in the future, the Commission considers that the new disability legislation should reflect a national policy and service delivery framework that the Commonwealth is ultimately responsible for overseeing.

4.43 ***Establishing a national policy development and co-ordination agency.*** The Commission is of the view that a national agency should be established to develop, co-ordinate and monitor disability policy and service delivery. Currently, disability strategies and initiatives are developed by the Office of Disability, which is within the Department Health and Family Services. That office has a significant role in promoting and developing broad disability policy across Commonwealth portfolios and various levels of government. However the Commission is of the view that if disability is to be seen as a nationally important mainstream issue, a national agency needs to be located in a central office rather than being a small part of a Department which is itself only on the fringe of the core set of departments in Canberra. The Commission considers that the Commonwealth should create a national Office on the Equal Status of People with a Disability. Such an office could work along the lines of the Office on the Status of Women, involved in high level strategy formulation for the advancement of the interests of people with a disability generally, not just in relation to the provision of services administered by the Department of Health and Family Services. The role of the Office should be to

- develop disability services policy at a national level in consultation with relevant Commonwealth, State, Territory, local government and community organisations
- co-ordinate disability policy nationally with relevant Commonwealth, State, Territory, local government and community organisations
- be instrumental in developing Commonwealth planning policy and assessing the impact of planning proposals on the community (see rec 19)
- monitor and report to Commonwealth Parliament on the implementation of the principles and objectives of the new legislation across Australia
- identify and report to Commonwealth Parliament on areas of duplication or gaps in service delivery across Australia
- receive, co-ordinate and disseminate relevant information on disability services, policy and law from each Commonwealth, State and Territory agency.

The office should be located in a central agency, such as the Office of Prime Minister and Cabinet rather than the Department, so that issues affecting people with a disability take on mainstream' significance.

Recommendation 10

The Commission recommends that the new legislation require the Commonwealth, in consultation with the States and Territories, to develop a nationally co-ordinated framework for disability policy and service delivery. The legislation should make the Commonwealth responsible for implementing that framework.

Recommendation 11

The Commission recommends that the new legislation create a national Office on the Equal Status of People with a Disability to be established within the Office of Prime Minister and Cabinet. That office should

- develop disability services policy at a national level in consultation with relevant Commonwealth, State, Territory, local government and community organisations
- co-ordinate disability policy nationally with relevant Commonwealth, State, Territory, local government and community organisations
- be responsible for developing Commonwealth planning policy and assessing the impact of planning proposals on the community (see rec 19)
- monitor and report to Commonwealth Parliament on the implementation of the principles and objectives of the new legislation across Australia
- identify and report to Commonwealth Parliament on areas of duplication or gaps in service delivery across Australia

receive, co-ordinate and disseminate to people with a disability and to the general community information on disability services, policy and law from each Commonwealth, State and Territory agency.

The new legislation and carers

To what extent should the new legislation cover carers of people with a disability?

4.44 Up to this point this chapter has looked at the impact of disability law, policy and service delivery on people with a disability and has made recommendations concerning the nature and focus of new disability legislation. This section considers the issue of whether carers of people with a disability should be covered by the new legislation and, if so, to what extent. In its discussion paper the Commission noted the important role that carers can play in assisting people with a disability to achieve their full potential. The Commission asked whether carers should be recognised in the new legislation and if so, how their role should be described. The responses to this question in submissions and public consultations were among the most divided and controversial the Commission received.

Some submissions considered carers should be recognised

4.45 Many submissions stated that carers should be recognised in the new legislation.²²⁸ They maintained that carers play a vital role in ensuring people with a disability achieve positive outcomes which should be adequately recognised.²²⁹ Some people indicated that carers are not only important to the needs and interests of people with a disability but save the community money by providing free' disability services.²³⁰ The Carers' Association of South Australia submitted that the recognition of and support for carers should not be left to a number of different laws and government agencies but should be linked so that policies on carers are consistent.²³¹ This concern was often expressed to be more of an issue in rural areas where the lack of services places greater pressure on carers.²³² Submissions suggested the new legislation should

- recognise the contribution that carers can make to the life of a person with a disability, the community and the government²³³
- set out the rights, roles and responsibilities of carers²³⁴
- distinguish between paid and voluntary carers²³⁵
- facilitate adequate funding and social support for carers²³⁶
- state the role carers should have in advocating for and making decisions relating to people with a disability²³⁷
- state the role carers should have in any complaint the person they care for may have about a service²³⁸
- address the training, information and consultation needs of carers²³⁹
- enable carers to be directly funded by the Commonwealth as providers of support if they are able to demonstrate outcomes.²⁴⁰

Other submissions supported the legislative recognition of carers but stressed that the person with a disability must remain the focus of the legislation.²⁴¹

Other submissions stated the legislation should only refer to people with a disability

4.46 Other submissions advocated for new legislation to be restricted to people with a disability.²⁴² It was argued that while carers play a vital role, their interests are adequately provided for under other legislation and programs and should not be included in a new Disability Services Act.²⁴³ Submissions stated that carers, often with the best will in the world, may have a different agenda from the person they care for and a different idea of what is in his or her best interests.²⁴⁴ Others argued that recognising the role of carers in the legislation would do little to advance the interests of people with a disability and might lessen their independence.

[P]ossibly the strongest argument against affirming the role of carers in the new legislation is that it perpetuates an image of people with disabilities as being inextricably linked to their families and carers. We would not contemplate this kind of paternalism in other kinds of legislation (except perhaps laws relating to children); we should not contemplate it here ... It must be recognised that if carers are included in the new legislation, there is a danger that people with disabilities will once more be considered the objects of the legislation rather than the subjects of it.²⁴⁵

It was argued that recognising the rights and needs of carers will undermine the right of people with a disability to be truly independent and to receive the support services they require.

People with disabilities will never achieve equality whilst they are defined in relation to their need for care from an unpaid carer.²⁴⁶

The Commission's views

4.47 ***Carers play many roles.*** The question of whether the new legislation should recognise the role of carers is an extremely difficult one to deal with effectively. Since people with a disability have vastly different needs, the roles of carers can vary significantly. For some people, carers may play a role in securing their rights. Carers in this role may more properly be referred to as advocates. Other carers take on an emotional or a physical support role, and often, a combination of these roles. For other people with a disability who do not depend on carers, recognition of carers in the legislation creates a risk of diminishing their independence.

4.48 ***The new legislation should provide for carers who are advocates.*** Most submissions, including those from carers, were of the view that merely recognising the role of carers in the legislation would be of little benefit to either the carer or the person for whom they care. The Commission is of the view that the new legislation will deal with carers where they are advocating the rights and interests of a person with a disability. For example, a carer may perform the role of an advocate if they are assisting a person with a

disability to make a complaint about a service. In this situation the new legislation would cover carers in respect of

- their ability to access relevant information (see para 10.10, 10.12, 10.46 and rec 38)
- the extent to which they are entitled to be consulted about decisions made by services that affect the person for whom they care (see para 9.5, 9.21)
- their role as advocate in any complaints procedure (see para 14.12, 14.16, 14.33-14.36).

4.49 *The new legislation should provide for carers who are service providers.* At rec 77 the Commission recommends that a carer should be entitled under the new legislation to be funded as a service provider if the carer can satisfy the Department that he or she will be able to achieve positive outcomes for the person with a disability for whom he or she cares. A carer may provide support services directly or purchase necessary services from local providers. Where a carer is funded as a service provider, he or she would have the benefit of all of the rights the Commission recommends should apply to services under the new legislation (see ch 18), and also be subject to the same duties, obligations and sanctions as services (see ch 17).

4.50 *Some matters inappropriate for the new legislation.* The Executive Summary of the Final Report of the CSDA review recommends that primary carers of people with a disability should be covered under the next CSDA.²⁴⁷ The Commission does not consider, however, that the new disability services legislation is the place to provide for carers' rights, support needs and financial entitlements. The legislation should only have one focus and that should be the rights and needs of people with a disability. The Commission accepts the argument that the new legislation should not depict people with a disability as being necessarily dependent on unpaid carers. This would undermine the focus of the new legislation, which should clearly be on advancing the interests of individuals with a disability.

4.51 *Other legislation deals with carers.* It is apparent from consultations and submissions received by the Commission that carers need more recognition for the various roles they play and greater awareness of their rights and responsibilities. Other legislation currently provides for carers. For example, the *Social Security Act 1991* (Cth) provides for the payment of a carers' pension. To receive a carers' pension a person must

- personally provide constant care for a severely handicapped person²⁴⁸
- provide care in a private residence²⁴⁹
- live with the person cared for²⁵⁰ or live in a home adjacent to the home of the person being cared for²⁵¹
- care for a person in receipt of a social security benefit or pension or a service pension.²⁵²

The *National Health Act 1953* (Cth) provides for the payment of a domiciliary nursing care benefit. (DNCB).²⁵³ A carer may be approved by the Department of Health and Family Services to receive the DNCB if

- the person being cared for is 16 years or older and requires the same type of nursing care as is provided in a nursing home (this must be certified by a medical practitioner)
- the carer and the person being cared for live in the same home
- the carer provides care on a continuing full-time basis (although the carer may take 42 days off a year and short periods off during the day while another person provides care)
- the nursing care provided is of an adequate standard (this must be certified by a registered nurse).

Under the *National Health Act 1953* (Cth) only one carer of a person can be paid at any one time. A carer can be approved to provide care to no more than two people. DNCB is not paid where the care is provided in an institution where nursing care is provided and where this care is funded solely or partly by the

Commonwealth or a State or Territory. For example, it is not paid for care provided in a hospital or nursing home. DNCB can be paid if the person cared for receives Home and Community Care (HACC) services.²⁵⁴

4.52 *Changes to carers' pensions should be made under the appropriate legislation.* The Commission acknowledges that there is an argument for amending the law to give greater recognition to the role carers of people with a disability play. The Commission is of the view, however, that any changes to carers' financial entitlements should be made under the appropriate legislation such as the *Social Security Act 1991* (Cth) and the *National Health Act 1953* (Cth) and should not be dealt with in the new disability services legislation.

Recommendation 12

The Commission recommends that the new legislation should recognise carers of people with a disability when they perform the role of

- advocates promoting the rights and wishes of a person with a disability with that person's full support and consent, or
- service providers receiving funding from the Commonwealth to achieve certain outcomes for identified individuals with a disability (see rec 77).

Recommendation 13

The Commission recommends that any additional recognition of carers or changes to their current financial entitlements should be made under the relevant legislation such as the *Social Security Act 1991* (Cth) or the *National Health Act 1953* (Cth).

5. Defining disability

Introduction

5.1 This chapter looks at how the Commonwealth, through the Department of Health and Family Services (the Department) attempts to work out those for whom services should be provided. It considers and makes recommendations about how disability should be defined in the new legislation.

Defining those for whom services should be provided

Defining disability is the first step in planning

5.2 Before any serious attempt at equitable planning can be made, the Commonwealth must have an idea of the level of need in the community. The need of people with a disability for Commonwealth services can only be assessed effectively when it is clear whose needs are being examined. If the new legislation is to provide a framework for needs-based planning, it must first address the question of what is meant by disability.

No consistency in approaches to defining disability

5.3 There is little consistency in approach between international organisations and the Commonwealth and the States and Territories in defining disability. Some definitions use the terms disability, impairment and handicap interchangeably. Some approaches are broad and inclusive while others are narrower and restricted to particular types of disabilities. The issue of defining disability is being widely discussed at present. The report of the Strategic Review of the Disability Services Program (the Baume Report) recommended that a Task Force chaired by the Australian Institute of Health and Welfare be established to standardise definitions related to disability.²⁵⁵

Various approaches

5.4 **Broad approach - the World Health Organisation.** The World Health Organisation (WHO) definitions are very broad in their focus. The Australian Institute of Health and Welfare relies in its statistical analysis on the definitional framework provided by the World Health Organisation. The International Classification of Impairments, Disabilities and Handicaps²⁵⁶ (which is a WHO document) defines impairment, disability and handicap. *Impairment* is defined as

any loss or abnormality of psychological, physiological or anatomical structure or function.

Disability is defined as

any restriction or lack of ability (resulting from an impairment) to perform an activity in the manner or within the range considered normal for a human being.

A *handicap* is defined as

a disadvantage resulting from an impairment or a disability that limits or prevents the fulfilment of a role that is normal (depending on age, sex and social and cultural factors) for that individual.

WHO is currently working on improving the definition of handicap to reflect that a handicap is the result of the interaction between a person with a disability and his or her environment. Disability services should aim to reduce the environmental factors which prevent people with a disability from living lives as normal as possible.

5.5 **Broad approach - the Disability Discrimination Act.** The Disability Discrimination Act 1992 (Cth) defines disability to mean

- total or partial loss of a part of the person's bodily or mental functions or

- total or partial loss of a part of the body or
- the presence in the body of organisms causing disease or illness or
- the presence in the body of organisms capable of causing disease or illness or
- the malfunction, malformation or disfigurement of a part of the person's body or
- a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction or
- a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour.

The *Disability Discrimination Act 1992* (Cth) definition also includes people who are perceived to have a disability and people who had a disability in the past or who may develop a disability in the future. State and Territory anti-discrimination and equal opportunity legislation adopt roughly similar definitions with minor variations.²⁵⁷

5.6 A targeted approach. Commonwealth, State and Territory disability services legislation define target groups in relation to the type and cause of disability which can reduce the person's capacity to achieve certain goals.²⁵⁸ The *Disability Services Act 1986* (Cth) allocates different target groups to the Commonwealth Rehabilitation Service (CRS) and other services funded by the Commonwealth. The CRS and funded services have responsibility for people who have a disability that is the result of an intellectual, psychiatric, sensory or physical impairment or a combination of such impairments. To be included in the target group for funded services a person's disability must result in a substantially reduced capacity for communication, learning or mobility and the need for continuing support services.²⁵⁹ The target group for the CRS refers to people aged between 14 and 65 who have a substantially reduced capacity to obtain or retain unsupported paid employment or to live independently and who would gain substantially from a CRS program.²⁶⁰

Discussion paper

5.7 In its discussion paper the Commission asked whether the new legislation should contain a broad definition of disability. It also asked for reasons for responses and what the definition should be if the broad approach is adopted. The Commission provisionally proposed that the new legislation contain a broad definition of disability which is consistent with international developments and other relevant Commonwealth legislation.

Consultations supported defining disability

5.8 What consultations revealed. The majority of written and oral submissions received by the Commission stated that the new legislation should contain a broad definition of disability²⁶¹ in order to

- include as many people as possible and give the legislation some legitimacy²⁶²
- prevent the Act from being too narrow and restrictive²⁶³
- ensure that people are not excluded from necessary services²⁶⁴
- reflect Australia's humanitarian obligations²⁶⁵
- reflect international trends²⁶⁶
- make the Act consistent with the approach of basing eligibility on need²⁶⁷
- prevent inconsistencies experienced by individuals applying for services²⁶⁸

- satisfy the basic requirements of equality,²⁶⁹ social morality and justice²⁷⁰
- prevent the possible exclusion of people with cognitive, episodic and other hidden disabilities²⁷¹
- maintain consistency across legislation²⁷²
- clarify who is eligible²⁷³
- cover social and cultural disability.²⁷⁴

5.9 **Which definition?** Many people in consultations preferred the WHO definition as the appropriate definition to be adopted in the new legislation.²⁷⁵ Some stated that the Disability Discrimination Act definition should be adopted²⁷⁶ because it is wider²⁷⁷ and others stated that the new definition should combine aspects of both definitions.²⁷⁸ Other submissions argued that the definition

- should be based on a compassionate understanding of a broad range of needs²⁷⁹
- should eliminate age barriers²⁸⁰
- should be functionally based so as to shape programs and services to assist people to achieve maximum independence²⁸¹
- should identify types of support needs²⁸²
- should point to positive, not negative values.²⁸³

The Commission's view

5.10 **Legislation should take a broad approach.** The Commission is of the view that the first step in any legislative regime or framework should be to identify for whom the framework is intended. The Commission considers that defining a target group by reference to the type or cause of disability is too narrow. There may be disabilities that do not fall neatly into the categories set in the target group. The new legislation should contain a broad, inclusive definition along the lines of the *Disability Discrimination Act 1992* (Cth). This broad definition would remove the risk of excluding a person from eligibility to receive a disability service purely on the basis of the type or cause of his or her disability. Under the new legislation any person with a disability would have the opportunity to gain access to Commonwealth disability services.

5.11 **Access to services should be based on need.** A broad definition would not mean that everyone included within the definition would qualify for a disability service. Many people within the definition would not have a disability or handicap severe enough to need the type of services funded and provided under the new legislation. People with a disability would still have to meet specific eligibility criteria based on need for each type of service provided or funded under the new legislation.²⁸⁴ The Commission considers that the new legislation should state that a person, after satisfying the broad definition of disability, must also demonstrate that he or she has a need for the type of support available and can satisfy specific eligibility criteria before he or she can access support services provided under the legislation.

5.12 **Need should be interpreted broadly.** A person's need for a service should be interpreted broadly and flexibly and a number of factors should be considered. For example, need should not be based solely on the severity of a person's disability. Someone with a mild or moderate disability who has no access to attendant care or who lives in a remote area, may have a greater need for assistance from Commonwealth services than someone with a severe disability who may need intensive attendant care but not rehabilitation or help to find a job.

Recommendation 14

The Commission recommends that the new legislation contain a broad definition of disability based on the definition in the Disability Discrimination Act 1992 (Cth).

Recommendation 15

The Commission recommends that people included within this definition should also have to demonstrate that they have a need for the services being provided and meet the eligibility criteria.

6. Planning to meet needs

Introduction

6.1 Planning helps to ensure that services are equitably distributed around Australia and are available to the people who need them most. If there is no planning, services tend to go to communities which are most able to make their demands known or where charitable or other organisations able to provide services are located. These services may not necessarily be where they are most needed. This chapter examines how the need for the Commonwealth Rehabilitation Service (CRS) and the services the Commonwealth funds other organisations to provide (funded services) can best be determined and how services should be located to give people with a disability better opportunities to access them.

Planning to meet needs

Planning for funded services

6.2 **Funding priorities.** Since 1992 the Department of Health and Family Services (the Department) has followed a needs based approach in planning where to locate the services it funds other organisations to provide. Under this approach new services are funded only in those areas where they are most needed to assist people to achieve positive vocational outcomes. The planning process is set out in guidelines under the *Disability Services Act 1986* (Cth) (the Act). Those guidelines say that the Minister must set funding priorities for each State and Territory. The priorities relate to groups with particular needs and sometimes to geographical areas. Until recently the Department set annual funding priorities based on available data and information provided by State and Territory offices of the Department about special areas of need. In May 1995 the Minister approved the funding priorities for the making of grants to new employment services over the next three years. The funding priorities are

- school leavers and young people up to the age of 25
- Aborigines and Torres Strait Islanders
- people from non-English speaking backgrounds
- people with a psychiatric disability
- people with high support needs
- women
- people with acquired brain injury.

The priorities were developed following consultation with the community and with State and Territory offices of the Department. Data about the number of people with a disability using services in each particular area and the nature of their disabilities was also used. For advocacy services, priority funding is to be given to those States and Territories with lower than average per capita funding for advocacy services.

6.3 **Money allocated to States and Territories.** From the pool of money available to fund new services the Department allocates an amount to be distributed to each State and Territory. That amount is calculated based on population statistics and the existing levels of resources provided to that State or Territory. State and Territory offices of the Department must ensure that the funding is applied across the State or Territory in accordance with the funding priorities set out at para 6.2. They work out the number and type of services needed in each regional area. Each State and Territory uses different data and consults with different consumer and industry groups to work out which regions have the most pressing need for services. The level of need is worked out by measuring the potential demand in each area as well as the capacity to supply a service. From the funding available the number of places in services that can be provided in each regional area is worked out. States and Territories, in consultation with the regional areas, can recommend what type

of service should be provided and whether any places should be dedicated to providing support for people with particular needs such as Aborigines and Torres Strait Islanders or people with a psychiatric disability. State and Territory offices then tender for organisations to provide the specified type of service for the specified number of places.

Planning CRS regional units

6.4 Needs based planning. The CRS decides where new units should go using needs based principles. It examines demographic data and considers access and equity principles and environmental and regional factors that can affect service delivery. The proposed location of new services is worked out at State and Territory level by State and Territory offices of the CRS. The Commonwealth funds States and Territories on a per capita basis. States use a variety of indicators to determine allocation of funds to regions. Factors include population size, distribution of working age population, where people receiving the Disability Support Pension live, distribution of work related injuries and information supplied by the Commonwealth Employment Service concerning people with a disability who are unemployed.

6.5 Planning for groups with particular needs. People with a disability who live in rural and remote areas, who are Aborigines or Torres Strait Islanders or who are from non-English speaking backgrounds find it particularly difficult to gain access to rehabilitation services. The CRS sets performance goals for the provision of services to these three target groups and has developed strategies to try to meet these goals. National performance goals are based on the proportion of each of the target groups to the general working age population. The CRS monitors its client disability profile.

Discussion paper

6.6 In its discussion paper the Commission asked whether the current planning systems are adequate to ensure that funded services and CRS services are established where they are most needed and whether the planning system should be set out in the legislation. The Commission also asked in its issues paper whether people have trouble getting access to services for any reason, including lack of available services in their area.

Consultations pointed to inadequacies in the planning system

6.7 Only a few submissions stated that planning processes were adequate.²⁸⁵ The Commission received many submissions and questionnaires which stated the system was inadequate.²⁸⁶ Reasons included

- those who lobby the loudest are listened to the most by planners²⁸⁷
- data collection is poor²⁸⁸
- people with certain disabilities often get neglected, for example, people with acquired brain injury,²⁸⁹ spinal injury,²⁹⁰ non-visible or hidden disabilities²⁹¹
- the needs of rural, Aboriginal and non-English speaking people are not properly considered by planners²⁹²
- clients' needs and desired outcomes are not considered at the planning stage so appropriate services are not located properly²⁹³
- a failure to factor in emerging disability groups or school leavers²⁹⁴
- lack of a uniform national approach to planning²⁹⁵
- the system is too rigid and artificial and does not allow for innovation²⁹⁶
- the planning system is not planned properly itself and is too ad hoc²⁹⁷

- lack of consistency in terminology and methods between different planning agencies and between States and Territories²⁹⁸
- lack of co-operation between State and Territory and Commonwealth departments²⁹⁹
- planning by the Commonwealth focuses on employment services and so the impact of other services is not considered, such as whether there is suitable public transport close by³⁰⁰
- lack of a clear commitment to link funding to the growth of population and to need.³⁰¹

One submission identified problems with planning for specialist services established by the CRS to meet particular needs. It stated that services are often geographically inaccessible, with one unit often servicing a whole state.³⁰² Submissions state that specialist units may create the risk of generic units not developing their own capacities to provide services to people with specialist disabilities.³⁰³ This means that people who do not live close to specialist units may receive poor quality services.

Planning for psychiatric disability

6.8 Submissions identified several issues specific to effective planning for people with a psychiatric disability. They stated that currently, there are fewer services available for people with a psychiatric disability, reflecting poor data collection about need and demand.³⁰⁴ They also observed that current planning mechanisms fail to take into account the episodic nature of psychiatric disability. People will have different requirements at different times, therefore demand needs to be regarded as much more fluid than it is currently. Services should be designed so that they can cater to people at the times that they most need them.³⁰⁵ Likewise, planning for services for people with a psychiatric disability should take into account the fact that people with a psychiatric disability often require longer term support and independent living assistance. This is particularly a problem for people receiving services from the CRS, which does not plan for longer term support despite establishing specialist psychiatric units.³⁰⁶

Legislating the planning system

6.9 **Public opinion divided.** Submissions were divided on the issue of whether the system of planning the location of funded services and the CRS should be set out in the new legislation.

6.10 **Arguments in favour.** Those agreeing that the planning process should be set down in the legislation³⁰⁷ argued that it would

- clarify how planning operates so that people know what to expect³⁰⁸
- result in transparent decisions being made and improve the fairness of planning decisions³⁰⁹
- ensure that planning takes into account the particular needs of different groups³¹⁰
- allow for better monitoring of where funding is going and of outcomes³¹¹
- help avoid gaps and duplication in services³¹² and assist people with a disability to have their whole of life' needs met³¹³
- force the Commonwealth to focus more on a long term approach³¹⁴
- set out clearly the responsibilities of State and Territory and Commonwealth Departments³¹⁵
- help co-ordinate a shared response to planning across government agencies³¹⁶
- help achieve adequate and equitable service provision.³¹⁷

6.11 **Arguments against.** Other submissions arguing that the planning process should not be included in the new legislation³¹⁸ emphasised that

- putting planning in the legislation would be too prescriptive and not allow for necessary flexibility³¹⁹
- there may be a danger of planning becoming the focus of the Act when it should not be³²⁰
- it would be more appropriate to put planning requirements in the statutory rules which already contain fundamental planning principles.³²¹

The Commission's views

6.12 **Planning process should be clear.** The planning process is critical to the effectiveness of the disability services program. Given that funding for disability programs is limited, it is crucial that decisions about how that funding is rationed be made transparently. A planning process that is open and operates on social justice principles is the best way to ensure that the Commonwealth achieves a rational and equitable distribution of limited funds according to the principles and objectives of the legislation. It is therefore appropriate that the new legislation should make some provision for the planning process. This ensures some level of national consistency which is important to achieve equity. It promotes transparency and accountability. In the Commission's view the legislation should set out broad principles on which planning decisions are based. It should also identify the outcomes the process seeks to achieve. The legislation should not be prescriptive but recognise the need for a flexible planning process which is sensitive to the needs of particular geographic areas and special needs groups. The process should include a regular review, by a person or organisation independent of the Department and the CRS, to see if the planning priorities (which should be based on greatest need) are being met satisfactorily.

Recommendation 16

The Commission recommends that the new legislation should outline the broad criteria on which planning decisions are based and should allow regular review of the targets and outcomes the Commonwealth seeks to achieve. These outcomes should include

- a well advertised, open, transparent and flexible planning process fully co-ordinated with State and Territory and local government authorities
- identifying and meeting of community needs, including the needs of people with special needs
- providing adequate opportunities for the community in general and special needs groups in particular to participate in the planning process
- ensuring the community is informed about the planning process, related decisions and reasons for these decisions
- regular evaluation of the effectiveness of the planning process including
 - the range, appropriateness and accuracy of data necessary in the evaluation of disability needs
 - the planning formula and priorities in the light of new data.

Data used for planning

6.13 **Data in short supply.** Historically the Department did not take a scientific, co-ordinated approach to collecting and analysing data on need and demand for or supply of disability services. In January 1995 the Department implemented an information management software package known as the National Information Monitoring System (NIMS). So far, NIMS is designed to provide the Disability Services Program with national quarterly information on service activity and performance in relation to open employment services only. Likewise, the CRS has a management information system called CRS Management Information Systems (CRSMIS), which provides internal data on matters such as clients' needs and the amount of money spent. The problem with both systems is that they provide data on the number of services available but not on the demand for services. This makes them less suitable for use in planning than they would be if they measured supply and demand. The Commission understands that the Australian Bureau of Statistics (ABS) is

currently developing strategies to enhance the delivery of more accurate and timely data, especially data arising from the census. The Australian Institute of Health and Welfare has released a report on demand for disability support services in Australia as part of the evaluation of the Commonwealth/State Disability Agreement.³²² In its discussion paper the Commission asked what sort of data should be used to determine the need for services.

6.14 Submissions stated that current data is inadequate. Submissions indicated that the data currently used to plan funded services and CRS regional units is not adequate to ensure services are located in areas of most need.³²³ They argued that the Commonwealth should build up a computer database of information on disability.³²⁴ Submissions suggested the Department should obtain feedback from and data

- held by other agencies such as the Department of Social Security, the Department of Employment, Education, Training and Youth Affairs, the Commonwealth Employment Service and from State and Territory governments³²⁵
- about the geographic location of people on the Disability Support Pension³²⁶
- from hospital admissions³²⁷
- from advocacy services³²⁸
- from other funded services³²⁹
- from an analysis of population trends³³⁰
- about school leavers³³¹
- from peak bodies and other non-government organisations³³²
- from individual clients.³³³

Various people with whom the Commission consulted suggested that a comprehensive set of questions included with the census would provide useful planning information.³³⁴ They stated that data should be collected from widespread consumer consultation³³⁵ as well as consultation with local communities, advocacy services³³⁶ and other service providers.³³⁷ One submission pointed out that there is no direct correlation between population levels of people with a disability and the level of need. Many other factors will influence level of need including personality, geographical isolation, family structures, and responsiveness of the community and other generic services.³³⁸

The Commission's views

6.15 Planning should be based on reliable data. Various submissions expressed concern that the data on which the planning process is based may not be as good as it should be. Without reliable data to provide a broad picture of need across Australia it is extremely difficult for the Commonwealth to ensure services are located properly. Inappropriate planning targets may be set. Factors other than demographic data are important in needs-based planning. The development of reliable indicators of need should be the basis of the Commonwealth's planning process.

6.16 Data should be collected at a regional level. The Commission is of the view that regional sources provide the most useful data. Regional community organisations, service providers and branches of Commonwealth and State and Territory government agencies are in touch with local communities and can provide information about the numbers of people with a disability in each area, where they live, what infrastructure is currently available, the type of support people need and who is currently missing out. The Commonwealth should collect this sort of data from regions and analyse it to develop a national picture of aggregate need. Data should focus on what need exists, where it exists, the needs which are most urgent or crucial and the support necessary to meet such needs across Australia. This data should be used to determine where appropriate services should be located.

Recommendation 17

The Commission recommends that the new legislation should require the Commonwealth, in consultation with people in regional areas of each State and Territory and with the Australian Bureau of Statistics, to develop appropriate indicators of aggregate need across Australia. Indicators of need for services should include, but not be limited by

- the number of people with a disability in Australia
- where those people live
- the support needs they have
- the level of support necessary to meet their needs
- the extent to which those needs are currently unmet.

The Commonwealth's planning targets should prioritise areas of need.

Consultation and planning

Introduction

6.17 Reliable data on need is one essential element in a successful planning process. For planning to be truly effective, however, data analysis needs to be supplemented through community consultation. Demographic data will provide information on raw need, but it may not reveal information such as the most appropriate type of service to put in a particular area or the special needs of rural and remote communities. Consultation with the community will help to determine the kinds of services that are needed in particular areas and the most appropriate ways of administering those services.

Current law and practice

6.18 The principles and objectives gazetted under the *Disability Services Act 1986* (Cth) state that people with a disability should have the chance to participate in the planning and operation of the services they receive. The principles state that the Commonwealth should provide opportunities for consultation about the development of major policy and program changes. The guidelines made under the Act require the Minister to consult with an adequate number of people with a disability, their families and advocates, service providers and other interested parties prior to approving a new class of service. Under the Commonwealth/State Disability Agreement, the Commonwealth and the States and Territories are required to work towards establishing a joint advisory board in each State and Territory to provide advice to the Commonwealth and State and Territory Ministers on the planning process.³³⁹ The agreement also requires the Commonwealth and States and Territories to consult with each other and to agree on the establishment of broad program priorities and targets. The agreement provides that the Commonwealth and each State and Territory must develop three year forward plans for services. The preparation of these plans requires the Commonwealth and the States and Territories to consult with each other, with consumer representatives and with other relevant bodies, organisations and groups.³⁴⁰ The CRS currently consults with people with a disability about the development of policy. However, in deciding where new regional units should be located the CRS uses data on need rather than community consultation.

Discussion paper

6.19 In its discussion paper the Commission asked whether the new legislation should require the Commonwealth to consult with people with a disability when deciding where CRS regional units and funded services should go, what sort of consultation there should be and which people or organisations should be consulted. It also asked whether the legislation should require the Commonwealth to consult with the States and Territories when deciding where services should go.

What submissions stated

6.20 **Consultation is essential.** Several submissions stated that consumer and community consultation is very important in determining where types of services should be established.³⁴¹ One submission observed that the

community is the logical place to go for information about need.³⁴² Consultation also plays a major role in making people feel as though they are part of the decision making process.³⁴³ One submissions identified lack of consultation as a reason for poor planning.³⁴⁴ Submissions suggested that the following groups should be consulted

- people with a disability who are clients or potential clients of services³⁴⁵
- carers and people advocating on behalf of people with a disability³⁴⁶
- people from rural and remote communities³⁴⁷
- Aboriginal people³⁴⁸
- parents and families of people with a disability³⁴⁹
- service providers³⁵⁰
- peak bodies³⁵¹
- community organisations³⁵²
- government departments administering disability services³⁵³
- State and Territory agencies.³⁵⁴

Most submissions endorsed the Commission's provisional proposal that the new legislation should require the Commonwealth to consult with the community, in particular people with a disability, and with the States and Territories when deciding where services should go.³⁵⁵

6.21 *What sort of consultation should there be?* One submission stated that consultation would be more effective if it were less structured.

Presently consultations are so structured that there is little opportunity to challenge underlying assumptions or to question why changes in procedures are necessary.³⁵⁶

Submissions suggested that different methods of consultation should be tried and evaluated,³⁵⁷ for example, that consultations should

- be community based, perhaps by way of public hearings³⁵⁸
- focus on consumer needs³⁵⁹
- be ongoing and update the community on developments³⁶⁰
- be conducted nationally³⁶¹
- be conducted in regional and country areas³⁶²
- be done through advocacy services³⁶³
- involve consumer representatives, peak organisations and government agencies³⁶⁴
- be widely publicised³⁶⁵
- be done in various ways - consultation with consumers should be separate from consultation with service providers, advocates and family members³⁶⁶

- be user friendly³⁶⁷
- be managed by people with knowledge of the field rather than generic consultancy services³⁶⁸
- be objective and informative.³⁶⁹

6.22 ***Submissions noted drawbacks with consultation.*** Certain submissions disagreed with the need for consultation³⁷⁰ stating that consultation is not necessarily a good way of determining where services should go because only those groups with the loudest voices are heard³⁷¹ and because some groups, for example, people with an intellectual disability, often are not included.³⁷² One submission argued that greater consultation and research for planning purposes only results in more cost and less money available for actual support.³⁷³ Some people indicated that they had become cynical about consultation, having participated in many consultations and seen little positive result.³⁷⁴ The CRS raised the difficulty that many of its future clients, who will be the victims of accidents, cannot currently be identified, and so, cannot be consulted.

6.23 ***Consultation protocol.*** One submission suggested the protocol for consultation developed by the Commonwealth Office of Disability is a useful model.³⁷⁵ The consultation protocol contains underlying principles and specific technical and practical requirements to undertake consultation effectively with people with a disability. It outlines the aspects of good consultation practice, in particular highlighting the key management, process and outcome issues likely to be of concern to people with a disability. The protocol was developed following the Report on the National Consultations on the Draft Commonwealth Disability Strategy in September 1994, which highlighted the need for an effective and comprehensive consultation strategy to be used by the Department, funded service providers and the community. The Protocol requires that

- people with a disability be involved in the planning stages of consultation to ensure that the terms of reference are appropriate, that consultees have a clear understanding of the consultation process and that diverse and representative views can be obtained
- appropriate methods of consultation should be discussed with prospective participants to ensure that the least articulate, most isolated and disadvantaged people have the opportunity to participate
- there be guidelines for choosing appropriate methods of consultation to cater to different needs
- there be sufficient lead in time for participants to familiarise themselves with relevant material, prepare their arguments and organise their attendance
- there be adequate participation time for all participants, including those with an intellectual disability
- there be no cultural, physical or other barriers which prevent anyone's participation in consultations
- consultative processes be designed so that they do not devalue participants
- the specific needs of people with a disability (braille, oral material, signing interpreters, audio-loop, plain English, physical access) be identified and respected during the consultation process
- participants receive feedback about the consultation
- consultation processes be evaluated.

The Commission's views

6.24 ***Community consultation.*** Ascertaining the views of people with a disability and those of their carers and representatives is an important step towards implementing social justice, access and equity. Knowing what consumers want and need is essential to the appropriate design and delivery of disability services. It allows for a more sensitive and appropriate response to people's needs, especially people with special needs. There cannot be proper accountability for the community resources that go into disability services without

adequate consultation with users. The new legislation should require consultation with people with a disability and with the community in general before planning or other major decisions are made. The Commission recognises the difficulties associated with consulting people with a disability including the necessity to seek the views of those who do not volunteer vital information. It demands careful planning and adequate time and resources. The Commission considers that the consultation protocol developed by the Office of Disability should act as a useful guide to community consultation.

6.25 *Consultation with States and Territories.* A Commonwealth funded service or a CRS regional unit will only meet need in a comprehensive way if there are complementary services and a proper infrastructure in that area. When planning where services should go, the Department should have regard to where State and Territory accommodation support, recreation, respite and transport services are located or are being planned. In its consultations the Commission was given examples of joint planning and consultation between Commonwealth and State agencies. These initiatives, which were described as very successful, generally involved consultation at a regional level to identify need in particular communities and develop strategies to meet that need. The Commission is of the view that the new legislation should require the Commonwealth to consult with regional offices of the Department, State and Territory agencies and community organisations before deciding where to locate services. That consultation would most effectively be done at a regional level.

6.26 *Disability Impact Statement.* As part of the process of developing an effective consultation strategy and ensuring communities have an appropriate infrastructure to support a service, the Commonwealth could look to environmental legislation as a planning model. Environmental law requires an independent consultant to investigate a proposal to assess the likely positive and adverse effects on the environment of implementing the proposal. The consultant presents the Minister with an Environmental Impact Statement which must be publicly displayed and open for comment for a period of 2 months. The new disability services legislation could require the Commonwealth to commission a Disability Impact Statement prior to any major planning decision or funding allocation, such as the setting of funding priorities. The statement should be open for public scrutiny for a set time period. The Minister should have to give reasons if he or she decides to reject the findings in the statement. The Office on the Equal Status of People with a Disability (see para 4.43) would be an appropriate body to prepare the impact statement.

Recommendation 18

The Commission recommends that the new legislation require the Commonwealth to conduct effective consultation before any significant planning decisions are made. Effective consultation should include consultation with

- a range of individuals with a disability
- people from different racial and cultural backgrounds
- people from rural or remote areas
- people who may have particular planning needs, such as people with a psychiatric disability
- peak representative groups
- carers and relatives of people with a disability
- States and Territories to identify gaps or overlaps in service provision
- the Office on the Equal Status of People with a Disability (see rec 11).

Recommendation 19

The Commission recommends that, as part of the strategy to consult effectively, the legislation should require an impact statement to be prepared by the Office on the Equal Status of People with a Disability prior to any major disability policy initiative being implemented. The impact statement should include assessment of such things as the

- benefit to the disability population of the proposal
- detriment to the disability population of the proposal
- cost to government of implementing the proposal
- benefits to government of implementing the proposal
- impact on special needs groups of the proposal
- effect on the disability population if the proposal is not undertaken
- practicality of the proposal
- effect of the implementation of the proposal on sectors other than the disability sectors
- the infrastructure necessary to implement the proposal.

7. Eligibility for services funded or delivered by the Commonwealth

Introduction

7.1 In this chapter the Commission considers the current eligibility criteria for access to the Commonwealth Rehabilitation Service (CRS) as well as the services which the Commonwealth funds other organisations to operate (funded services). It reports what people in consultations have said about the criteria and makes recommendations for more equitably based eligibility criteria.

Eligibility for services provided under the Disability Services Act

Eligibility requirements

7.2 In order to obtain services from the CRS or other Commonwealth funded services, an applicant must satisfy eligibility criteria. Different eligibility criteria apply to different types of disability services. For example, people wanting to obtain services from the CRS have to meet different criteria from people wishing to use a service provided by a non-government organisation funded by the Commonwealth. There are also differences in eligibility requirements between Commonwealth and State and Territory funded disability services.

Eligibility refers to type and cause of disability

7.3 The common element in the eligibility requirements for both the CRS and for Commonwealth funded services provided by other organisations is that people must have a disability caused by a certain type of impairment. The *Disability Services Act 1986* (Cth) provides that to be in the target groups for either the CRS or other funded services, people must, among other things, have a disability caused by an intellectual, psychiatric, sensory or physical impairment or a combination of such impairments. In its discussion paper the Commission asked whether eligibility for services in the new legislation should be based broadly on the kind and level of support needed rather than the type or cause of disability.

Views expressed in consultations

7.4 ***Eligibility should be based on need not disability type.*** Submissions overwhelmingly supported the idea of eligibility for services being based on the kind and level of support needed rather than the type or cause of disability.³⁷⁶ They stated that

- the focus should be on individual needs rather than some perceived need that accords with a type of disability³⁷⁷
- people with the same disabilities often have very different needs³⁷⁸
- people who have what is perceived to be a mild disability may have higher support needs than people with a more severe disability³⁷⁹
- need is not limited to disability type but depends on a number of factors such as money,³⁸⁰ personality³⁸¹ or where people live³⁸²
- broad needs-based eligibility is more consistent with the consumer-driven model rather than the medical model³⁸³
- a model broadly based on need is a more equitable and less value laden basis for eligibility³⁸⁴
- a person's level of need changes over time³⁸⁵
- the current eligibility criteria are too exclusory.³⁸⁶

One focus group participant said

They call us disabled, but I don't feel that I have anything in common with someone in a wheelchair. There's a whole world of difference between us.³⁸⁷ (Deaf person)

7.5 Eligibility should be based on need not service type. Submissions made the point that people should not have to fit into service models in order to obtain support.³⁸⁸ One submission recommended

... the abolition of service types and distinctions based on where people choose to use their support, the type of disability they have, their age or the nature of their support needs.³⁸⁹

The Commission's view

7.6 Eligibility should be based on need. Basing eligibility on the type or the cause of a person's disability has the potential to exclude some people whose disability is not among those specified or whose cause is uncertain. To be equitable the starting point should be that every person with an existing disability of a kind outlined in the broad definition recommended by the Commission at para 5.10 should, regardless of the cause of that disability, potentially be able to use disability services. Whether or not a person is eligible for getting a service should depend on the type and extent of that person's needs. The Commission is of the view that the new legislation should broadly state that eligibility for all services provided under the Act should be based on need.

Recommendation 20

The Commission recommends that the new legislation broadly base eligibility for the CRS and for other services funded by the Commonwealth on need for the service rather than on whether the person has a particular type of disability or a disability attributable to a specified cause.

Specific eligibility criteria for funded services

Target group

7.7 The *Disability Services Act 1986* (Cth) provides that the target group of people who are eligible to receive Commonwealth funded services are people who have a disability that

- is attributable to an intellectual, psychiatric, sensory or physical impairment or a combination of such impairments
- is permanent or likely to be permanent and
- results in
 - a substantially reduced capacity of the person for communication, learning or mobility and
 - the need for continuing support services.

Specific criteria for different services

7.8 Different services meet different needs. The Commonwealth funds organisations to provide a number of different services which are designed to meet different needs. For example, employment services are intended to meet the needs of people with a disability who want to find and retain paid employment but who may not be able to access mainstream employment programs. Advocacy services, on the other hand, are not limited to people who want to work or even to people with a disability. Such services promote the rights of people with a disability and, in some cases, their families and carers, either individually or collectively through advocating systemic social change. There is not one type of employment or advocacy service. Given the different nature of these services, there is not one set of eligibility criteria relevant across the range of services to be funded under the new legislation. In its discussion paper the Commission asked whether there

should be specific eligibility criteria for each type of service funded by the Commonwealth and whether the new legislation should set out that criteria.

7.9 *Specific eligibility criteria being developed for employment services.* In his report on the Strategic Review of the Disability Services Program, Professor Baume recommended that the Commonwealth develop specific eligibility criteria for employment services. Professor Baume recommended that eligibility be based on having a disability severe enough to qualify for the Disability Support Pension (a person need not meet the assets test) and needing more support to achieve employment goals than mainstream support services can provide. The *Social Security Act 1991* (Cth) provides that to qualify for the Disability Support Pension a person must have a disability equivalent to 20% of the level of impairment set out in the Impairment Tables contained in Schedule 1B of the Act.³⁹⁰ The former Minister for Human Services and Health agreed that funded employment services should be targeted to people with moderate to high disabilities whose needs cannot be met through mainstream employment programs.³⁹¹

What submissions revealed

7.10 *Specific eligibility criteria.* The majority of submissions stated that there should be a range of specific eligibility criteria for each type of service receiving funding from the Commonwealth.³⁹² Submissions argued that more specific eligibility criteria will result in better allocation of resources.³⁹³ Submissions stated that the specific eligibility criteria should be negotiated by all key stakeholders.³⁹⁴ Those submissions which argued that there should not be specific eligibility criteria for the different services³⁹⁵ stated that

- the current eligibility criteria are specific enough³⁹⁶
- rights' based services such as advocacy and information services do not require eligibility criteria³⁹⁷
- criteria may be too specific and may exclude people unfairly³⁹⁸
- there should be one standardised process for assessing eligibility for a range of services³⁹⁹
- there is a risk of being overly prescriptive⁴⁰⁰
- eligibility should be determined by need - there should be no other tests⁴⁰¹
- it will result in over-assessment.⁴⁰²

7.11 *Consultations raise problems with pension eligibility.* During consultations some people expressed concern about having to satisfy the disability requirements for the Disability Support Pension in order to be eligible for funded disability services. The Commission heard that this is often quite a problem for people with hidden disabilities or disabilities difficult to diagnose, as they may not always appear severe enough to qualify them for the pension.⁴⁰³ Similarly, people with a psychiatric disability may not, due to the episodic nature of their disability, always appear to satisfy the disability requirements for the pension.⁴⁰⁴ Linking eligibility for Commonwealth disability services to pension eligibility means these people may miss out. Submissions also commented that advocacy services should be open to all people with a disability and access to them should not be dependent on having a disability severe enough to qualify for the Disability Support Pension.⁴⁰⁵

Should eligibility criteria be in the new legislation?

7.12 Submissions were divided on the question of whether the new legislation should set out the different eligibility criteria upon which access to services will be based.⁴⁰⁶ Those submissions which argued against legislating eligibility criteria⁴⁰⁷ stated that it

- would be too restrictive and inhibit the ability of services to meet changing needs and demands⁴⁰⁸
- would prevent easy updating of criteria - this material is better gazetted or placed in regulations⁴⁰⁹ or schedules⁴¹⁰

- would take the emphasis away from providing enough services for people who need them⁴¹¹
- would support the old system of categorising people.⁴¹²

Half of the submissions received on this point stated that the new legislation should set out the eligibility criteria.⁴¹³ They also suggested that if the criteria are placed in the legislation they must be carefully framed so that they are not too prescriptive or inflexible.⁴¹⁴ One submission noted that eligibility criteria must pay special attention to those people with high support needs.⁴¹⁵

The Commission's view

7.13 *Specific criteria should be developed if needed.* The Commission recommends at para 7.6 that eligibility for all services funded under the new legislation should be based on need. The needs of people with a disability are different and different approaches are required to meet those needs. For some services, such as open labour market employment services, it may be necessary to draft eligibility criteria that reflect the type of need that the service is best able to meet. Other services with a broader operation, such as advocacy services, may not require specific criteria beyond the broad needs-based eligibility the Commission recommends. The legislation should enable services to cater to people's needs in a flexible manner. It is the Commission's view that the new legislation should enable the Commonwealth to draft specific eligibility criteria for each type of service funded under the legislation, in consultation with the community. Any criteria drafted under the legislation should be framed to clarify the needs each service type should strive to meet.

7.14 *Specific eligibility criteria should not be in the legislation.* The Commission considers that including in the legislation the different eligibility criteria for each type of service would be unduly cumbersome and inflexible. It would limit the ability of services to respond to growing and changing needs and confine the new legislation to service types that the Commonwealth funds at the moment. The legislation would also need to be amended if the Commonwealth's responsibilities change. Eligibility criteria should more appropriately be contained in guidelines made under the legislation. The new legislation should require the Commonwealth and services to publicise and provide information about the criteria.

Recommendation 21

The Commission recommends that the new legislation enable the Commonwealth to issue guidelines setting out specific eligibility criteria for services funded under the legislation. Eligibility criteria should be developed following community consultation.

Recommendation 22

The Commission recommends that any specific eligibility criteria drafted by the Commonwealth be accompanied by a statement specifying the needs that the particular service is designed to meet.

Recommendation 23

The Commission recommends that the new legislation require the Commonwealth and the services it funds to publicise and provide information about the specific eligibility criteria, the needs the criteria are aimed at meeting and any guidelines relating to eligibility made under the legislation.

Specific eligibility criteria for the Commonwealth Rehabilitation Service

Eligibility for CRS programs

7.15 The *Disability Services Act 1986* (Cth) states that the Commonwealth can provide rehabilitation programs for people in the target group. The Act defines the target group as people between the ages of 14 and 65 who

- have a disability caused by an intellectual, psychiatric, sensory or physical impairment or a combination of these, and, as a result
- have a reduced capacity to obtain or retain paid employment or live independently
- satisfy the Secretary of the Department or his or her delegate that the rehabilitation program will result in a substantially increased capacity to retain paid employment or live independently (the substantial gain decision).

Discussion paper

7.16 In its discussion paper the Commission asked whether the age restriction on access to CRS services should be in the new legislation and how the CRS could ensure that its resources are used effectively if the age limit was not retained. It also asked whether the eligibility requirements for the CRS should reflect the fact that its main focus is on vocational rather than independent living outcomes. It asked whether the new legislation should clarify decisions made concerning substantial gain and proposed that, if the substantial gain factor is to be retained, the legislation should clarify the issues that should be considered when determining if a person would benefit substantially from a program. The Commission also asked who is being excluded from the CRS under the current eligibility requirements.

The age restriction

7.17 **The CRS' view.** The CRS submitted to the Commission that the age restriction reflects the functions and goals of the CRS to provide mainly vocational assistance. It claimed that removing the age restriction may lead to an increase in the number of people seeking access to CRS services. This would result in more assessments being conducted and put pressure on limited resources. It may also result in more people seeking review of the decision not to grant a program. The CRS considered that removing the age limit would result in it providing more aids and appliances to school children which is the responsibility of State and Territory governments under the Commonwealth/State Disability Agreement (CSDA). The CRS, through Comcare, insures clients against injury or against aggravation of an existing illness or injury that may occur during the client's program. The CRS considered that removing the age restriction would increase the potential of the CRS to pay compensation to older people who may be more at risk of illness or injury. The CRS argued that the Commonwealth maintains a system of aged pension payments and other services for people over 65 and considers that restricting access to CRS services based on working age⁴¹⁶ is consistent with current government policy.

7.18 **Public opinion against age restriction.** In public consultations the Commission received unanimous support for its proposal that the new legislation not restrict CRS programs to people between the ages of 14 and 65.⁴¹⁶ Submissions stated that the age restriction on access to CRS services should not be in the new legislation on social justice and equity grounds.⁴¹⁷ Some submissions considered it to be discriminatory to restrict access on the basis of age.⁴¹⁸ One submission considered that the age restriction prevents many young people with a disability acquiring the skills necessary to improve their potential for employment and for life generally

(I)n some rural areas the CRS is the only option to gain necessary skill.⁴¹⁹

The Commission heard in consultations that the age restriction is unjustified because employment no longer ceases at 65 and independent living has little to do with age.⁴²⁰ One submission argued that the age restriction is taking from people over 65 the dignity of work.⁴²¹ Submissions maintained that removing the age restriction will not make it more difficult for the CRS to ensure that its resources are used effectively. They stated that access to the CRS should

depend on the needs of consumers⁴²² and on achieving realistic outcomes.⁴²³ One submission suggested that flexible decision making ensuring equity for consumers should determine who gets access to the CRS.⁴²⁴

7.19 *The Commission's view.* The Commission considers that the new legislation should not contain an age limit restricting access to CRS programs. With the abolition of compulsory retirement in some jurisdictions, it can no longer be said that 14 to 65 represents the working age' of the population. Learning to live independently is a goal people may have at any age. If the new legislation were to contain an age limit on access to CRS programs it would be inconsistent with other services provided under the Act. Age restriction is also potentially discriminatory. New South Wales, South Australia, Western Australia, Queensland, the Australian Capital Territory and the Northern Territory have legislation which makes discrimination on the basis of age in employment, the provision of goods and services and in other activities unlawful.⁴²⁵ Should the Commonwealth introduce such legislation age restriction provisions could be open to challenge. The Commission is of the view that access to the CRS should be based equitably on need and not on arbitrary considerations such as age. The Commission is aware that the CRS operates within a limited budget. Removing the age barrier in the new legislation need not necessarily put a greater strain on that budget. It may mean that more people will be eligible to receive CRS services, but the limited budget available should still go to those most in need.

Recommendation 24

The Commission recommends that the new legislation should not contain an age limit restricting eligibility for CRS services.

The CRS and independent living

7.20 *The CRS' view.* The Act states that the CRS can provide rehabilitation programs to people wanting to achieve vocational or independent living goals. In 1992 the CRS introduced guidelines restricting the provision of independent living programs not provided in conjunction with a vocational program. Those guidelines say that the CRS may provide independent living programs only to people

- whose disability or personal circumstances prevent employment from being a viable rehabilitation option and
- where there is a reasonable prospect of increasing the person's independence without continuing support from the CRS once the program has finished.⁴²⁶

In all other cases, independent living programs are provided only in conjunction with programs to assist people to achieve employment goals. The CRS is of the view that concentrating on vocational goals is the best way of meeting the principles and objectives of the legislation.

7.21 *Consultations concerning the CRS and independent living.* Most participants in public consultations strongly expressed the view that the CRS should be providing independent living services as required by the legislation.⁴²⁷ Submissions rejected the idea that the legislation should be changed to reflect policy decisions taken by the CRS.⁴²⁸ Those consulted by the Commission stated that the States and Territories do not provide adequate independent living support and without CRS involvement, the independent living needs of many people are neglected.⁴²⁹ Submissions commented that it is often difficult to distinguish between vocational and independent living goals.⁴³⁰ Submissions argued that the focus should be on providing support to assist people to do what they want to do with their lives.⁴³¹ One submission stated that some CRS units decide whether or not to provide independent living programs on the needs of the unit rather than the needs of consumers.⁴³² Another argued that focusing primarily on vocational outcomes prejudices the carers of people who need assistance to live independently as it severely limits access to external support services.⁴³³

7.22 *The Commission's view.* There is a relationship between independent living and a person's capacity and potential to find and retain paid employment. Employment can lead to greater independence while independence can stimulate the desire and capacity for employment. In consultations people told the Commission that they had not considered employment to be an option until they received assistance to help them live more independently. The Commission is of the view that restricting access to independent living

services to people for whom employment is not a viable option may prevent people with a disability from realising and developing any employment potential. The new legislation should continue to enable the CRS to meet both independent living and vocational goals. The Commission recognises that the CRS operates within a limited budget and needs to use precious resources in the best possible way. The Commission is of the view, however, that limited resources should be used to allocate rehabilitation programs based on a person's need for a program taking all circumstances into account rather than on the type of goals he or she has.

Recommendation 25

The Commission recommends that the new legislation continue to require the CRS to provide independent living and vocational programs. Access to both types of programs should be determined on the basis of need.

Decisions made on the basis of substantial gain criteria

7.23 Submissions stated decisions based on substantial gain criteria need clarification. Submissions received by the Commission on this point questioned the effectiveness of basing decisions on substantial gain,⁴³⁴ indicating that substantial gain criteria are problematic⁴³⁵ and need scrutiny.⁴³⁶ Submissions suggested the new legislation clarify substantial gain criteria,⁴³⁷ making decisions more consistent, less subjective and not dependent on the views of individual case workers.⁴³⁸ Submissions indicated that the substantial gain factor makes it more difficult for some people with a disability to get access to CRS programs as it may be difficult to demonstrate the benefits they may derive from the program.⁴³⁹ Submissions stated that people with a psychiatric⁴⁴⁰ or intellectual disability,⁴⁴¹ an acquired brain injury,⁴⁴² multiple disabilities⁴⁴³ or long term⁴⁴⁴ or high support needs⁴⁴⁵ risk being excluded from a CRS program because case workers are not properly trained in assessing the extent or nature of particular disabilities.⁴⁴⁶

The Commission's view

7.24 Decisions based on whether or not a person will make a substantial gain from a CRS program are complex and are applied differently in different situations. Because it is impossible to list exhaustively specific elements relevant to each case, the Commission is of the view that those elements should not be listed in the legislation. To ensure some consistency in its application, the legislation should clearly spell out the intention of the substantial gain provision. It should require reasons to be given in cases where people are excluded from eligibility on the basis of failure to demonstrate a substantial gain and provide review rights for people affected by an adverse decision.⁴⁴⁷

Recommendation 26

The Commission recommends that the new legislation not set out the specific elements of decisions made on the basis of whether or not a client is likely to gain substantially from a CRS program as this would be too inflexible. Instead, the new legislation should

- clearly state the intention of the provision and specify that it is not to be used unduly or unfairly to limit access to CRS programs
- require reasons to be given for decisions to exclude a person from a CRS program based on the substantial gain factor
- provide an avenue of review of decisions made on the basis of substantial gain criteria (see recs 61 and 63).

8. Strategies for equitable access

Introduction

8.1 This chapter examines the strategies the Commonwealth has in place to facilitate access for people with a disability to the Commonwealth Rehabilitation Service (CRS) and the services the Commonwealth funds other organisations to provide (funded services). It also looks at access to services for people with a disability who may have particular needs and makes recommendations about how the new legislation should provide for more equitable access to Commonwealth disability services. In this chapter the Commission takes the view that access is a broader concept than gaining entry to services. It involves ensuring that adequate information is distributed about services and that services are well co-ordinated within the community. It also involves ensuring that people with a disability, especially those with particular needs, have access to services that are appropriate to meeting their needs.

Gaining access to services

Accessing services funded or provided by the Commonwealth

8.2 Most people wanting to get access to the CRS or to services funded by the Commonwealth approach the service directly. They may have received information about the service from family, friends, health professionals or the Department. CRS clients may also be referred by workers' compensation and insurance companies and the Commonwealth Employment Service. The service decides whether or not it can accept the person based on its level of resources. Some people may be referred by Disability Reform Package panels to open labour market services, the CRS or to supported employment (business) services.

Referral by Disability Reform Package panels

8.3 In 1992 disability panels were established to co-ordinate access to Commonwealth services that may be appropriate for people with a disability.⁴⁴⁸ Staff from the departments of Health and Family Services, Employment, Education, Training and Youth Affairs (DEETYA) and Social Security (DSS) work on disability panels.⁴⁴⁹ The panels refer people to appropriate vocational programs, including CRS services or services funded by the Department of Health and Family Services or DEETYA, or endorse access to services once a person has been accepted by a service. The panels will not refer people to sheltered workshops.

New system for employment services

8.4 The Strategic Review of the Commonwealth Disability Services Program (the Baume report) recommended a new system of access, assessment and referral for clients of employment services provided by organisations funded by the Commonwealth.⁴⁵⁰ The former Commonwealth government agreed to implement the system by July 1997. The new system is intended to streamline access to employment services by establishing an independent mechanism to assess the broad support needs of all prospective clients and recommend appropriate services. The Commonwealth intends that the new system will not create another layer of bureaucracy but link in with existing Commonwealth and State access and assessment mechanisms. The Commission discusses the new scheme in more detail in chapter 9 as its major impact will be its assessment function.

Issues paper and discussion paper

8.5 In its issues paper the Commission asked how people got access to their service, if they had any problems getting access and, if they were not receiving a service but would like to, why they were not receiving a service. In its discussion paper the Commission examined access issues and asked what effect the division of responsibility for service provision between the Commonwealth and the States and Territories has had on people's access to services and which groups of people have been most affected by the division of responsibility.

What consultations revealed about access to funded services

8.6 Access tends to be haphazard. 30% of respondents to the Commission's questionnaire in the issues paper stated that they experienced problems getting services. These problems result from

- long waiting lists
- lack of accessible and suitable transport
- lack of services
- poor information about services available (44% of respondents said they did not have enough information about available services).⁴⁵¹

The Commission heard during consultations that in all States, most people approached services directly, after being informed of their existence by family, friends or health professionals.⁴⁵²

8.7 Disability panels not operating effectively. In consultations around the country the Commission was told that many people with a disability knew nothing of the disability panels.⁴⁵³ In some areas less than 20% of referrals to services come from panels.⁴⁵⁴ Consultations revealed that the lack of panel involvement in people's access to the disability services system is due mainly to

- the low levels of funded places which discourage the use of the panels because there are so few places for the panels to refer people to⁴⁵⁵
- the involvement of DSS staff which many people with a disability find intimidating because of the apparent perception that their pension may be under threat.⁴⁵⁶

Participants in focus groups said that when people do appear before panels, there are few positive outcomes.⁴⁵⁷ People reported that the panels engage in little discussion with people with a disability about their goals or how to achieve them.⁴⁵⁸

I feel sorry for people on the panels ... they don't have the level of support to offer. They're into short term fixes - week long courses and so on.⁴⁵⁹ (Person with a vision impairment)

People in consultations were concerned that the new assessment and referral system for employment services expected to be introduced by the Commonwealth in July 1997 should not operate in the same way as the Disability Reform Package panels currently operate.⁴⁶⁰

8.8 Problems arising from the division of responsibility between State and Commonwealth. All but one⁴⁶¹ of the numerous written submissions the Commission received dealing with the effect of the division of responsibility for service provision between the States and Territories and the Commonwealth stated that the Commonwealth/State Disability Agreement (CSDA) has had a detrimental effect on access to services.⁴⁶² This opinion was supported overwhelmingly in public consultations and in responses to the questionnaire.⁴⁶³ Submissions stated that the agreement has created access problems because of

- inconsistencies in the types of services provided and eligibility requirements between States and Territories⁴⁶⁴
- duplication of some services⁴⁶⁵
- gaps in service provision when neither the States nor the Commonwealth take responsibility for some services⁴⁶⁶
- the inability of people easily to access different services provided by different departments and layers of government.⁴⁶⁷

Submissions indicated that access problems will continue as long as there is a failure to co-ordinate services provided by Commonwealth and State agencies.⁴⁶⁸

8.9 Submissions suggested improvements to achieve better access. Submissions suggested that equitable access to funded services and the CRS would be improved by

- better co-ordination of services provided by different agencies⁴⁶⁹
- subcontracting to service providers in regions where the CRS does not provide services⁴⁷⁰
- providing more information to potential clients, especially in rural areas⁴⁷¹
- separating the CRS' employment and independent living outcomes and giving them equal status to allow greater access to more people⁴⁷²
- providing greater child care facilities to make it easier for people with family responsibilities to use services.⁴⁷³

The Commission's views

8.10 Access to services should be streamlined. The Commission is of the view that access to Commonwealth funded services and the CRS is ad hoc and inconsistent. Access to Commonwealth services should be achieved as a result of good management rather than good fortune. There is a need for better co-ordination between various services so that people are adequately informed of the kinds of services available to them, regardless of the point at which they enter the system. The Commission considers that the new legislation should require the Minister to establish a co-ordinated system of access to services, including access to the CRS. Co-ordinated access should include better links between Commonwealth services and those administered by State and Territory agencies⁴⁷⁴ and the provision by the Commonwealth and by services of widely distributed relevant information concerning available services, the type of support they offer and how to access the services.⁴⁷⁵ Any access strategies developed by the Commonwealth should be consistent with its commitment to comply with social justice and access and equity principles.

Recommendation 27

The Commission recommends that the legislation require the Minister to establish a co-ordinated system of access to services, including access to the CRS. The system should include

- better co-ordination and links between services, regardless of whether the services are provided by Commonwealth or State and Territory agencies
- widely distributed information about how to access existing disability services.

Strategies to ensure equitable access for people with a disability who have particular needs

Current law and guidelines

8.11 The *Disability Services Act 1986* (Cth) does not include any provisions concerning people with a disability who have particular needs. The principles and objectives of the legislation state that programs and services should be designed and administered to meet the needs of people with a disability who experience additional disadvantage as a result of their ethnic origin or Aboriginality. Guidelines under s 5 of the Act enable the Minister to set funding priorities for the services the Commonwealth funds.⁴⁷⁶ Standard 2 of the Disability Services Standards, which is about meeting individual needs, has as a supporting standard that services funded by the Commonwealth be provided in a manner sensitive to age, sex and the cultural, linguistic and religious background of each person with a disability. The CRS Charter states that it offers equal access to all eligible people on the basis of their need for rehabilitation.

The Commonwealth's access and equity strategy

8.12 The Commonwealth is concerned to ensure that the services it provides and the services it funds are available on an equitable basis to all Australians. It wants to ensure that a person's access to or use of a service is not limited because of his or her sex, disability, race, religion, culture or language group. It calls the approach it has taken to achieve this the access and equity strategy'. The Commonwealth also has a broader concern to make sure that individual Australians are treated fairly and justly, have control over their day to day lives and have real choices.

Some people need extra assistance to get access to services

8.13 Within its access and equity strategy, the Commonwealth recognises that some people with a disability may have to overcome additional hurdles to get access to services. This may be because of cultural or ethnic background, age, or a particular type of disability that has not received attention in the past. The Commonwealth has developed a social justice strategy which requires Commonwealth agencies to take special steps, within their program areas, to make sure that people who are likely to be disadvantaged in accessing services have the opportunity to use services appropriate to their needs.

Discussion paper

8.14 In its discussion paper the Commission asked

- how adequately the Commonwealth is meeting the needs of people with particular needs and how effective the current access strategies are in ensuring that all people have an equal chance to get access to services
- what problems, if any, people with particular needs experience in trying to find out about and get access to disability services
- how funded services and the CRS can better meet the needs of people with particular needs
- what sort of flexible or special services are most useful for people with particular needs
- what kinds of principles could be in the new legislation to promote equitable access and to ensure that the needs and interests of groups with particular needs are recognised and protected.

Consultations revealed particular needs are not generally being met

8.15 Submissions stated overwhelmingly that Commonwealth services are not meeting the needs of people with particular needs adequately.⁴⁷⁷ Only one submission argued that the problems are being addressed sufficiently in the national Ministerial funding priorities.⁴⁷⁸ Submissions identified many factors which make it very difficult for people with particular needs to find out about and get access to disability services, such as

- inadequate levels of services available generally for people with particular needs⁴⁷⁹
- not all medical professionals or other referral agencies are aware of the existence of organisations which support people with specific disabilities⁴⁸⁰
- a lack of information available for people with particular needs⁴⁸¹
- in crisis situations, it is difficult for some people with particular needs to gather and interpret the information that is available⁴⁸²
- people with particular needs often have trouble communicating with the government and services⁴⁸³
- service models are inappropriate for many people who have particular needs⁴⁸⁴

- services lack the services and expertise to support people with particular needs⁴⁸⁵
- people with particular needs are discriminated against and pushed aside by services.⁴⁸⁶

People making submissions and those consulted by the Commission identified certain groups of people who have particular needs either due to their cultural or language backgrounds, geographical isolation, age, discriminatory attitudes or because their particular disability had not been recognised in the past. These groups are discussed below. The Commission acknowledges that these group are not exhaustive of all those disadvantaged in gaining access to services.

Aboriginal and Torres Strait Islander people

8.16 ***Current practice.*** Aboriginal and Torres Strait Islander people are a funding priority for Commonwealth services. The CRS has specialist Aboriginal Rehabilitation Officers at some regional units.⁴⁸⁷ The Aboriginal Rehabilitation Officers assist indigenous clients, often through consultation with the local community. The Officers advise case managers in the development and delivery of programs, assist at interviews, maintain contact with clients and explain the rehabilitation process to them. There is a resource kit for CRS staff working with Aboriginal and Torres Strait Islander people with a disability.

8.17 ***Consultations stated that strategies are not working.*** Aboriginal and Torres Strait Islander people are underrepresented in Commonwealth services. The isolation of some Aboriginal communities, especially in the Northern Territory and north Western Australia, makes it difficult for them to get access to services which are mainly located in the major population areas.⁴⁸⁸ Submissions additionally pointed to cultural barriers.⁴⁸⁹ The Commission was told that Aboriginal and Islander people regard mainstream services as inappropriate to their needs.⁴⁹⁰ Mainstream disability employment services are not always equipped to train and place Aboriginal and Islander people in jobs suitable to their needs.⁴⁹¹ The Commission heard that Aboriginal and Islander people would be more comfortable with services run by other Aboriginal and Islander people who understood their cultural needs.⁴⁹²

Aboriginal people with a disability are not given many opportunities to access information and services by agencies in the mainstream or in the aboriginal community. This has been a disgrace for my son and family.⁴⁹³

People from non-English speaking backgrounds

8.18 ***Current practice.*** People from non-English speaking backgrounds also are a funding priority for Commonwealth services. The current strategies the CRS uses to improve access for people from non-English speaking backgrounds include

- employing staff from non-English speaking backgrounds
- providing extra funding to CRS units where the numbers of people from non-English speaking backgrounds are greater than the national average
- producing information in community languages.

8.19 ***Consultations noted access barriers still exist.*** The Commission heard in written submissions,⁴⁹⁴ in public consultations,⁴⁹⁵ in focus groups⁴⁹⁶ and in questionnaires⁴⁹⁷ that strategies designed to improve access for people from non-English speaking backgrounds are inadequate. Submissions stated that people from non-English speaking backgrounds with a disability continue to experience discrimination based on their ethnicity, their religion and their disability.⁴⁹⁸ Indeed, in 1994-95, the CRS did not meet its performance targets for people from non-English speaking backgrounds with a disability.⁴⁹⁹

I was told as my real name sounded as if I was of ethnic background, they wanted to hear no complaints from me.⁵⁰⁰

As a person from a non-English speaking background, the social workers are not very helpful with language difficulties.⁵⁰¹ (Afghani person with a psychiatric disability)

Submissions indicated that despite the access strategies adopted by the Commonwealth

- there are cultural and language barriers⁵⁰²
- there is a lack of diverse and flexible service models for people from non-English speaking backgrounds with a disability⁵⁰³
- there is a lack of appropriate information⁵⁰⁴
- services provided by State governments under the CSDA are not subject to the same access and equity conditions as those provided by the Commonwealth, disadvantaging many people from non-English speaking backgrounds using State services.⁵⁰⁵

People from rural and remote areas

8.20 ***Current practice.*** People with a disability living in rural and remote areas are not on the Minister's list of funding priorities. Some State and Territory offices of the Department have introduced strategies to assist people with a disability from rural and remote areas to access employment services.

- In Western Australia, new employment funding has been allocated to five regions regarded as under-resourced, while several services have been successfully encouraged to set up satellite services in remote areas.
- In the Northern Territory, four remote services are currently funded and a needs analysis in the East Arnhem region is underway.
- In South Australia, 30% of new places in 1995-6 were targeted for rural and remote areas.
- In Queensland and Tasmania, funding has been allocated to set up services in remote areas.

The CRS has regional units in some rural and remote areas, including a cross border pilot service in South Australia, Western Australia and the Northern Territory. This service taps into community resources by employing local people and provides services appropriate to the area.

8.21 ***Consultations stated strategies need improvement.*** The Commission received written submissions⁵⁰⁶ and numerous responses to the questionnaire on issues of access in rural and remote areas.⁵⁰⁷ The Commission also heard much about access to services in rural and remote areas during public consultations, especially those held in Broome, Cairns, Darwin, Launceston, Perth, Townsville and Wagga. Submissions suggested that access problems for people with a disability living in rural and remote areas occur because

- there are fewer services in rural and isolated areas so people cannot access services close to them⁵⁰⁸
- there is little or no public transport available for people with a disability in rural and remote areas needing to travel to a service⁵⁰⁹
- much of the information available to people in cities is not available to people in rural and remote areas⁵¹⁰
- people living in border areas are often denied access to services in each bordering State and given the excuse that the other State is responsible for them⁵¹¹
- setting up services in rural and remote areas is expensive and there are often not enough clients in each remote area to justify that expense⁵¹²
- rural and remote areas have trouble attracting service staff from urban areas because of lack of accommodation and other amenities (in some areas, for example, the only available accommodation for staff is in caravans)⁵¹³

- Departmental officers and service staff are expected to travel long distances to see clients because of lack of services in rural and remote areas often without reimbursement for travel costs, and clients only have a short time with staff⁵¹⁴
- it is difficult for employment services to place people in jobs in rural areas because of high regional unemployment and limited job opportunities.⁵¹⁵

In consultations people also noted that the way funding is distributed nationally by the Commonwealth can lead to access problems in States and Territories with a small but far flung population. Funding is distributed on a per capita basis which ignores the distances between towns and the extra cost of providing services in rural areas due to travel and accommodation for staff.⁵¹⁶ The Commission was told that services operating in rural and remote areas should be given a loading to cover travel expenses.⁵¹⁷ There was said to be a need for consultation with rural communities to determine the type of disability services that are most appropriate and to see if new services can build on existing community infrastructures so that costs can be kept low.⁵¹⁸

People with a psychiatric disability

8.22 ***Current practice.*** People with a psychiatric disability are on the Minister's list of funding priorities. The Department has advised the Commission that over the past two years a proportion of new employment funding has been specifically allocated to places for consumers with a psychiatric disability.⁵¹⁹ The Department received a Budget allocation in 1993-4 of \$468 000 to improve assistance for people with a psychiatric disability. That funding has been used to

- develop training packages to assist staff of the CRS and of other services who work with people with a psychiatric disability and
- evaluate specialist employment services for people with a psychiatric disability⁵²⁰

The ACT office of the Department funded a community development project in the 1995-6 financial year to strengthen links between mental health and associated services and to provide information to employers on employment issues for people with mental illness. In 1991 the CRS established 11 specialist rehabilitation teams for people with a psychiatric disability. These teams specialise in the provision of services to people with a psychiatric disability. These clients can also access other services throughout the CRS network.

8.23 ***Consultations stated strategies not working.*** Submissions stated that people with a psychiatric disability are severely disadvantaged within the present system.⁵²¹ This disadvantage stems from a failure of the system to develop strategies that will assist people with a psychiatric disability when they need assistance.⁵²² The episodic and varying nature of certain psychiatric disabilities means that access routes used by people with other types of disabilities are often inappropriate.⁵²³ When people with a psychiatric disability are not having an episode, they may appear normal' and not in need of a disability service and so may not get access to one. People who are experiencing an episode are not usually in a state to gather information and access a service. Submissions suggested a service system which caters to the needs of people and is able to respond immediately when a person needs assistance is necessary if access for people with a psychiatric disability is to be improved.⁵²⁴ Submissions indicated that access to services is made more difficult for people with a psychiatric disability because they experience social stigma on top of their disability⁵²⁵ and misunderstanding and discrimination because often the most distressing effects of their disability are not visible to other people.⁵²⁶

All other types of disability are accepted, but ours is ignored or stigmatised (person with a psychiatric disability).⁵²⁷

Other difficulties said to be experienced by people with a psychiatric disability accessing services are caused because

- these people often have an erratic behavioural pattern⁵²⁸
- these people are not easily categorised⁵²⁹
- service and departmental staff are not properly trained in the area of psychiatric disability⁵³⁰

- arguments persist about the classification of the disability as either a psychiatric disability and therefore a Commonwealth responsibility, or mental illness which is a State responsibility.⁵³¹

People with acquired brain injury (ABI)

8.24 ***Current practice.*** People with an acquired brain injury are on the Minister's list of funding priorities. Some State and Territory offices of the Department have introduced initiatives to assist people with ABI to access open employment. They include

- organising ABI training for CRS staff and staff of other services in Western Australia to ensure good quality support for clients with ABI
- funding advocacy groups to provide information and other assistance to people with ABI and their families.

The CRS also has specific initiatives to assist people with ABI to access social and vocational rehabilitation services. These include the introduction of specialist ABI case managers in some CRS regions, the production of an ABI information kit for clients, the chairing of the Commonwealth/State Disability Standing Committee ABI Working Group and a CRS staff training initiative concerning ABI in 1994.

8.25 ***Consultations revealed strategies not fully effective.*** The Commission received submissions⁵³² and heard numerous comments at public consultations⁵³³ about the access problems of people with ABI. Submissions criticised the specialist units set up by the CRS because they concentrate expertise in ABI in a few areas. This means that people who do not live close to a specialist unit may miss out completely on any expert services.⁵³⁴ Submissions stated that this marginalises people with ABI from the rest of the disability sector,⁵³⁵ resulting in information and access problems.

There's a lack of services for brain injured people outside Sydney. I had to leave XXXXX to get specialist services. It's only because I've got parents living in Sydney that I've been able to move here.⁵³⁶

I wasn't aware that there were any specialist employment services for people with ABI. I thought we had to use the CES just like everyone else.⁵³⁷

Submissions indicated access for people with ABI is also made difficult because

- ABI is a relatively new' disability which means there are few services equipped to offer quality support to people with ABI⁵³⁸
- the hidden nature of ABI and the fact that support needs can change over time often makes it difficult for people with ABI to meet eligibility criteria⁵³⁹
- there is little accessible information available for people with ABI⁵⁴⁰
- service staff are not sufficiently trained in understanding ABI issues - this can affect whether people gain entry to services.⁵⁴¹

Women

8.26 ***Current practice.*** The CRS monitors the participation rate of women, which is currently 36% of new, non-compensation clients, against the proportion of women who receive the Disability Support Pension (29%).⁵⁴² The CRS works with Disability Support Officers and advisers in the Department of Social Security (DSS) to help facilitate access by women to CRS services.

8.27 ***Consultations say strategies failing to address real problems.*** Women who choose to work as homemakers rather than seek paid employment are not eligible to receive a vocational rehabilitation program from the CRS to assist them with these duties. If their disability or personal circumstances make paid employment impossible or unlikely, they may be eligible to receive an independent living program from the CRS. The Commission heard that this disadvantages some women with a disability, particularly those in

rural areas, for whom paid employment is possible, but working at home without payment is their preferred option.⁵⁴³ Women with children who choose to work outside of the home also have problems getting access to services due to a lack of childcare facilities.⁵⁴⁴ Women living in rural and remote areas are identified as missing out on CRS services at a higher rate than women living in cities.⁵⁴⁵

People with high support needs

8.28 ***Current practice.*** People with high support needs are listed as one of the Minister's funding priorities, however, there are no specific strategies designed to increase the access of people with high support needs.

8.29 ***Submissions stated people with high support needs disadvantaged.*** Submissions stated that current unit cost calculations specifically disadvantage people with high support needs and those unable to express themselves.⁵⁴⁶ The Commission heard that access for people with high support needs is detrimentally affected by the concentration on quantitative outcomes.⁵⁴⁷ Submissions indicated that some services view people with high support needs as more costly, needing more support time and are less likely to reach the outcomes that services must achieve for their clients in order to receive funding.⁵⁴⁸ Submissions stated that people with high support needs are

- more likely to be discriminated against by services⁵⁴⁹
- forced into sheltered employment because of lack of other opportunities.⁵⁵⁰

Children under 14 years

8.30 ***Current practice.*** Since the implementation of the CSDA in 1992, the Commonwealth has had no direct administrative responsibility for children with a disability. State and Territory programs should provide aids and equipment for children as well as early intervention and education services. The Commission heard, however, that in some States and Territories, the Commonwealth, especially the CRS, has been forced to step in and provide aids and appliances for some children because the States have no program of provision to children.⁵⁵¹ The Commission recognises that many of the issues noted below are currently the responsibility of States and Territories. The Commission is of the view, however, that given the concern on these matters repeated in submissions and consultations, children ought to be included as a group with particular needs in relation to accessing services.

8.31 ***Consultations revealed access to services is extremely limited.*** The Commission heard in submissions and public consultations that provision of services to children under the age of 14 is inadequate.⁵⁵² Children with a disability were described as the major casualties in the division between Commonwealth and State and Territory service provision, with neither the Commonwealth nor the States and Territories willing or equipped to provide adequate support.⁵⁵³ Submissions indicated that

- most State education departments have no policy of integrating children with a disability into mainstream education⁵⁵⁴
- parents of children with a disability must be extremely good advocates if their children are to get any assistance at all⁵⁵⁵
- children and young people find it very difficult to access information themselves⁵⁵⁶
- parents receive little support or information from government or services⁵⁵⁷
- there is a lack of services for some children with a disability⁵⁵⁸
- children with a disability are turned away from child care because there are no extra support services which would enable child care agencies to take them on⁵⁵⁹
- teachers in mainstream education are not given the skills to cope with children with a disability⁵⁶⁰

- some children who have a disability exhibit behavioural problems and can be sentenced to terms in juvenile detention centres⁵⁶¹
- some children with ABI are inappropriately placed in nursing homes because of disagreements over responsibility for them between Commonwealth and State governments⁵⁶²
- some early intervention services are not meeting standards.⁵⁶³

School leavers

8.32 ***Current practice.*** School leavers are currently identified as one of the Commonwealth's funding priorities. In order to cater to the needs of young people with a disability leaving school, the Commonwealth and some States and Territories have worked together, to an extent, to develop post school options programs designed to assist young people to enter open employment or employment or non-employment programs.⁵⁶⁴ Initially, the States devised the programs and the Commonwealth provided most funding. Now, most States fund their own post school options programs.

8.33 ***Submissions considered post school options should be expanded.*** Post school options programs are generally regarded as providing a good transitional step between school and work or further study.⁵⁶⁵ Several problems with the programs, however, were identified in submissions. Submissions stated that

- the programs are not targeting enough school leavers,⁵⁶⁶ for example, in Sydney in 1993-94, for school leavers with a moderate intellectual disability
 - 33.7% of school leavers went to post school options programs
 - 20.8% stayed at home upon finishing their education
 - 20.8% went to sheltered workshops
 - 4.7% went to Activity Therapy Centres
 - 1.95% became volunteers
 - 1.95% went to supported employment services
 - 16.1% went to open employment.⁵⁶⁷
- the program picks up mainly high support needs teenagers and very little is done for school leavers with mild or hidden disabilities⁵⁶⁸
- in some States, notably Queensland and South Australia, there is no age limit for completing school, which means that the programs are catering for people up to the age of 25, leaving fewer places for younger people⁵⁶⁹
- in some States post school options do not cater to people who need a level of support between day activity and employment⁵⁷⁰
- people living in rural and remote areas have no, or limited access to post school options programs.⁵⁷¹

Consultations offered suggestions

8.34 ***Need to change the focus of programs.*** The Commission heard that services need to change their focus if they are to adequately meet the needs of people with particular needs.⁵⁷² Submissions suggested that

- there should be a focus on individual needs⁵⁷³
- there should be a focus on achieving real outcomes for people with special needs⁵⁷⁴

- services should be targeted to meet the specific needs of particular groups of people who are currently missing out on services.⁵⁷⁵

Submissions stated that people's particular needs would be met better if

- there were more education campaigns and more information directed at people with special needs⁵⁷⁶
- there was more education about special needs directed at government staff and service providers⁵⁷⁷
- culturally appropriate programs were developed⁵⁷⁸
- there was consultation and planning involving special needs groups⁵⁷⁹
- services were required to conform with affirmative action principles⁵⁸⁰
- assessment and notional cost criteria were reviewed⁵⁸¹
- transport in rural areas was improved.⁵⁸²

8.35 *More flexible services are needed.* The Commission heard that the most useful types of services, including CRS services, for people with particular needs are those which

- are culturally specific⁵⁸³
- incorporate a range of services,⁵⁸⁴ such as part time work, independent living skills and community access⁵⁸⁵
- are without time limits⁵⁸⁶
- employ staff with specialist skills⁵⁸⁷
- are locally based⁵⁸⁸
- offer practical assistance - such as respite care and mainstream daycare⁵⁸⁹
- are developed following consultation with people with special needs⁵⁹⁰
- provide information specifically directed at people with special needs⁵⁹¹
- network with other services at a local level⁵⁹²
- are bound by the Disability Service Standards.⁵⁹³

The Commission's views

8.36 *Services need to be targeted to people and to communities.* The current strategies designed to improve access to Commonwealth services for people with a disability with particular needs could be working more effectively. Many access problems identified in submissions are not so much to do with lack of services, although this is still a huge problem, but rather with the inappropriateness of services. Many submissions criticised the fact that access and equity strategies are designed in Canberra, far away from any identifiers of real need. Regional and local offices of the Department and people from special needs groups who are aware of local and specific needs should be consulted and involved in service planning and delivery. The new legislation should require the Commonwealth to identify objectively, through analysing data and through community consultation, people who may have particular problems getting access to Commonwealth services and to develop appropriate strategies in consultation with those people to improve access.

Recommendation 28

The Commission recommends that the new legislation require the Minister to

- collect data and information which allows identification of people who may have particular access problems and
- develop specific and appropriate strategies to improve access to services for people with particular needs.

In developing such strategies, the Commonwealth should consult extensively with communities affected, with service providers, with regional offices of the Commonwealth Department and with State and Territory agencies.

Priorities of access for services

8.37 In a situation where the funding pool for services is limited and not everyone who needs a service will get one, the most equitable approach is to work out what the priorities should be and provide services on that basis. The Baume report, which deals only with employment services funded by the Commonwealth, recommended that the Commonwealth develop priority of access criteria for the employment services it funds to ensure equity of access to services in relation to gender, disability type and level of disability. People from non-English speaking backgrounds, Aborigines and Torres Strait Islander people should be included to redress current under-provision. The former Commonwealth government agreed to implement this recommendation. It is not clear at this stage what the priority of access criteria will be or how they will be set. The former government intended the priorities to apply only to employment services and not to other services funded by the Commonwealth.

Discussion paper

8.38 In its discussion paper the Commission asked

- what priorities the Department should set for access to the employment services it funds
- whether the priorities should be set out in the legislation
- whether advocacy and other services the Department funds should have priority of access guidelines applied to them.

What submissions revealed

8.39 *Submissions stated any priorities should be based on need.* The majority of submissions stressed the importance of ensuring that services go to the people with the greatest need. There was clear support for the Commission's provisional proposal that priority of access guidelines should

- ensure services go to the people who need them most⁵⁹⁴
- be based on the level of support required rather than the type or cause of disability⁵⁹⁵
- be based on clear criteria⁵⁹⁶
- not disadvantage people who are of a particular sex, race, cultural background, live in a rural or remote community or have a particular type of disability⁵⁹⁷
- focus on high support needs.⁵⁹⁸

Some submissions listed additional priorities, such as the likelihood of a person achieving a favourable outcome from a service,⁵⁹⁹ or priorities aimed at redressing the imbalance in available services for people

with a psychiatric⁶⁰⁰ or intellectual⁶⁰¹ disability. One submission argued that the priority of access guidelines should be based on the current national planning priorities set by the Minister.⁶⁰²

8.40 *Should priorities of access be in the legislation?* Written submissions were evenly divided on the question of whether priorities of access should be in the legislation. Many people the Commission spoke with during public consultations agreed that the priorities should be in the legislation.⁶⁰³ Those submissions that supported the Commission's proposal⁶⁰⁴ argued that

- priorities need to be set out so that resources can be managed⁶⁰⁵
- placing priorities in the legislation will ensure equity of access.⁶⁰⁶

Those disagreeing⁶⁰⁷ stated that

- priorities change, so they should not be placed in the legislation⁶⁰⁸
- legislation should establish only process⁶⁰⁹
- priorities in relation to access and quotas are discriminatory.⁶¹⁰

8.41 *Should advocacy and other services have priorities of access?*⁶¹¹ Submissions were divided on the question of whether there should be priority of access guidelines for advocacy services. Those who stated that such guidelines should apply⁶¹² argued that

- it would be beneficial in relation to resource management⁶¹³
- it would clarify the situation for services enabling them to prove, if necessary, compliance with set criteria⁶¹⁴
- it would ensure that those who are vulnerable receive advocacy services - those said to be the most vulnerable include those with severe or multiple disabilities, the very young or very old, Aborigines and Torres Strait Islanders, those living in poverty, people from non-English speaking backgrounds, people with a mental illness and people with ABI⁶¹⁵
- the availability of advocacy should correspond to the fundamental needs of a person.⁶¹⁶

Those who argued that priority of access guidelines should not apply to advocacy services⁶¹⁷ stated that

- advocacy services should be available on request⁶¹⁸ - they are fundamentally different from employment services⁶¹⁹
- guidelines limit flexibility⁶²⁰
- priority of access guidelines will delay provision of services and disadvantage some people⁶²¹
- individual advocacy services should assess the situation themselves and implement priorities where this is proven necessary⁶²²
- other considerations besides priorities of special needs groups apply.⁶²³

The Commission's views

8.42 *Priority of access should be based on need.* Evidence from submissions indicated clearly that some people with a disability are missing out on services at a greater rate than other people. At para 8.36 the Commission recommends that the legislation should require the Commonwealth to identify people with particular needs and develop appropriate access strategies. The Commonwealth may wish to give those groups of people priority access to services. Whatever priorities the Commonwealth decides on, the

Commission is of the view that they must be based on need. The legislation should not specifically identify special needs or priority groups as these will change over time.

Recommendation 29

The Commission recommends that the new legislation require that priority of access to services be given to people with a disability with the greatest need. The Department should formulate priority of access guidelines under the legislation based on need.

Testing the client profile against access and equity strategies

8.43 **Discussion paper.** In its discussion paper the Commission asked whether the Commonwealth should be required to test whether or not it is meeting its social justice and access and equity responsibilities by testing the actual client profile of services against any priority of access guidelines or groups who have been identified as having particular needs.

8.44 **Submissions generally supported testing the client profile.** The majority of submissions supported the idea of requiring the Commonwealth to test the actual client profile of services to see if it is meeting its social justice and access and equity responsibilities.⁶²⁴ Various suggestions were made as to the best way of doing this. Some submissions stated that services should develop performance indicators and publish outcome results against the indicators.⁶²⁵ One submission considered that the National Information Monitoring System (NIMS) data base should be used to see if the client profile of services relates to the general disability population.⁶²⁶ Others suggested that area profiles should be developed, allowing for regional/area based management of service provision which covers the area profile.⁶²⁷ One submission stated that there should be independent evaluation at regular intervals, perhaps conducted by an advocacy group.⁶²⁸ Others argued that there should be community review of social justice and access and equity strategies.⁶²⁹ Submissions which argued that the Commonwealth should not be required to test the client profile of services⁶³⁰ stated that this will only lead to more bureaucracy,⁶³¹ that priorities in relation to access and quotas are discriminatory⁶³² and that services should have more choice regarding those to whom they provide services.⁶³³

The Commission's views

8.45 **Client profile should be tested.** The Commission is of the view that the Commonwealth should be required to test the client profiles of funded services and the CRS against priorities of need (as developed in accordance with rec 17) in order to ensure that the Commonwealth is meeting its access and equity strategies. Likewise, the Commission is of the view that the outcomes of strategies designed to improve the access to services of special needs groups should be regularly monitored in order to ensure that the best access strategies are employed. Outcomes could be tested with well targeted community satisfaction surveys or by data analysis comparing the percentage of people from special needs groups in services with their representation in the disability community, or by a combination of the two. Regional and local offices should be required to report on the success of access strategies.

Recommendation 30

The Commission recommends that the new legislation should require the Commonwealth regularly to test its access and equity strategies by examining the client profile against the priorities of need.

Recommendation 31

The Commission recommends that the outcomes achieved by access and equity strategies be regularly monitored.

9. Assessing needs effectively

Introduction

9.1 This chapter looks at the effectiveness of the current mechanisms for assessing people's needs once they have gained access to the Commonwealth Rehabilitation Service (CRS) or to a disability service provided by an organisation receiving Commonwealth funding (funded services). It considers the independent assessment and referral mechanism currently being considered by the Department of Health and Family Services (the Department) and the Commonwealth's role in supporting people who may not be able to or may not wish to undertake employment.

Assessing people's needs

Needs currently assessed by the service

9.2 ***Services the Commonwealth funds.*** Once a service has accepted a client the service works out the type of support services the client needs. There are no guidelines available to service providers setting out the criteria for evaluating client needs. Consequently, there is no consistency in the way that people are assessed from service to service. Some services consult with clients. Other services may not have the resources to do this.

9.3 ***The Commonwealth Rehabilitation Service.*** The CRS has a case management approach and tailors individual programs to suit the client's needs. Each client of the CRS is assigned a case manager. The case manager meets with the client to determine if the client is eligible for CRS services and, if so, what CRS services would be suitable to meet the client's needs and goals. At the initial interview the case manager asks the client questions with a view to assessing

- the nature, severity and stability of the client's disability
- the impact of the disability on the client's life and, in particular, any impediments to his or her ability to work or live independently
- the client's abilities and skills
- the economic and environmental influences which may impact on the client's ability to participate in active rehabilitation
- the client's goals and what he or she hopes to achieve from rehabilitation
- whether the client is ready for rehabilitation.

Issues paper and discussion paper

9.4 In its issues paper the Commission asked how services assess people's needs and goals and whether people were happy with that assessment. In its discussion paper the Commission asked whether funded services and the CRS were effective in deciding the kind of support or rehabilitation program clients need to achieve their goals.

Submissions stated that the current assessment is ineffective

9.5 ***Assessment should involve clients, carers, friends and other advocates.*** In various submissions and during consultations people stated that assessment for any Commonwealth service, including the CRS, is a disempowering process for people with a disability.⁶³⁴ Many people indicated that clients were not permitted or encouraged to participate enough in their own assessments.⁶³⁵

The best way to deal with the CRS is to buckle under and to go along with whatever they suggest, no matter what your own personal opinion might be (person with a physical disability).⁶³⁶

[T]he staff don't ask what we want. They just put us anywhere.⁶³⁷

I was not consulted about the type of work, I just did what I was told.⁶³⁸

[T]hey (service staff) were the masters' and I the child'. I received wisdom from on high' rather than listening to me as an individual.⁶³⁹

Focus group participants were particularly unhappy with CRS assessment.

The CRS is dreadful to people with an acquired brain injury (ABI). The assessment they did on me was no use. They need retraining.⁶⁴⁰

They need to train people how to deal with ABI, but they don't know how to speak to us or present themselves to us; it's typical of government services to treat us like we're intellectually disabled.⁶⁴¹

My daughter went in and she knows how to fool people. So they assessed her and told her that she's perfectly capable of finding work herself. But she'd done a really good con job on them.⁶⁴²

In consultation the Commission heard that client's opinions and the views of their families and carers were often ignored by assessors.⁶⁴³ People with a disability, especially an episodic disability, may have good days and bad days, and their needs and capacities may vary greatly from day to day.⁶⁴⁴ This can result in inaccurate assessment which presents people with choices they do not want.⁶⁴⁵ The Commission heard during consultations that doctors and other professionally qualified assessors often look for disability and incapacity when assessing people with a disability, whereas carers and relatives can provide information about ability and capacity.⁶⁴⁶ Many people in consultations suggested that input from carers, friends and other advocates would be helpful in obtaining a fuller picture of the capabilities and needs of people with a disability over a period of time.⁶⁴⁷ There was agreement in consultations that carers, friends or relatives should only be involved if, and to the extent that, the person with the disability wished them to be.

9.6 Assessment process not focused enough on clients' needs. The Commission was told that assessors' decisions are not transparent enough.⁶⁴⁸ The assessment process was said to focus on the needs and requirements of the service rather than the needs, goals and circumstances of the client.⁶⁴⁹ Respondents to the questionnaire said that their assessments were done in five minutes flat', or in a paternalistic' or patronising' style. This criticism was made particularly in relation to the CRS, with some people stating that the CRS has its roots in institutional models that assume few needs exist outside the institution.⁶⁵⁰ Participants in focus groups said of the CRS

They get everyone to do the same courses, like desktop publishing.⁶⁵¹

They didn't even try to retrain me. They just got me to do a Typequick course on the computer.⁶⁵²

Respondents to the Commission's questionnaire were highly critical of assessment methods used by services and the CRS

They didn't understand me or my goals.⁶⁵³

They were unable to listen and made up their own mind what was good for you.⁶⁵⁴

They just read old doctor's reports and decided on that factor.⁶⁵⁵

I wasn't allowed to write my own answers.⁶⁵⁶

The Commission also heard that assessment was not always culturally appropriate

My assessment wasn't very good due to overzealous counsellors who lacked cultural sensitivity.⁶⁵⁷

9.7 Duplicated and inconsistent assessments. Because assessments are currently done by each individual service, submissions expressed concern that there is no consistency in the way people's support needs are met or the outcomes that are achieved from service to service.⁶⁵⁸ Submissions stated that assessments vary greatly depending on the attitude and training of individual case managers and service staff.⁶⁵⁹ People in consultations and submissions also complained about having to undergo assessments every time they wanted

to obtain a service.⁶⁶⁰ The Commission heard examples of people undergoing repeat assessments when they applied for the Disability Support Pension, the CRS, a funded employment service, an accommodation support service, aids and appliances and education programs.⁶⁶¹ People also complained that because there was no centralised assessment system, they had to be reassessed to receive the same type of service whenever they changed services or moved interstate.⁶⁶²

9.8 *Assessment should be more holistic.* The Commission was told that a more holistic approach to assessing needs would avoid the problem of multiple assessments.⁶⁶³ It was suggested to the Commission that once a child is born with a disability, or a person acquires a disability, the government (at whatever level) should accept it has a responsibility to provide that person with certain support for the rest of his or her life.⁶⁶⁴ Some people suggested that one assessment or life plan' should be done, assessing all the support a person is ever likely to need.⁶⁶⁵ That plan could be reassessed when people's needs change.

9.9 *Assessors not properly trained.* Many people complained to the Commission that people conducting assessments were not trained properly in disability issues.⁶⁶⁶ The Commission heard, for example that some CRS case managers did not have a sufficient understanding of ABI to make a meaningful assessment of people's capacities and needs.⁶⁶⁷ Staff and case managers were said not to put in the required time or effort to do a proper assessment,⁶⁶⁸ and many assessors were described as lacking specialised skills.⁶⁶⁹ Submissions stated that the values and attitudes of assessors often created problems for people with a disability,⁶⁷⁰ and that communication problems often existed between clients and service staff and between staff and other service providers.⁶⁷¹

Moves towards more consistent initial assessment

9.10 *Proposed independent assessment procedure for funded employment services.* In response to recommendations in the Strategic Review of the Commonwealth's Disability Services Program (the Baume report) the previous Commonwealth government announced that it planned to introduce an independent assessment and referral system from July 1997. That system will be characterised by a new method of funding for service providers where funding will be based on the amount it will take to achieve outcomes for individuals rather than block grants being given to services regardless of the support given to clients. The system is planned to operate independently of service providers. It will

- assess people's eligibility for employment services
- assess their broad level of support need
- assess what outcomes the person wants to achieve
- assess their priority of access
- decide how much funding should be given to services to achieve those outcomes.
- refer people to appropriate types of support services.

It is the Commonwealth's intention that existing assessment agencies provide the assessments and referrals rather than set up a new and separate network of agencies. Individual services will still assess how best to meet their clients' needs once the clients arrive at the service.

9.11 *Case classification system for the CRS.* The CRS is seeking to achieve more clarity, consistency and independence in the assessment of clients' needs. It is developing a client case classification system to outline in a consistent and objective manner the rehabilitation needs and outcomes of each client and provide for continuous quality improvement. Under the new system all case managers will assess their clients' needs based on a set of standard measurement tools. Following the assessment the client will be grouped according to the complexity and projected cost of rehabilitation. The aim of the case classification system is to assist the CRS in comparing how different CRS units assess clients and allocate resources. The CRS hopes the system will help to monitor nationally how resources are used and what outcomes are achieved for clients. The CRS expects the new system to operate from mid 1997.

Discussion paper

9.12 In its discussion paper the Commission asked whether the new assessment and referral system should be able to refer people to any appropriate service funded, provided or administered by the Commonwealth or the States and Territories, what features the new assessment mechanism should have and whether the new legislation should set out how the mechanism will be used to assess people's broad support needs. The Commission also asked whether a standard assessment scheme will be effective in identifying CRS clients' needs and in ensuring resources are spread equitably so that people with the same needs get the same opportunities to have those needs met.

Consultations generally supported independent assessment

9.13 ***Comments in favour of independent assessment for funded employment services.*** Most submissions received on this issue and an overwhelming majority of participants in public consultations and respondents to the questionnaire in the issues paper⁶⁷² supported an individualised and independent assessment mechanism. They said that

- it would be fairer⁶⁷³
- it would give people more choice about the type of services they receive⁶⁷⁴
- it would promote the idea of guaranteed access to some service by all clients⁶⁷⁵
- it would provide for more efficient use of funds - hence more people will benefit⁶⁷⁶
- there would be a higher probability that clients will receive appropriate support⁶⁷⁷
- it would standardise the assessment process⁶⁷⁸ and remove subjectivity⁶⁷⁹
- it would allow for flexibility and smoother transition between all types of services required to meet individual needs.⁶⁸⁰

9.14 ***Submissions raised problems.*** Even those submissions supporting independent assessment saw possible problems arising from such a system. They expressed concern that

- it seems very unlikely that the proposal could be carried out without creating another level of bureaucracy⁶⁸¹
- independent needs assessment will not improve access if appropriate services do not exist⁶⁸²
- there is a risk of blanket approaches in the assessment of need which will put people into boxes⁶⁸³
- support needs change over time - will the new system reassess people or is it an initial one-off assessment?⁶⁸⁴
- assessors need to be properly trained and skilled⁶⁸⁵
- assessment criteria will need to be more flexible than they are now⁶⁸⁶
- such a mechanism has the potential to assist people with a physical disability but not people with an intellectual disability whose needs and abilities take more time to work out.⁶⁸⁷

Some submissions expressed concern at the idea of linking the assessment of support needs to funding received.⁶⁸⁸ They stated that if the assessment panel wrongly assessed a person, he or she would receive the wrong level of funding and thus would not achieve the kinds of outcomes they want.⁶⁸⁹ People with a psychiatric disability and their representatives were particularly concerned over this aspect of the new

proposal, as a person's needs may be assessed at a time when their condition is not apparent.⁶⁹⁰ In such a case the person's support needs may be judged as not particularly high and the level of funding would reflect this.

The episodic nature of many psychiatric conditions [must] be taken into account when funding allocation based on level of support need is determined.⁶⁹¹

9.15 ***New assessment system should be able to refer people to all types of services.*** The majority of submissions on this point and the overwhelming majority of comments received during public consultations argued that a new assessment and referral system should be able to refer people to any appropriate service funded, provided or administered by the Commonwealth or the States and Territories.⁶⁹² Submissions argued that this was necessary because

- it would prevent over-assessment which is a waste of resources and an unnecessary intrusion on a person's life⁶⁹³
- it would stop people being compartmentalised by State and Commonwealth services⁶⁹⁴
- it would expand the options of people with a disability⁶⁹⁵
- it would avoid problems associated with tied funding⁶⁹⁶
- it would allow for consistency of service provision.⁶⁹⁷

9.16 One submission stated that more discussion on this issue was needed.⁶⁹⁸ The one dissenting submission stated that if a Commonwealth assessment and referral mechanism is established, it should refer only to Commonwealth funded services.⁶⁹⁹

9.17 ***Features of the new needs assessment system.*** Submissions stated that the proposed assessment mechanism should

- have properly qualified staff independent of service providers who have hands on experience⁷⁰⁰ and particular areas of specialty⁷⁰¹
- operate at a local and regional level to give people the greatest access⁷⁰²
- be culturally sensitive to the needs of Aboriginal and Torres Strait Islander people and people from non-English speaking backgrounds⁷⁰³
- provide people with sufficient information about the assessment and referral process and the types of support available to them⁷⁰⁴
- be flexible and respond to people's needs⁷⁰⁵
- prioritise clients for access to services⁷⁰⁶
- assess a client's motivation⁷⁰⁷
- accurately predict initial and ongoing support needs⁷⁰⁸
- create an environment where people can choose the type of service they need⁷⁰⁹
- look at the totality of the person's life⁷¹⁰
- enable consumer friendly' review of its decisions and have a clear appeal process⁷¹¹
- intrude as little as possible on people's privacy⁷¹²

- allow for service provider involvement⁷¹³
- focus on outcomes and the support required to achieve these⁷¹⁴
- allow people with a disability and their representatives to be involved in the assessment process⁷¹⁵
- be complemented by individualised funding, allowing people to shop around for services⁷¹⁶
- allow for flexible assessment, for example, ongoing assessment in the workplace⁷¹⁷
- create a file that is able to be used for all types of future services to prevent continual reassessment.⁷¹⁸

9.18 ***The new legislation should set out broad assessment procedures.*** Most submissions and many people who participated in public consultations stated that the legislation should clearly set out the steps involved in assessing a person's broad support needs.⁷¹⁹ Those submissions argued that the assessment process should be included in the new legislation because

- it would result in certainty and fairness⁷²⁰
- it would help people and service providers understand how decisions are made⁷²¹
- it would keep assessors accountable and consistent⁷²²
- it would eliminate subjectivity and avoid confusion⁷²³
- it affects people's rights as consumers.⁷²⁴

9.19 Some submissions stated that assessment processes should not be included in the legislation⁷²⁵ and two were uncertain.⁷²⁶ Their reasons included, that it is an operational issue which should not be in legislation⁷²⁷ and that the system needs flexibility and should be open to experimentation to determine best practice. Placing rules in legislation is said not to allow for this.⁷²⁸

Submissions commented on the case classification system for the CRS

9.20 Written submissions were divided on the question of whether a standardised assessment mechanism for the CRS would effectively identify client needs.⁷²⁹ Those expressing reservations stated that needs are not always able to be ascertained clearly at the beginning of rehabilitation⁷³⁰ and people with the same disability can have different physical and intellectual capabilities as well as different goals and aspirations.⁷³¹ The case classification system would force people into moulds, so that individual needs would not be met effectively.⁷³² The Commission was told that the system should not be based on a medical assessment model.⁷³³ Those supporting the standardised assessment model saw it as potentially better than existing methods in ensuring people would receive the same assessment regardless of the CRS office which does the assessment.⁷³⁴

The Commission's views

9.21 ***People with a disability should be involved in their own assessment.*** One of the loudest messages the Commission received during consultations was that people with a disability should be the subjects of their own assessment rather than the objects of it. The new legislation should safeguard the rights of people with a disability to participate in their own assessment, including involving carers, friends, relatives or other advocates in the assessment process if they wish, regardless of how that assessment is performed or who performs it.

9.22 ***Assessment process should operate equitably.*** Any independent standardised assessment process, whether it be the proposed mechanism for funded employment services or the case classification system for the CRS, should operate equitably and consistently and ensure that people who are assessed as having the same broad support or rehabilitation needs receive the same level of support and funding. It should respond

flexibly to people's needs and circumstances, including their cultural and communication needs and assist people with a disability to make informed choices about the types of support or rehabilitation options available to them. Staff of any independent assessment mechanism should be properly qualified and trained in disability issues and demonstrate an understanding of the wider social, economic and environmental impact of disability.

9.23 *The Commonwealth should endeavour to minimise multiple assessments.* People with a disability often need more than one type of service to achieve their goals fully. A person who needs, for example, accommodation, transport, an employment service and a respite service, ought to be able to be assessed for and referred to those services at a one-stop shop'. In the Commission's view the proposed new assessment system should act as a central point of referral to any appropriate support services people may need. Those services may include transport or respite services provided by the States and Territories, rehabilitation services provided by the CRS or vocational programs offered by the Department of Employment, Education, Training and Youth Affairs. The new system could link up with other Commonwealth or State and Territory referral mechanisms. People should still be able to choose which service or services they ultimately use.

9.24 *New legislation should state outcomes from assessment process.* The assessment of people's broad support needs is an important issue that affects whether or not a person has the opportunity to get access to a service, the type of service a person is referred to and the amount of funding available to achieve outcomes for the person. The balance between retaining flexibility in assessing people's needs and goals and creating certainty and fairness should be addressed in the legislation. The Commission is of the view that the legislation should set out the outcomes that any assessment process should aim to achieve.

Recommendation 32

The Commission recommends that the new legislation set out the outcomes that any assessment process should achieve. The major outcome should be that people have their needs, abilities and aims in life properly and equitably identified and matched with appropriate and flexible support so that their goals become achievable.

Recommendation 33

The Commission recommends that any assessment process should be easily accessible, should operate equitably according to need, should consider the whole of the person's life circumstances and should respect his or her

- privacy and dignity
- right to be consulted about needs and goals and informed about all available service options
- right to be assessed by appropriately trained people who understand his or her disability and life circumstances
- cultural, racial or language background
- right to make informed choices about available support
- right to have assistance from or input into the assessment from relatives or carers
- right to seek review of decisions made by the assessor (see recs 61 and 63).

Recommendation 34

The Commission recommends that the Commonwealth reduce the number of assessments people with a disability have to undertake to get access to different services by improving the co-ordination of information held by assessment agencies and enabling better information referral between agencies. Information about assessments should be passed on only with the consent of the person to whom it relates (see rec 71).

Ensuring services are appropriate

The role of sheltered workshops

9.25 Prior to the *Disability Services Act 1986* (Cth) disability services funded by the Commonwealth were mainly provided in a sheltered environment. It was the intention of the 1986 Act that people who wished to and were capable of working in open employment should be given the opportunity. Originally when the Act was introduced, all sheltered workshops were to be phased out within five years and replaced by less sheltered employment services. Since the introduction of the Act, however, the Commonwealth has accepted that sheltered workshops have a role to play. The former Commonwealth government decided that while no new funding would be allocated to establish new workshops, all existing workshops would continue to receive recurrent funding provided they could show progress towards better quality service delivery.

Funding for employment and employment preparation support

9.26 Following the recommendation in the Baume report, the previous Commonwealth government announced that instead of funding particular service types such as competitive employment placement services, it would provide funding to meet the needs of people seeking employment or employment preparation support. Under this proposal, all people receiving services would be assessed to determine if they needed employment or employment preparation support. Because there has been no independent assessment

in the past, there may be some people in sheltered workshops who may wish to work in open employment but have not been given the chance. It is the intention of the new independent assessment mechanism to give those people the chance to work in a more open, less sheltered environment. There may be others who are not able to or who do not wish to receive employment or employment preparation support. In its discussion paper the Commission asked how the new legislation should meet the needs of people for whom employment or employment preparation support may not be an option. It provisionally proposed that these people continue to receive some type of appropriate support.

What submissions stated

9.27 *Some submissions supported sheltered workshops as appropriate services.* The Commission discovered during consultations that the phasing out of institutional employment settings like sheltered workshops is a controversial issue. The Commission received many submissions on the subject and numerous comments in questionnaires, focus groups and at public meetings.⁷³⁵ Some submissions expressed the view that sheltered workshops were the appropriate services for people who have high support needs.⁷³⁶ They stated that

- workshops should be recognised as a legitimate choice⁷³⁷
- the kind of occupational activity available in workshops is a valuable alternative to doing nothing⁷³⁸
- if a person is assessed as having no productivity or ability to gain productivity through employment preparation, then they must be given something to do⁷³⁹
- the premise that most sheltered workshop workers want to go into open employment is a false one⁷⁴⁰
- some people in sheltered workshops have been there all their lives and feel secure there.⁷⁴¹

9.28 *Other submissions stated that sheltered workshops were not appropriate.* Other submissions stated that sheltered workshops were inappropriate services for any people with a disability.⁷⁴² They stated that employment support should be an option for all⁷⁴³ and that, for young people, post school options programs (which are funded by the States and Territories) are much more appropriate.⁷⁴⁴ When employment is not possible, there should be programs for ongoing education, therapy, community access and recreational support.⁷⁴⁵ Some participants in consultations considered that workshops exploited workers by paying them minimal wages and providing poor working conditions,⁷⁴⁶ by providing unchallenging and demeaning work⁷⁴⁷ and by promoting prejudice and discrimination against people with a disability by segregating them from society.⁷⁴⁸

9.29 *Submissions argued that alternative support should be available.* The majority of people in consultations considered that the Commonwealth should continue to provide appropriate support for people who may not be able to or may not wish to receive employment or employment preparation support.⁷⁴⁹ Alternatives to sheltered workshops were suggested⁷⁵⁰ including

- the formulation of alternative to work' programs where people can gain continual training in independent living skills, recreational pursuits, community access and promotion of a more satisfactory lifestyle⁷⁵¹
- a flexible approach to employment and employment preparation⁷⁵²
- extending options for people with high support needs judged as not capable of being employed⁷⁵³
- providing alternative work options where employment rights are safeguarded⁷⁵⁴
- allowing for the delivery of programs across State and Commonwealth boundaries, so that people can have co-ordinated services which may include some employment training, some recreational and educational activity⁷⁵⁵

- requiring either the States or the Commonwealth to take full responsibility for day programs⁷⁵⁶
- providing individually tailored programs for people based on their needs and abilities.⁷⁵⁷

The Commission's view

9.30 Under its terms of reference the Commission is not to decide the policy issue of whether or not new sheltered workshops should be funded or whether such workshops should continue to exist. The Commonwealth has decided that instead of funding service types, it will fund employment support or employment preparation support. The issue for the Commission is what obligation the Commonwealth owes to people currently in sheltered workshops who may not be able to, or who may not wish to, receive employment or employment preparation support with a view to working in a less sheltered environment. The Commission is of the view that adequate and appropriate support for those people assessed as not being able to or not wishing to work in an open environment should continue to be provided. The Commonwealth may decide to provide this support directly or may negotiate with the States and Territories to provide services.

Recommendation 35

The Commission recommends that the Commonwealth, either directly or through the States and Territories, continue to provide support options with some vocational element for people with a disability who are either unable to or who choose not to receive employment or employment preparation services.

Other people receiving inappropriate support

9.31 ***Not within the scope of this review.*** In submissions and during consultations the Commission heard of people who were receiving support that was not appropriate to their needs. While these matters do not fall strictly within the scope of this review, the Commission records the evidence provided to it which is relevant to the Government's commitment to human rights and a social justice agenda.

9.32 ***People with a disability in aged nursing homes.*** During public consultations, the Commission received submissions on behalf of young people with an acquired brain injury who have been placed in nursing homes.⁷⁵⁸ Submissions stated that it was unacceptable that young people should be placed in nursing homes which are not appropriate to their needs and which do not provide the kind of therapy which could be of benefit to such people.⁷⁵⁹

9.33 ***People with an intellectual disability who have ageing parents.*** The Commission received many submissions and much participation in public consultations from people concerned about people with an intellectual disability who have ageing carers, usually their parents. Their major concern was with what will happen to such people with a disability when their carers die.⁷⁶⁰ Submissions expressed a general reticence to place people in institutions or in other accommodation which they regarded as unsuitable.⁷⁶¹ There are long waiting lists for hostels and accommodation services.⁷⁶² Some submissions suggested the establishment of cluster housing where people with a disability and their ageing carers could both receive care.⁷⁶³ The Intellectual Disability Services Council suggested the development of detailed life plans to act as legally binding contracts requiring the government to continue the care, in the way specified, of the person with a disability once their carers have died.⁷⁶⁴

One of the most reassuring programs that government could institute would be a system whereby the family and service organisations together plan for the future with the knowledge that the plan would be implemented at the appropriate time.⁷⁶⁵

The submission suggested that such plans should provide an extremely flexible tool for meeting the needs of people with an intellectual disability. All plans would need to be guaranteed by the Minister.⁷⁶⁶

PART 3 - PROMOTING THE RIGHTS AND NEEDS OF PEOPLE WITH A DISABILITY

10. Information

Introduction

10.1 It is essential to ensure that people have the information they need about disability services. People with a disability need such information to make the best decision about the type of support they need. This chapter discusses the information that people with a disability and their carers need from the Commonwealth, through the Department of Health and Family Services (the Department), and from disability services.

Information required from the Commonwealth about disability services generally

What information do people with a disability get about available support services?

10.2 ***The Department produces information.*** The Department produces information about the kinds of disability services it funds, including those people eligible for services and how to access them. It also produces information about the rights of people who use services. Information is available in community languages and in alternative formats.

10.3 ***State and Territory government organisations provide information.*** Some States and Territories also issue information concerning disability services which is designed to work in conjunction with their assessment systems. South Australia has the Options Co-ordination Program and Western Australia the Local Area Co-ordination Program. Both programs are still being developed. The intention is that people with a disability will be assessed under these programs and given relevant information, based on that assessment, about Commonwealth and State services, including mainstream services, and about unfunded services.

10.4 ***Other organisations provide information.*** Peak bodies, local government agencies and consumer organisations also provide information about disability service options. The Redfern legal centre has produced material on the legal rights of people with a disability in a plain language format.⁷⁶⁷

Issues paper and discussion paper

10.5 In its issues paper the Commission asked whether people thought they had enough information when they were choosing their service and what they considered to be the best sources of information. In its discussion paper the Commission asked how the information needs of people with a disability, and people with particular needs, could be better met. It asked whether the information provided to people with a disability about services was adequate, distributed widely enough and how it could be better distributed.

What information do people with a disability want?

10.6 People with a disability and their carers want and need information about

- the range of disability support services available and how to get these services or payments⁷⁶⁸
- the extent and quality of support services they are entitled to expect a service to provide⁷⁶⁹
- their rights in relation to services⁷⁷⁰
- how to take action if their rights, interests and needs are not protected.⁷⁷¹

What submissions stated

10.7 Information distributed by the Department about disability services is inadequate. Most submissions dealing with information provided by the Department about the services it funds other organisations to provide (funded services) stated that it was inadequate and poorly distributed.⁷⁷² One submission commented that there was not enough information because there are not enough services to provide information about.⁷⁷³ 44% of respondents to the Commission's questionnaire stated that they did not have enough information about services available to them when they were choosing their service. In relation to information provided by the Department about the CRS, most submissions on the subject stated that the information itself was adequate⁷⁷⁴ but that the distribution of the information was poor.⁷⁷⁵ Submissions identified the following problems.

- ***People look for information when they are in crisis.*** People often do not look for information about some types of disability services until they need it and this may well be in a crisis,⁷⁷⁶ which is not the best time to absorb that information. This is especially the case with accommodation and respite services and advocacy services.⁷⁷⁷
- ***People do not know where to go for information.*** People do not know where to begin looking for information or which level of government is responsible for the services they need.⁷⁷⁸ The information available does not cover all options open to people or tell them how to access services. The Commission heard that people working at particular government agencies were not aware of services provided by other agencies or services.⁷⁷⁹ This means that people often have to contact three or four different organisations to receive the necessary information.⁷⁸⁰
- ***Too much concentration on written material.*** The Commission heard that information tends to be in written form or in glossy brochures, which is not necessarily the most effective way of communicating information, especially to people with communication difficulties⁷⁸¹ or people from non-English speaking backgrounds.⁷⁸²

One of the activities that they use for marketing these services is to put out a leaflet ... A sighted person would see it whereas we don't.⁷⁸³ (Person with a vision impairment.)

If you don't speak English maybe you get a letter about a place that has come up in a group home. You don't even read it, you throw it in the bin, because you don't understand it.⁷⁸⁴ (Carer from a non-English speaking background.)

10.8 How should information be communicated? The Commission heard many enthusiastic suggestions for improving the Department's consumer information strategy. These included

- using a variety of information strategies which were regularly assessed⁷⁸⁵
- developing information that follows the access routes of people using disability services⁷⁸⁶
- developing information strategies in appropriate formats such as large print, braille, audio, comic book format or TTY phone services⁷⁸⁷
- using locally produced information that is simple to understand⁷⁸⁸
- using the spoken word rather than written material - face to face information sessions are more useful for people with an intellectual disability⁷⁸⁹
- telling people where to get information if and when they need it⁷⁹⁰
- ensuring information is relevant, accurate and up to date⁷⁹¹
- computerising the information and making access to computerised information easier for people with a disability.⁷⁹²

10.9 *How should information be distributed?* Submissions suggested a number of different ways that the Commonwealth should distribute information.

- **Community distribution.** Many people favoured local doctors as an appropriate information contact point for people with a disability and their carers.⁷⁹³ However many other people argued that unless a person has a disability requiring regular medical attention this method would be unsuitable because people with a disability do not visit the doctor any more often than other people do.⁷⁹⁴ Submissions stated that information should be distributed through
 - the Department⁷⁹⁵ and other government agencies such as the Department of Social Security or State education departments⁷⁹⁶
 - local government agencies⁷⁹⁷
 - libraries, schools, hospitals, supermarkets, post offices and community centres⁷⁹⁸
 - the proposed independent assessment and referral mechanism⁷⁹⁹
 - disability services including advocacy services and information services⁸⁰⁰
 - peak bodies.⁸⁰¹

Submissions stressed that the communication needs of information recipients should be the major concern when distributing information about disability services.

So much information you get over the phone these days. But unless there is a TTY and someone there who knows how to use it, you just don't get to hear about it.⁸⁰² (Deaf person)

- **Getting information from one source.** Many comments were made about the current piecemeal approach to distributing information. Some submissions favoured co ordination of information in the form of one stop shops'.⁸⁰³ The one stop' was envisaged as a widely publicised disability information service,⁸⁰⁴ a toll free phone line, with TTY facility⁸⁰⁵ or a shop front disability information service from which all Departments with disability responsibilities could distribute information.⁸⁰⁶ A comprehensive guide listing all available services which was updated yearly was suggested.⁸⁰⁷

There needs to be one organisation that is a register of every service that's available for disabilities of all types. It should be made known with a Hotline number that you can call from anywhere.⁸⁰⁸ (Carer of a person with a physical disability)

- **Publications which people with a disability read.** Community newsletters, put out by various disability organisations, and social security newsletters⁸⁰⁹ were suggested as appropriate formats for disseminating information.⁸¹⁰ Comic book format was seen as useful for people with intellectual disabilities,⁸¹¹ while farming journals and local papers were suggested for rural areas.⁸¹²
- **Mainstream media and notice boards.** Submissions also stated that more use should be made of mainstream media, including press, radio (regional and community) and television.⁸¹³ It was suggested that there should be broad based information campaigns to inform people about how to access disability services.⁸¹⁴ Many people favoured television commercials and stated that these would be particularly appropriate for people with intellectual disabilities.⁸¹⁵ Posters in shops and on community noticeboards were also suggested.⁸¹⁶
- **Information officers in the Department.** The Commission was told that people are dissatisfied with the type of information they are given by Departmental officers.⁸¹⁷ There was a good deal of anecdotal evidence that people appearing in person or telephoning Departmental offices have not been able to get the information they need.⁸¹⁸ Many people complained of being treated rudely or neglected.⁸¹⁹ Submissions called for specially trained and skilled information officers to be available at Departmental offices,⁸²⁰ and for a special interview room where clients can sit and talk with the information officers.⁸²¹

Carers also need information

10.10 During public consultations it was noted that the information available to carers of people with a disability was often vital in assisting people to access services.⁸²² This was said to be especially the case for

people with an intellectual disability,⁸²³ children with a disability,⁸²⁴ and to a certain extent, people with a psychiatric disability⁸²⁵ who may not always be in a position to access information about services themselves.

Information for people from non-English speaking backgrounds and Aboriginal and Torres Strait Islander communities

10.11 ***Information is inadequate.*** The Commission was told that the Department should do more to ensure that people from special needs groups get the information they need.⁸²⁶ Information on disability services should be culturally appropriate and well targeted.⁸²⁷ It should be interpreted, not just translated, in community languages, so that it makes sense to the target group.⁸²⁸ Some submissions stated that audio-visual material was the best kind of material.⁸²⁹

- ***Information for people from non-English speaking backgrounds.*** Lack of information was said to be the largest issue for non-English speaking background communities who may otherwise have little or no knowledge about what disability services are available.⁸³⁰ Suggestions for improving information included
 - implementing a special disability information strategy in consultation with the relevant communities⁸³¹
 - providing more written information, audio tapes and videos in community languages⁸³²
 - using ethnic radio
 - producing major policy documents in languages other than English⁸³³
 - promoting the use of Interpreter Services⁸³⁴
 - requiring the Department and services to employ bilingual and non-English speaking background workers and to provide a list of ethno-specific services.⁸³⁵
- ***Information for people from Aboriginal and Torres Strait Islander communities.*** During consultations the Commission heard that
 - rural and remote areas often have itinerant populations which means that knowledge and expertise about available services disappears when staff move on this makes it particularly difficult for Aboriginal people to access information⁸³⁶
 - information provided to Aboriginal and Islander people is often in inappropriate form, and lacks cultural sensitivity⁸³⁷
 - the program should cater for the language needs of different communities⁸³⁸
 - information provided orally is often more effective than written information⁸³⁹
 - there is no one, simple source that can inform people about their rights and about services available to them.⁸⁴⁰

Aboriginal focus group participants stated that Aboriginal community workers play a central role in providing them with information. In consultations, people reported that they rely on informal information networks, such as relatives and friends rather than official information in the form of pamphlets etc. provided by the Department.⁸⁴¹

The Commission's views

10.12 ***Information should be co-ordinated from a central point.*** People with a disability, their carers, families and friends need adequate and comprehensive information to enable them to negotiate and access disability services. People need information to know what services and entitlements are available and to make the best decisions about the type of services most appropriate for them. Submissions indicated that people with a disability and their carers would benefit considerably from a more comprehensive, systematic and co-ordinated response to providing general information about disability services. The Commonwealth should have as one essential component of the disability services program an ongoing commitment to providing and co-ordinating relevant information about disability services and policies. The Commission recommends at para 4.43 that this should be one of the functions of the Office on the Equal Status of People with a Disability. The Commission recommends that one of the objects of the new legislation should be to

ensure that people with a disability and their carers and service providers are informed about the support services available and about their rights.

10.13 ***Information should be appropriately targeted.*** As part of its information strategy, the Commonwealth should ensure that all information about disability policies and services is available in alternative formats and in community languages. Information should also be culturally sensitive and relevant and accessible to people from non-English speaking backgrounds and Aboriginal and Torres Strait Islander people.

Recommendation 36

The Commission recommends that the new legislation require the Commonwealth to make arrangements

- with each State and Territory and all non-government service providers for the provision and updating of standard data sets of information about all services
- for the establishment of a national, accessible electronic data base containing comprehensive up to date information on all disability policies and services
- regularly to advertise the existence of the electronic data base and its access points.

Recommendation 37

The Commission recommends that the Commonwealth's information plan should ensure that information strategies are funded and implemented at a local level so that

- people know where to go to for information when they need it, for example, a toll free national phone service
- information is available through a number of local outlets, including the print and electronic media, advocacy organisations, doctors, local government agencies, local libraries and community organisations
- information is produced in a range of accessible formats and languages
- information is available and relevant to people with particular needs, including people from non-English speaking backgrounds and people from Aboriginal and Torres Strait Islander communities.

People need information about the disability services they use

Current law and practice

10.14 Once people with a disability have gained access to a service or begin a rehabilitation program with the CRS, they need certain information about the services they are receiving. There is no requirement in the *Disability Services Act 1986* (Cth) for services to provide information to clients. The Disability Services Standards state that clients of funded services should be provided with information about services, access to services, decision making, choice and participation within services and how to complain about a service. The CRS's National Service Delivery Principles require the CRS to provide information to clients about all service activities the CRS provides, the purpose of all assessments and rehabilitative activities and client's rights and responsibilities, including the complaints and appeal procedures.

Issues paper and discussion paper

10.15 In its issues paper the Commission asked if people had enough information about their services and the form in which they would like the information communicated. In its discussion paper the Commission asked about the type of information that services should have to give to clients and their families and what kinds of

obligations services should be under to provide this information. The Commission provisionally proposed that the new legislation require service providers to supply information to each client about service policies, finances and clients' rights. It proposed that this information should be available in appropriate formats.

What submissions revealed

10.16 ***Service providers should give a range of information to clients.*** The Commission was told that services should provide a range of information to clients and their families.⁸⁴² Certain submissions agreed with the Commission's provisional proposal that the new legislation should require services to provide information to each client about service policies, finances and client's rights.⁸⁴³ Two submissions stated that it was enough for services to comply with the range of information requirements in the Disability Service Standards.⁸⁴⁴ Other submissions suggested that services provide wide ranging information about

- everything the consumer wants to know⁸⁴⁵
- available advocacy for complaints purposes⁸⁴⁶
- appeals processes⁸⁴⁷
- what outcomes people can expect from a service⁸⁴⁸
- other services in the area⁸⁴⁹
- what the service expects of clients.⁸⁵⁰

10.17 ***Services should be under a legal obligation to provide information to service users.*** Most submissions stated that services should be under a legal obligation to provide information to the people with a disability who use their service.⁸⁵¹ Some submissions argued that the legal obligation should be the same as currently required under the Disability Service Standards.⁸⁵² One submission stated that the obligation should form part of the funding agreement between the service provider and the Department.⁸⁵³

The Commission's views

10.18 People with a disability and their carers cannot exercise their rights and responsibilities as consumers of a service without adequate information. The Disability Services Standards and the CRS National Service Delivery Principles require services to provide consumers with certain information. The Commission is of the view that this obligation should be contained in the new legislation. The new legislation should require all services, including the CRS, to provide simple, user friendly information to consumers about certain essential matters including

- the nature and scope of the service
- rights and responsibilities of service users, including making clients and their carers aware of the principles and objectives of the Act and giving them a copy of the charter of rights (see para 10.21-10.38)
- opportunities clients have for consultation
- what costs, if any, are involved in using the service
- the quality standards the service must follow and how quality is monitored
- internal and external complaints mechanisms
- other support services in the area
- reasons for decisions made by services.

The information should be clear and simple to understand. It should cater for the particular needs of people with a disability and people in special needs groups, be available in alternative formats and in a range of community languages. Services should be required to provide this information to consumers and their representatives before they begin to receive the service. The Department should encourage and help services to give people with a disability and their carers information about other disability services that might be available to them.

Recommendation 38

The Commission recommends that the legislation should require all services to provide information on specified matters to consumers and to their carers or relatives. The information should be provided when the person or carer contacts the service, generally before they begin to receive the service. The information should cover

- the nature and scope of the service
- rights and responsibilities of service users, including making clients and their carers aware of the principles and objectives of the Act and giving them a copy of the charter of rights
- opportunities clients have for consultation
- what costs, if any, are involved in using the service
- the quality standards the service must follow and how quality is monitored
- internal and external complaints mechanisms
- other support services in the area
- reasons for decisions made by services.

Information about the rights and expectations of service users

How people's rights as service users are currently promoted

10.19 The *Disability Services Act 1986* (Cth) does not specifically refer to the rights of people with a disability who use Commonwealth services. The Act provides for principles and objectives which promote the rights of people with a disability. The Disability Services Standards reflect the rights of people who use funded services while the CRS National Service Delivery Principles outline quality indicators for CRS clients. The Disability Services Standards and the CRS National Service Delivery Principles touch on people's rights. They are essentially concerned, however, with the steps services should take to achieve certain outcomes.

Discussion paper

10.20 The language of the principles and objectives is fairly vague and often unclear. Many people who use, have used or would like to use disability services may not actually know about the principles and objectives. In its discussion paper the Commission asked whether the new legislation should provide for a widely publicised charter setting out the rights and expectations of people using disability services, what sort of information such a charter should contain and how people should be able to enforce the charter. The Commission provisionally proposed that a charter of rights be developed for all people with a disability using any service funded or provided directly by the Commonwealth under the new legislation.

Consultations supported a charter

10.21 Submissions received on this point overwhelmingly supported the inclusion of a charter of rights in the new legislation.⁸⁵⁴ A charter was said to be needed because

- it would give people with a disability a higher profile⁸⁵⁵
- it would provide an accessible reference point on disability for the wider community⁸⁵⁶
- it would assist people with a disability to communicate their concerns or to complain more effectively⁸⁵⁷
- it would give consumers more knowledge of their rights⁸⁵⁸
- it would ensure that the same rules apply to people with a disability as apply to other people in Australia⁸⁵⁹
- it would remind service providers of their obligations in relation to the rights of people who use their services⁸⁶⁰
- it would remind the Commonwealth of its responsibilities⁸⁶¹
- it would set standards for other social welfare legislation⁸⁶²
- it would help in the legal protection of privacy⁸⁶³
- it could influence action on disabilities in mainstream services such as education⁸⁶⁴
- the Disability Discrimination Act does not go far enough - especially in respect of people with an intellectual disability⁸⁶⁵
- it is unlikely that a general Bill of Rights will be enacted in the near future⁸⁶⁶
- the current practices contravene rights and dignity⁸⁶⁷ and because of the high levels of institutionalised discrimination and marginalisation within Australian society⁸⁶⁸
- a charter of rights and responsibilities has worked well in the aged care program⁸⁶⁹
- it could potentially assist Australia to meet its international obligations.⁸⁷⁰

In order to heighten the effectiveness of the proposed charter, some submissions suggested that it be written in plain English,⁸⁷¹ published as a separate document, and placed in easy view at services, workplaces and government agencies.⁸⁷²

Some submissions disagreed with the concept of a charter of rights

10.22 Some submissions disagreed with including a charter of rights in the legislation. They argued that placing the charter in the legislation would make it too difficult to amend⁸⁷³ and suggested instead that the charter should be a gazetted document recognised in the new legislation.⁸⁷⁴ Certain submissions disagreed that a charter was needed at all, stating that anything that would be placed in the charter was already covered by other instruments, namely the Disability Discrimination Act,⁸⁷⁵ the Disability Service Standards⁸⁷⁶ and the principles and objectives of the Disability Services Act.⁸⁷⁷ Some submissions expressed concern over the purpose of a charter of rights.

Charters of rights are symbolic in times of change. The new Act should not be seen as creating great change so much as refining a system that can produce solutions for people with a disability.⁸⁷⁸

Submissions stated that the new Act must focus on the provision of support services, rehabilitation and awareness raising',⁸⁷⁹ that the Act should not contain specifics but should operate on a broad principle level only⁸⁸⁰ and that the Act should be a funding mechanism only and not rights-based law.⁸⁸¹

Some submissions supported a general Bill of Rights

10.23 Some submissions which disagreed that there should be a charter of rights did so because they supported a more general Bill of Rights for all Australians.⁸⁸² They argued that people with a disability were entitled to the same rights as everyone else.

A specific charter for people with a disability would be discriminating and unless it was absolutely universal some areas could be left out and therefore be a loss of rights.⁸⁸³

One submission argued that an Australian Bill of Rights would focus on equality rather than difference.⁸⁸⁴

The Commission's view

10.24 ***A charter would promote information about rights.*** The Commission considers that a charter of rights would assist in making people with a disability who use disability services more aware of their rights and would give them more of a chance of exercising those rights. Those rights are not the same rights as would be promoted by a general bill of rights for all people with a disability or for all Australians. The type of charter that the Commission is recommending is a document designed to make people using services aware of what they can expect and demand of services and to give them avenues of redress when services do not perform their functions properly. The charter would also be significant in bringing about attitudinal change concerning the rights and interests of people using disability services.

10.25 ***A schedule to the Act.*** The Commission acknowledges that placing the charter of rights in the text of the legislation may limit its flexibility. Even so, the charter should be given legislative backing necessary for its effective enforceability. The Commission is of the view that putting the charter in the body of the legislation would be too cumbersome. Instead, it should be contained as a separate document in a schedule to the legislation.

10.26 ***Charter should be visible and accessible.*** It is extremely important that people with a disability using services are aware of the existence of the charter. The charter must be in plain English and must be available in alternative formats and in community languages. Funded services and all CRS regional units should be required to distribute a copy of the charter to every user of the service and to his or her carer and relatives and place a copy of it in a visible place on the service premises. The same should be required of government departments administering disability services.

Recommendation 39

The Commission recommends that the new legislation provide for a charter of rights and expectations for people with a disability using services provided and funded under the new legislation. The charter should be in a schedule to the new legislation.

Recommendation 40

The Commission recommends that the charter be written in plain English and community languages and be available in alternative formats.

Recommendation 41

The Commission recommends that the new legislation require all government departments and all services, including the CRS, to provide every client and carer with a copy of the charter of rights and display the charter in a visible place on the service premises.

What rights should be included in the charter? - international examples

10.27 **New Zealand.** New Zealand has charter of rights for people with a disability called the Code of Health and Disability Services Consumer's Rights. It was established under the *Health and Disability Commissioner Act 1994* (NZ). The Code includes the rights of consumers and the duties of service providers with regard to

- privacy
- the provision of services that take into account the needs, values and beliefs of different cultural, religious, social and ethnic groups
- the duties of service providers to ensure effective communication between consumers and providers
- establishment by service providers of complaints procedures
- access to complaints procedures for consumers
- duties of service providers to provide services of an appropriate standard
- duties of service providers to provide services in a manner that respects the dignity and independence of the individual.⁸⁸⁵

The legislation requires the New Zealand Health and Disability Commissioner to provide for a review of the Code at least every three years and for necessary changes to be made.⁸⁸⁶

10.28 **Philippines.** The Philippines has a charter referred to as the Magna Carta for Disabled Persons, An Act Providing for the Rehabilitation, Self-Development and Self-Reliance of Disabled Persons and Their Integration into the Mainstream of Society and for Other Purposes.⁸⁸⁷ The Act, effective from 1992, is a general bill of rights for people with a disability. It does not relate specifically to the provision of services to people with a disability using funded disability services but gives rights and privileges to people with a disability in the areas of

- employment
- education
- health
- auxiliary social services, that is, services necessary to restore the social functioning and participation in community affairs of people with a disability
- telecommunications
- accessibility
- political and civil rights.

It also prohibits discrimination against people with a disability in the areas of

- employment
- transportation
- public accommodations and services.

The Philippines charter imposes certain obligations on the government to uphold the rights of people with a disability. The Secretary of Justice has a duty to investigate alleged violations of the Act and to undertake

periodic reviews of compliance by the entities covered under the Act. Any appropriate court may grant relief to people with a disability who may be affected by a breach of the charter. Any person who violates any provision of the Act can be fined or imprisoned for between 6 months and 6 years, depending on whether the offence is a first or repeat offence.

Charters of rights and responsibilities for residents of aged care facilities

10.29 The aged care program of the Department of Health and Family Services has developed charters of rights and responsibilities for people living in aged care nursing homes and hostels as part of its user rights strategy. The nursing home and hostel charters are virtually identical.⁸⁸⁸ The charters include the right to quality care, information, dignity, respect and personal independence and set out the responsibilities of service providers and residents. The charter is produced in poster form and put up in residential facilities.

Some submissions suggested including universal rights in the charter

10.30 The Commission proposed in its discussion paper that the charter only refer to rights applicable to users of disability services. A large number of submissions, however, stated that universal human rights, such as are contained in United Nations declarations, should be the kind of rights contained in the charter.⁸⁸⁹ The rights advocated included

- a right to shelter⁸⁹⁰
- a right to education⁸⁹¹
- a right to work⁸⁹²
- a right to freedom of assembly⁸⁹³
- a right to freedom of association⁸⁹⁴
- a right to freedom of speech⁸⁹⁵
- a right to equality of access to services⁸⁹⁶
- a right to freedom from discrimination on the basis of age, gender, race, class, location, religious or political beliefs, disability or illness⁸⁹⁷
- a right to recognition of one's human worth⁸⁹⁸
- a right to protection from sexual abuse⁸⁹⁹
- a right to equity and security of income⁹⁰⁰
- a right to participation in community life⁹⁰¹
- a right to access to buildings⁹⁰²
- a right of children to be supported in appropriate family settings.⁹⁰³

Others suggested the charter be confined to service provision

10.31 Other submissions concentrated more on the type of rights which were directly relevant to people using disability services.⁹⁰⁴ These rights included

- the right to choose an advocate⁹⁰⁵

- the right to have disputes about services resolved,⁹⁰⁶ including the right to an independent complaints mechanism⁹⁰⁷
- the right to access a service within a reasonable time⁹⁰⁸
- the right to choose between services⁹⁰⁹
- the right to a service which complies with the disability service standards⁹¹⁰
- the right to receive help from relevant departments.⁹¹¹

Certain submissions stated that the charter of rights should contain a list of principles and objectives along the lines of the current principles and objectives of the Act.⁹¹² Others were adamant that the charter of rights and the principles and objectives must be separate.⁹¹³

Should the charter also include responsibilities?

10.32 ***Public opinion divided.*** Certain submissions arguing for a charter of rights suggested that the charter should also feature the responsibilities of service users.⁹¹⁴ It was said that responsibilities should be included because people with a disability should understand that co-operation with service providers is involved in achieving their goals.⁹¹⁵ However, strong argument was put to the Commission against including clients' responsibilities in the charter because of the ease with which such responsibilities could be used against people with a disability. It was said that services would have an excuse to refuse support to people on the basis that the client had failed in his or her responsibilities under the charter. The Commission heard that this could be a particular danger with regard to people with intellectual and psychiatric disabilities, who may not understand their responsibilities or be able to exercise them.⁹¹⁶ Some submissions also stated that the charter should contain service provider rights and responsibilities.⁹¹⁷

The rights of carers and the charter

10.33 A few submissions contended that the charter should contain reference to the rights of carers,⁹¹⁸ namely

- the right to deal with services on behalf of the person with a disability⁹¹⁹
- the right to access information
- the right to assistance to use information effectively
- the right to access appropriate education and training
- the right to adequate financial support.⁹²⁰

Submissions stated that carers should in turn be required to demonstrate

- accountability for finances received
- that they have upheld the rights of the person with a disability.⁹²¹

Charter should operate effectively and be enforceable

10.34 Whatever the charter contains, submissions indicated that there are certain characteristics it must have in order to ensure that it works effectively. It should be consumer driven, have flexibility to develop and be subject to regular review.⁹²² Submissions stated that the charter should also be enforceable.⁹²³ Most submissions favoured enforcing the charter through an independent Commissioner⁹²⁴ or an independent complaints or grievance mechanism.⁹²⁵ Many of those who favoured a Commissioner said that the function should be performed by the current Disability Discrimination Commissioner.⁹²⁶ One submission argued that

an Office of Disability Services Commissioner should be set up, which should have the same investigative and review powers as a Royal Commission. This submission also put forward the idea of a Disability Services Appeals Tribunal.⁹²⁷ Most submissions supported using the service's internal grievance procedures first in the event of a breach of the charter,⁹²⁸ followed by appeal to an independent mechanism when internal procedures do not work.⁹²⁹ Some submissions recommended that advocacy services should play an important role in complaints about breaches of the proposed charter.⁹³⁰ One submission proposed that the charter be enforced by means of a commitment to adherence, voluntarily signed by service providers which was tied to funding.⁹³¹ Two submissions argued that it should be an offence for services not to comply with the charter.⁹³²

The Commission's views

10.35 *Charter should be a practical guide for service users.* The Commission envisages the charter of rights operating in conjunction with, but not instead of, the principles and objectives of the new legislation. The principles and objectives should cover the broader, more universal rights that all people with a disability have. The charter should act more as a practical guide and information tool for people with a disability using a service. People should be able to look at the charter and understand what they can expect from a service, what the service is supposed to provide and what to do if the service is not doing its job. The kinds of rights set out in the charter should not require services to perform the impossible or to assume responsibility for matters outside their control. For example, the charter would not contain a right to employment. The New Zealand Code of Health and Disability Services Consumer's Rights is a good guide for an Australian charter for users of disability services.

10.36 *Rights and expectations.* The charter should be a combination of rights that already exist at law or are created by the new legislation and goals that services should aspire to achieve for clients. Examples of current rights or those which will exist under the new legislation include the right to information, to privacy, to complain, to join a union, to equal pay for equal work and to live free from discrimination. There are many outcomes to which this society aspires which are generally accepted as desirable but which are not legal rights. There is not, for example, a legal right to be supplied with information that is linguistically and culturally appropriate, nor is there a legal right to be treated with respect, or to have an advocate. The Commission is of the view that those aspirations which are not explicit rights should also be available for people with a disability using services. The charter should make it very clear that the rights and aspirations it contains are not exhaustive.

10.37 *Charter should not include carers.* In ch 1 the Commission discussed the importance of the new legislation being specifically for and focused on people with a disability. Submissions and consultations have convinced the Commission that the new legislation should not be used to assert the interests of carers. The Commission is therefore of the view that any charter of rights developed for the new legislation must be only about the rights of people with a disability.

10.38 *Enforcing the charter.* If a person using a service is of the view that the service has breached the provisions of the charter, he or she may seek to enforce the charter by using the complaints mechanism the Commission recommends be set up under the new legislation.⁹³³ The Commission recommends that an internal mechanism be established as well as an independent mechanism to resolve grievances people may have about the services they use. Funded services should have to demonstrate that they are meeting the terms of the charter as a condition of funding.

Recommendation 42

The Commission recommends that the charter complement and elaborate upon the Disability Service Standards and the Principles and Objectives as they apply to individuals. The charter should include

- the following rights created by the new legislation:
 - the right to be provided with information
 - the right to be consulted about decisions affecting service delivery and clients

- the right to be given reasons for decisions made
 - the right to privacy
 - the right to make a complaint
 - the right to a quality service which complies with all the disability service standards
 - the right to receive available support appropriate to one's needs
 - the right to be involved in one's own assessment
 - the right to have a decision reviewed
- relevant rights that exist because of other laws, for example the right to complain about discriminatory conduct and, in the case of employment services, the right to have access to the range of entitlements and memberships associated with employment
 - goals that services should aspire to achieve for their clients, including
 - treating clients with respect
 - respecting a client's need for an advocate
 - offering culturally and linguistically appropriate services.

The charter should make it clear that these rights and expectations are not exhaustive.

Recommendation 43

The Commission recommends that the charter should also set out the steps that people can take when they feel their service has breached the charter. It should

- tell people that they can complain and to whom they can complain
- tell people how to get in touch with an advocate
- tell people how to get in touch with the relevant body who will handle complaints
- tell people about where to get other information which will help them
- include contact numbers and addresses for relevant agencies such as the
 - Office of the Privacy Commissioner
 - Office of the Disability Discrimination Commissioner
 - Office of the Equal Status for People with a Disability.

11. Promoting quality services

Introduction

11.1 The Commonwealth must have ways of ensuring that its funds are used to provide quality services that promote the needs and goals of people with a disability. For example, services should provide training or support by skilled people and should follow procedures that respect the dignity of people with a disability. This chapter looks at how quality is measured in the Commonwealth Rehabilitation Service (CRS) and in the services the Commonwealth funds other organisations to provide (funded services). It discusses what submissions revealed about the effectiveness of the current quality measures and makes recommendations about how the new legislation should promote quality service provision.

Measuring quality in Commonwealth services

Principles and objectives

11.2 In 1986 the then Minister for Community Services developed principles and objectives setting out the rights of people who use services funded and provided by the Department. The CRS and organisations receiving funding under the *Disability Services Act 1986* (Cth) are required to follow these principles and objectives in the way they provide services. The principles and objectives require that service providers are answerable to their users and their advocates, to the Commonwealth and to the community for the quality of the services they provide.⁹³⁴

Disability service standards for funded services

11.3 **Indicators of quality.** In addition to the principles and objectives the Disability Services Standards were developed in consultation with service provider and consumer bodies, unions and State and Territory governments. They set out eleven areas of service quality that consumers are entitled to expect. They cover

- service access
- individual needs
- decision making and choice
- privacy, dignity and confidentiality
- participation and integration
- valued status
- complaints and disputes
- service management
- employment conditions
- employment support
- employment skills development.

11.4 **Purpose of the standards.** The standards are meant to

- empower clients by defining the level of service quality they can expect
- set a minimum level of service quality

- inform current and prospective service providers what is expected of them in terms of service quality
- provide a framework for service providers to implement the principles and objectives of the Act
- encourage service providers to improve service quality in consultation with consumers
- provide a stepped process for services to upgrade their status, for example, from a sheltered workshop to a supported employment service
- provide a means of satisfying government accountability requirements.

11.5 *Different levels of standards.* There are three different levels of standards

- **minimum standards** for services established before the Act (currently funded under section 13 of the Act) which do not meet the higher service quality requirements
- **enhanced standards** for services on the way to meeting the eligibility standards (currently funded under section 12A of the Act)
- **eligibility standards** for services that meet the principles and objectives of the Act (currently funded under section 10 of the Act).

CRS National Service Delivery Principles

11.6 To help ensure that the Commonwealth uses its resources to provide quality rehabilitation in a way that achieves the Commonwealth's goals in funding and providing services the National Service Delivery Principles state the service standard that people who use the CRS are entitled to expect. There are twenty principles ordered under six major headings. The principles state that the CRS will

- focus on achievement and particularly on vocational outcomes
- compete actively in the market place
- provide services in an equitable, effective, efficient and business-like manner
- be responsive to the diverse social, cultural, physical and psychological needs of the client
- support and respect the independence and dignity of the client
- actively involve the client in decision making.

Issues paper and discussion paper

11.7 In its issues paper the Commission asked whether people considered their service to be a good quality service and the reasons they had for their opinions. In its discussion paper the Commission asked whether the new legislation should require services to meet quality standards as a condition of receiving funding and what factors should indicate whether or not a service is meeting the standards. The Commission provisionally proposed that the Department of Health and Family Services (the Department) develop consistent rules for conforming and non-conforming practices for all services to assess whether or not services are meeting the appropriate standards. The Commission also proposed that, as a condition of receiving funding, the new legislation require services to achieve quality outcomes for clients through meeting the standards. The Commission also asked for suggestions concerning how the CRS could make sure that people with a disability receive good quality services and whether broad indicators of quality service provision should be set out in the legislation. The Commission provisionally proposed that the broad indicators of CRS service quality contained in the National Service Delivery Principles be set out in the legislation.

What consultations revealed

11.8 *Some people unhappy with service quality.* Approximately 25% of respondents to the Commission's questionnaire said that their service was not a good quality service.⁹³⁵ A further 5% said that their service was fair only, or needed improvement.⁹³⁶

No. They did not listen to my needs and wants. I just wanted to do something I like to do. At the time there was no support for my ideas.⁹³⁷

There is no real help, only bandaid stuff. Some circumstances require bends and changes to be made. People should be evaluated as individuals, who all have different needs. Not everyone falls into a category.⁹³⁸

No. If it was a good quality service it would have told me how to get other services and given me information I really need.⁹³⁹

No. Because of limited resources and lack of flexibility. We don't like dealing with strangers all the time, who make judgements about you.⁹⁴⁰

Similar comments were made by participants in focus groups.

They measure their success by the number of offices they've got, but they should do it by the number of people they've placed.⁹⁴¹ (person with a physical disability, commenting on the CRS)

It stuns me - the amazing ease with which people can set up employment agencies. Yet they may have little experience in the area and know nothing about adaptive technology.⁹⁴² (person with a vision impairment)

11.9 *Submissions stated that meeting quality standards should be a condition of funding.* Most submissions supported the idea of the new legislation requiring services to meet quality standards as a condition of receiving funding.⁹⁴³

11.10 *Submissions raised problems with standards as indicators of quality.* Some submissions indicated that the current standards were not necessarily good barometers of quality service provision. They stated that

- it needs to be made clear what practices actually constitute quality service provision⁹⁴⁴
- standards have the potential to generate ... a mania for form filling in,⁹⁴⁵ and often the service who writes the fanciest report wins' regardless of the quality of their actual service provision⁹⁴⁶
- standards are open to service provider interpretation so the extent of real compliance with quality is questionable⁹⁴⁷
- current standards are not appropriate to apply to advocacy services⁹⁴⁸
- current standards are not appropriate for Aboriginal and Torres Strait Islander people and people from non-English speaking backgrounds,⁹⁴⁹ for example, standards dealing with information provision do not mention access to interpreters or culturally appropriate information⁹⁵⁰ and standards on the development of employment skills mention nothing of the recognition of skills which are not generally associated with employment by mainstream culture.⁹⁵¹

11.11 *Quality indicators should be developed.* Some submissions stated that the legislation should contain broad indicators of quality service provision.⁹⁵² One submission suggested that the Commonwealth develop benchmarks of quality service provision by evaluating organisations recognised as delivering quality services to determine the processes which result in quality outcomes and adapting them to other services.⁹⁵³ The submission noted that, currently, the Commonwealth has no real way of setting benchmarks because of the lack of a comprehensive and standardised approach to quality monitoring. The development of the National Information Monitoring System (NIMS) data base which will be used to collect standard accountability data from services and to collate reports on outcome and process measures for each service, the Commonwealth will have a way of identifying best practice linked to quality outcomes. The submission argued this proposal is viable even though the Department does not currently plan to use NIMS for this purpose. Other

submissions argued that in order for quality benchmarking to work, there must be developments in other areas, for example

- there must be a fair and equitable process for ensuring whether standards have been met⁹⁵⁴
- the standards must be developed and enforced - they should form part of a quality assurance framework⁹⁵⁵
- the standards must be made clear by the Department⁹⁵⁶
- there must be provision for flexibility.⁹⁵⁷
- the standards should be more about achieving outcomes for people than about service process.⁹⁵⁸

Various submissions stated that the achievement of outcomes should indicate whether or not a service is meeting the standards.⁹⁵⁹ Outcomes could be measured by looking at the number of complaints about a service,⁹⁶⁰ considering statistics on the number of people turned away by a service or the number of clients seeking to transfer to another service⁹⁶¹ or by asking consumers if they are satisfied.⁹⁶²

11.12 *Ensuring good quality service in the CRS.* Submissions stated that, to ensure that people with a disability receive good quality services, the CRS should

- focus less on financial returns from insured clients⁹⁶³
- focus more on clients' needs⁹⁶⁴
- allow itself to be assessed independently on meeting National Service Delivery Principles⁹⁶⁵
- require all staff to undergo ongoing training in the principles⁹⁶⁶
- adopt the same standards as funded services⁹⁶⁷
- consult more with clients.⁹⁶⁸

The Commission's views

- **11.13 *Legislation should require quality standards to be met.*** The Commission considers that the CRS and other services receiving Commonwealth funding must be more accountable for the quality of the services they provide. Quality standards are an extremely important statement of consumer expectations of services. The legislation should set out the broad areas that the standards should cover, for example, access and equity policies, decision making, choice and meeting needs. The Commission also notes the argument expressed in submissions and consultations that, for the sake of consistency and ease of monitoring, the CRS should be subject to the same standards as funded services. The Commission recommends that the Commonwealth give consideration to this option.
- **11.14 *Need to establish quality indicators.*** While having standards in place is one step in achieving quality service provision, those standards need to be supplemented by proper training of providers in their meaning and application. The Commission heard during consultations that many service providers and CRS case managers were unaware of the standards they were required to observe or did not fully understand what it meant to meet those standards. The Commonwealth should develop benchmarks or indicators of what it means in practice to comply or not to comply with the standards.

Recommendation 44

The Commission recommends that the new legislation require all services, including the CRS, to demonstrate that they meet quality standards. The legislation should spell out the standards expected of services. Standards for all services should be directed towards achieving positive outcomes for clients.

Recommendation 45

The Commission recommends that the Commonwealth develop and issue national indicators of good and bad service practice.

Monitoring standards

Self assessment for funded services

11.15 A system of internal self assessment for service providers was introduced in late 1993. The first assessment cycle was completed in June 1995. Under the system, service providers assess their own performance against the standards. Clients of the service also assess the service's performance. Both sets of assessments are combined and sent to the Department. The combined assessment process aims to encourage consumers to participate in improving service quality and to encourage co-operation between clients and staff in reviewing the service. Each service may approach self assessment differently. Assessment in some services may involve all staff and clients while in other services clients may prefer to choose client representatives to undertake the client assessment. The Department co-ordinates training for service providers and clients in conducting an assessment. Clients and service staff have the opportunity to identify what the service is doing well and how quality can be improved. The areas identified for improvement in the service are put into an action plan which becomes part of the service's contract for the next year.

How the Department monitors standards

11.16 The Department's role in service self assessment is to schedule the assessments, co-ordinate training and support and provide information and advice. The Department does not participate in the process unless requested to do so by the service or consumers. The Department may also assist agencies that are having difficulty reaching agreement in their assessments. State and Territory offices of the Department conduct audits of the assessment process to see if the service is meeting the correct level of standards and is implementing its action plan. Audits have been conducted in most States and Territories. The Department will also audit a service that wishes to upgrade its funding status. The Act says that the Department must audit a service at least every five years.⁹⁶⁹

CRS monitoring of standards

11.17 The CRS conducts client satisfaction surveys every two years. Clients are selected randomly and asked about the type and quality of services they have received. The CRS uses the response to help improve the quality of services in the future. Case managers also review the clients' files to see if quality standards are being met. There is also a national network of senior advisers who can advise case managers on best practice in service delivery. Currently, there is no independent assessment of CRS standards. The CRS is developing a quality management system which will require independent personnel to conduct regular internal quality audits. In addition, an external audit team from an accredited certification body will conduct regular audits of the CRS' quality management system. The CRS will be required to comply with quality standards before it is given certification by this external body.

Discussion paper

11.18 In its discussion paper the Commission asked whether self assessment was effective in identifying problems in funded services and improving service quality; whether service providers and clients were receiving adequate training to enable them to conduct the assessments effectively; the sort of training they should receive and whether the Department's monitoring processes were adequate. The Commission also

asked whether the CRS quality assurance procedures were sufficient to ensure that it delivers quality services to clients and whether an independent person should monitor quality in the CRS.

What submissions revealed

11.19 ***Consultations pointed to problems with self assessment.*** The general view expressed in submissions was that standards were not being monitored adequately⁹⁷⁰ and that the self assessment process was not producing good outcomes for clients.⁹⁷¹ Submissions stated that the self assessment procedure was not explained to many clients,⁹⁷² and that most clients who participated were too frightened to give a bad assessment because of power imbalances and fear of losing their place.⁹⁷³ 23% of respondents (102 people) who replied to the Commission's questionnaire stated that they did not feel confident to tell their services that they were unhappy. Others said that they were not given the opportunity to participate in the monitoring of service quality at all. One respondent informed the Commission that the service had confiscated the Commission's questionnaire forms from most of the people using the service. Many submissions stated that self assessment could only be effective when service providers are honest and committed to good quality service.⁹⁷⁴ Some service providers were concerned that self assessment will not pick up sub-standard services.⁹⁷⁵ There was a perception that services could fill out forms and satisfy assessment requirements and yet still not deliver quality services.⁹⁷⁶ Service providers also complained that trying to encourage consumers to participate is extremely time consuming and takes them away from meeting more basic support needs.⁹⁷⁷

11.20 ***Training is inadequate.*** Comments from service providers and consumers stated that training in self assessment was inadequate.⁹⁷⁸ They stated that

- training for service staff is urgently required⁹⁷⁹
- haphazard and unsatisfactory training material is often used⁹⁸⁰
- training does not focus enough on the importance of outcomes⁹⁸¹
- trainers lack a clear understanding of the principles and practices of advocacy⁹⁸²
- there is inadequate training for staff working with people with a psychiatric disability⁹⁸³
- people are expected to learn too much⁹⁸⁴
- training does not cater to the communication difficulties of some clients.⁹⁸⁵

11.21 ***Training can be improved.*** Submissions gave various suggestions for improvement in self assessment training. They stated that

- more research is required to form the basis of training⁹⁸⁶
- training should be given by an independent provider and should be ongoing⁹⁸⁷
- training needs to be more comprehensive and should concentrate on performance indicators⁹⁸⁸
- the Citizen Advocacy Program Evaluation process should be used which involves interviews with service users on a one to one basis encouraging them to speak freely about the support they receive, and assessing the effectiveness of the service against a set of standard principles⁹⁸⁹
- there should be a national training package provided to all managers of services⁹⁹⁰
- the process and expectations of self assessment should be explained in simple language⁹⁹¹
- training should be given in a manner appropriate to individual needs.⁹⁹²

11.22 ***Department's monitoring processes are inadequate.*** Most submissions stated that the current monitoring processes used by the Department were ineffective,⁹⁹³ observing that

- monitoring policy needs clarification⁹⁹⁴
- there are inconsistencies⁹⁹⁵ with no nationally agreed conforming practices or performance indicators
- current processes have the wrong focus⁹⁹⁶
- they are not advertised well enough⁹⁹⁷
- the Department has only a half-hearted approach to monitoring.⁹⁹⁸

Submissions suggested that

- the current systems need to be more rigorously implemented and acted upon⁹⁹⁹
- there needs to be a mechanism to ensure standards are incorporated into everyday practice¹⁰⁰⁰
- monitoring should focus on real outcomes rather than doctrinal standards¹⁰⁰¹
- standards assessments should include a component of team assessment which includes peers and people with a disability¹⁰⁰²
- there should be regionally based roving assessment teams, as in the aged care program¹⁰⁰³
- there should be more spot checks and a bi-annual self appraisal¹⁰⁰⁴
- monitoring needs to be done independently of the service and the funding body¹⁰⁰⁵
- there should be less time between assessments - five years is too long¹⁰⁰⁶
- other recognised initiatives to assess service quality and performance should be trialled,¹⁰⁰⁷ such as the Community Health Accreditation and Standards Program (CHASP) model.¹⁰⁰⁸

11.23 ***Submissions complained about CRS quality assurance.*** The Commission heard much about the quality of CRS services during public consultations and in submissions.¹⁰⁰⁹ There were many complaints made about the quality of CRS services. People stated that

- CRS staff were sometimes impolite and inadequately trained¹⁰¹⁰
- CRS staff were not always truthful about the services available¹⁰¹¹
- the CRS is too rigid - people have to fit into programs rather than the other way around¹⁰¹²
- compensable clients (for whom the CRS can recover expenses from insurers) get better treatment than clients who do not pay for their service¹⁰¹³
- the CRS is not accountable to an independent agency for the quality of its services.¹⁰¹⁴

11.24 ***An independent person should monitor CRS service quality.*** All submissions on this issue except one stated that an independent person should be responsible for monitoring quality in the CRS,¹⁰¹⁵ arguing that independence is needed in order to

- assess the validity of internal CRS quality assurance procedures¹⁰¹⁶
- prevent bias on the part of the CRS¹⁰¹⁷

- protect fairness and equity.¹⁰¹⁸

The dissenting submission on this issue stated that independent monitoring is unnecessary as long as there is independent assessment of client needs.¹⁰¹⁹

The Commission's views

11.25 *Better training for self assessment.* Self assessment of quality involving clients of a service can bring many benefits. It can make a service focus on its strengths and weaknesses and become better aware of what clients need. It can also make clients feel part of the management of the service and develop a closer relationship between the client and the service provider. There are, however, some pitfalls involved in self assessment particularly when there is no proper training for service providers and consumers. The Commission is of the view that self assessment will only work effectively when services and consumers have sufficient training in how to get the most out of the self assessment process. The training provided should recognise and address the power imbalance that exists between clients and service providers, and the communication needs of clients.

11.26 *Independent monitoring mechanism for all services.* All services, including the CRS should be subject to some form of independent quality monitoring. The Commission recommends at para 4.15 that people using Commonwealth disability services should have the same rights regardless of the type of service they use. At present, the CRS is not subject to independent quality review although some initiatives are being developed to make the CRS more accountable for quality. The Commission considers that the CRS and funded services should be independently monitored to ensure they are adequately meeting quality standards.

11.27 *Aged care model.* To monitor services under its aged care program, the Department sends teams of officers called Standards Monitoring Teams to check that services are meeting outcome standards. Teams usually inform a service in advance when they are going to visit. During the visit team members talk to residents, resident groups, relatives and staff. They also look at what happens in the service and may inspect documents. Generally speaking, the Department sends a Standards Monitoring Team to each service every two years. The teams also monitor a random selection of services. The legislation provides that the Minister may issue a report or statement after the Standards Monitoring Team completes its inspection. The statement sets out the philosophy behind outcome standards, outlines the steps in the standards monitoring process and states whether or not the service complies with each standard. Where the service has complied with a standard, the statement will rate the service as having met' the standard. If a service has not met the standard it will receive a rating of action required' or urgent action required'. If the Department finds that a service has not met standards a service provider can prepare an action plan' which the Department may publish with the statement. The Department expects the service to develop a plan for how it will improve standards within a reasonable period of time. The Department continues to monitor standards which have not been met.

11.28 *Assessment teams for the disability program.* To an extent, the disability program has adopted the standards monitoring approach employed in the aged care program. Specialist project officers assist certain services to comply with standards by going over self assessment techniques and checking that each standard has in fact been complied with. It is the Commission's view that teams of specialist project officers should include Aboriginal and Torres Strait Islander people and people of non-English speaking background. It is important that people with a disability using services are involved in the assessment of their service by the monitoring teams. Members of the teams should be trained in consultation technique. They should talk to clients of a service and listen to their views on the way the service is operating. The view of users of the service should be incorporated into the report of the standards monitoring team.

Recommendation 46

The Commission recommends that self assessment of funded services be improved by the provision of a national training package to all managers of services, giving information on adequate training for both staff and users of services. The package should make it clear that

- training in self assessment should be available from an independent provider
- the process and expectations of self assessment should be explained to staff and

- consumers in simple language
- consumer education in self assessment should take full account of the differing needs of service users.

Recommendation 47

The Commission recommends that CRS monitoring processes be improved by

- the provision of adequate training to CRS staff
- the provision of adequate training to CRS users participating in client satisfaction surveys.

Recommendation 48

The Commission recommends that the new legislation provide for independent quality monitoring and assessment for all services, including the CRS, by standards monitoring teams. Team members should

- have knowledge of a broad range of disability issues (and specialist knowledge where appropriate)
- be familiar with issues in the local area which may affect service quality
- be sensitive to the cultural and language needs of clients
- discuss issues relating to quality with service staff and clients
- provide support and advice to services and identify areas where training or other action may be appropriate
- report to the Commonwealth on the overall level of compliance by services.

12. Advocacy

Introduction

12.1 Advocacy services and programs play a pivotal role in promoting the rights and interests of people with a disability. Because of the importance of advocacy services, it is crucial that the new legislation reflect them accurately. This chapter examines the role of advocacy services and how they should be defined in the new legislation. It looks at how the need for advocacy can be determined and the outcomes advocacy services should aim to achieve. This chapter looks only at the special issues concerning advocacy. General issues that also affect other services the Commonwealth funds, for example, privacy, complaints, information, calculation of funding amounts and financial accountability, are discussed in those respective chapters.

The role of advocacy

Advocacy as defined in the Disability Services Act

12.2 The types of advocacy services identified in the *Disability Services Act 1986* (Cth) (the Act) are:

- self advocacy - which assists people in developing and maintaining personal skills and confidence necessary to enable them to represent their own interests in the community
- citizen advocacy - which encourages people in the community to assist people with a disability and their families and carers to represent their own interests
- group advocacy - which facilitates community organisations to represent the interests of particular groups of people with a disability.¹⁰²⁰

Advocacy services may be funded by the Commonwealth or the States and Territories or jointly by both. About 75 advocacy services are funded around Australia under the Act.¹⁰²¹ Advocacy services are expected to meet the principles and objectives of the Act and the Disability Services Standards. There is no requirement in the Act that individuals holding themselves out to be advocates need any particular qualification or training. Nor is there anything in the Act which gives people the right to an advocate.

Advocacy services in practice

12.3 In practice there are many different types of advocacy services. Some examples include

- individual or citizen advocacy - which provides support to individuals with human rights or social justice agendas
- systemic advocacy - which attempts to bring about systemic change
- parent advocacy - which has parents advocating on behalf of their children with a disability
- complaints advocacy - which specifically assists people with a disability to conduct a complaint.

Recent developments

12.4 **The MGM report.** The Department of Health and Family Services (the Department) commissioned a report on the effectiveness of advocacy which was released in September 1995 (MGM Report).¹⁰²² The report was undertaken because of the many problems with advocacy in the disability sector. These problems included disagreement about what advocacy is and what it is supposed to be achieving, whether it should be part of the service system, whether special standards ought to be developed to apply to it, how to monitor its effectiveness and quality when it has no readily identifiable outcomes and the occasions when it should be available to people with a disability. The report sets out recommendations which, if adopted, would change the advocacy program significantly.

12.5 ***The report's recommendations.*** The report recommended, among other things, that

- advocacy programs should be used to promote the human rights of people with a disability
- the advocacy program should have its own set of principles
- the current categories of self, group and citizen advocacy under the Act should be replaced by two categories of individual and systemic advocacy
- advocacy organisations should develop annual plans with listed outcomes
- the Department should work with advocacy organisations to develop overarching standards for advocacy
- advocacy organisations should be accountable to the Department, which should evaluate the effectiveness of advocacy services annually, and institute additional three to five yearly reviews.

Issues paper and discussion paper

12.6 In its issues paper the Commission asked whether people knew of an advocacy service they could use. In its discussion paper the Commission asked what the role of advocacy services should be, whether they are performing those roles now, how they should be included in the new legislation and whether disability services should be required to tell their clients about the closest appropriate advocacy service. The Commission provisionally proposed that the new legislation actively promote advocacy services as agencies to advance the rights of people with a disability and that the legislation should require the Department and service providers to inform people with a disability about advocacy services.

Submissions commented on the role of advocacy

12.7 ***Some community support for advocacy services.*** During consultations and in submissions advocacy services received some praise for their good work.¹⁰²³

What's really good is if you can get to talk to someone who's been through it all before. They know the pitfalls, they know the lingo and all about the services. Who to see, who to avoid. You couldn't buy that sort of information.¹⁰²⁴

Even so, many people with a disability stated that they did not know whether there were advocacy services available to them.¹⁰²⁵ 42% (or 186) of people who answered the questionnaire in the issues paper said they do not know of an advocacy service that they could use. Some of the respondents did not know what advocacy services were.¹⁰²⁶ A variety of those with whom the Commission consulted stated that there should be a right to an advocate in the legislation, perhaps in the proposed charter of rights.¹⁰²⁷

12.8 ***Some people had complaints.*** Most written submissions on the subject and many people in consultations stated that advocacy services were not performing their role adequately.¹⁰²⁸ Such criticisms tended to concentrate on the paternalistic attitude of some advocacy service providers.¹⁰²⁹ It was said that these services did not really listen to people with a disability and did not properly represent their views.¹⁰³⁰ Concern was also expressed over the lack of training or accreditation of some advocates.¹⁰³¹ Examples were given of staff of advocacy services being rude to people with a disability, not understanding them¹⁰³² or refusing to deal with people they labelled as difficult'.¹⁰³³ Of all the advocacy types, systemic advocacy came in for the most criticism around Australia. This was generally because of difficulties in defining what systemic advocacy organisations actually do. The general view was that many such organisations were bogged down in ideology and not focused on individual needs'.¹⁰³⁴ The Commission was told that not very much is achieved by people sitting around in an office talking'.¹⁰³⁵ The problem with systemic advocacy, according to consultations, is that it is too difficult to identify what the system' is, let alone change it.¹⁰³⁶ Another point of concern involved the fact that some sheltered employment services have in-house advocates who were perceived as acting in the interests of the service rather than the individual with a disability.¹⁰³⁷

12.9 ***Advocacy as a promoter of rights.*** It was generally argued in consultations that advocacy services should exist to promote the rights of people with a disability,¹⁰³⁸ including activity directed at changing the

larger picture'.¹⁰³⁹ Certain submissions stated that advocacy services were important distributors of information about people's rights, entitlements and options.¹⁰⁴⁰ Others were quite adamant that it was not a function of advocacy services to provide information,¹⁰⁴¹ or to assist people to become confident and assertive enough to speak out for themselves.¹⁰⁴²

12.10 Advocacy as a supporter of people with a disability. Many advocacy service providers saw their role as being that of listener.¹⁰⁴³ Some submissions maintained that advocacy services which provide friendship and support play an extremely important role in the lives of people with a disability.¹⁰⁴⁴ Many people with a disability are isolated from the general community and advocacy services are often their only means of emotional support and conversation.¹⁰⁴⁵ The opinion was expressed several times during public consultations that the rate of suicide amongst people with a disability is prevented from being much higher than it is by advocacy services providing advice and support.¹⁰⁴⁶ Others responded quite strongly that it was not the role of advocacy services to provide companionship.¹⁰⁴⁷

12.11 Advocacy in assisting complaints. Some people defined advocacy services as one essential strategy to help solve the problem of people with a disability fearing reprisals if they make a complaint against a service.¹⁰⁴⁸ Other submissions considered it to be inappropriate for advocacy services to assist with complaints against service providers because of a possible conflict of interests.¹⁰⁴⁹ As advocacy services are funded by the Department of Health and Family Services, they could be in a position whereby they must assist in a complaint against their funding department.¹⁰⁵⁰ It was further stated that advocacy services do not have the necessary legal expertise to assist in complaints before a court or tribunal.¹⁰⁵¹

Submissions stated that advocacy should be independent and distinct from other services

12.12 An issue frequently raised in consultations was that advocacy should not be treated as a service by the disabilities program.¹⁰⁵² As noted at para 12.11 many advocacy services argued it is a conflict of interests for them to be funded by the Department that administers disability services when their work may involve criticising that Department or criticising and competing for funds with other services the Department funds.¹⁰⁵³ Some people with whom the Commission consulted suggested that advocacy be separate from the disability service system,¹⁰⁵⁴ perhaps becoming part of the Attorney-General's portfolio.¹⁰⁵⁵

The Commission's views

12.13 Current Act does not provide adequately enough. The diversity of opinion evident from submissions and consultations about what advocacy should or should not do demonstrates that it is difficult to define adequately. It also highlights the fact that advocacy should be fluid and flexible to meet different types of need. The Commission is of the view that the new legislation should not attempt to define each type of advocacy service or program. The Commission agrees with the recommendation in the MGM report that advocacy should be broadly categorised as individual and systemic. Adopting this approach enables different types of advocacy to be funded under the legislation without limiting flexibility.

12.14 Advocacy should be independent. The Commission considers that it is in the best interests of its clients for advocacy services to be independent from the Department and other services funded by the Department. The Commonwealth should give consideration to transferring funding responsibility for advocacy programs to a central agency to remove any suggestion of a conflict of interest between advocacy services and the Department of Health and Family Services. The new legislation should reflect the distinct nature of advocacy services.

Recommendation 49

The Commission recommends that the new legislation should specifically refer to advocacy support. It should refer to two broad categories of advocacy as

- individual advocacy
 - to help people with a disability and/or their families and carers exercise control over their lives and take independent action to exercise their rights and overcome

barriers preventing their full and active participation in society

- systemic advocacy
 - to help establish policies, practices and structures in disability services, government agencies and the general community which enable people with a disability to exercise their right to live as equal citizens.

Recommendation 50

The Commission recommends that the Commonwealth recognise the importance of the independence of advocacy support. The Commission suggests that consideration be given to transferring funding responsibility for advocacy from the Department of Health and Family Services to a central agency.

When should advocates enter service premises?

12.15 ***Submissions called for clarified powers of entry.*** Submissions stated that the authority of advocates to enter another service to visit a client should be clarified.¹⁰⁵⁶ They stated that the legislation should give advocates clear rights to enter a service at the request of consumers or on their own initiative.¹⁰⁵⁷ One example was given of an advocate being physically prevented from entering a service's premises after being requested to attend by a client of the service.¹⁰⁵⁸ One submission expressed concern that if advocates could visit services on their own initiative they may try to drum up' business, stating that advocates should visit only at the request of a client.¹⁰⁵⁹

12.16 ***The Commission's view.*** There may be occasions when an advocate has to enter the premises of another service in order to do his or her job. In ch 17 the Commission recommends that a duty be imposed on service providers to allow authorised Commonwealth officers to enter service premises to perform their duties or exercise their powers under the legislation. The new legislation should also impose a duty on services to allow advocates to enter premises during business hours. The legislation should require the Minister to develop guidelines clarifying when an advocate can enter a service premises without the service provider's consent.

Recommendation 51

The Commission recommends that the new legislation should require services, as a condition of funding, to permit advocates to enter service premises during business hours.

Recommendation 52

The Commission recommends that the new legislation require the Minister to develop guidelines specifying the circumstances in which advocates should be permitted to enter the premises of other services.

Assessing the need for advocacy services

Measuring need and demand is difficult

12.17 It is difficult to measure the need and demand for advocacy services. Various written submissions stated that as long as there is uncertainty as to what advocacy is, demand can never be adequately assessed.¹⁰⁶⁰ It was suggested that the need and demand for advocacy could be determined by

- placing a question in the next census¹⁰⁶¹
- funding advocacy development projects which place advocacy organisations in a position to report on the demand for their services¹⁰⁶²

- consulting widely with existing advocacy services¹⁰⁶³
- distributing a questionnaire through the Department of Social Security, special schools and service providers¹⁰⁶⁴
- advertising in newspapers¹⁰⁶⁵
- broadly based community consultation¹⁰⁶⁶
- collaborating with States and Territories, peak consumer groups and direct service providers.¹⁰⁶⁷

Others argued that there was no need for demand studies because it is already clear that there is a great need for advocacy services.¹⁰⁶⁸

It is facile to speak of need and demand indicators for advocacy. No matter where they are located, people with a disability are subject to abuse, neglect and social isolation. The more vulnerable the individual the less likely their needs' will be recognised in demand' figures. Planning for advocacy must be based on the assumption that advocacy is required in all localities.¹⁰⁶⁹

In consultations the Commission was told that there are not enough advocacy services to go around and that existing services are not adequately resourced.¹⁰⁷⁰

Quality standards for advocacy

Consultations suggested current standards inappropriate

12.18 During consultations the Commission heard that the Disability Services Standards, that apply to all services receiving either Commonwealth or State funding, are not appropriate for advocacy services.¹⁰⁷¹ Providers of advocacy services argued that the standards were designed with employment services in mind and were not relevant to the special nature of advocacy.¹⁰⁷² This was stated to be the case especially in relation to systemic advocacy which often does not have any direct client contact, making many of the standards, for example, those regarding service access and participation, irrelevant.¹⁰⁷³

Tasmania has specific advocacy standards

12.19 Tasmania has developed special standards for the advocacy services the State government funds. The overall standard that advocacy services must meet is to provide support and assistance where necessary to enable people with a disability to assume their rights as citizens. Within this overall standard there are supporting standards relevant to each type of recognised advocacy service and examples of practices which comply with and do not comply with the standards.

Accounting for quality

12.20 **Difficulty of measuring outcomes.** In ch 16 the Commission recommends that services receive funding from the Commonwealth only on the basis that they achieve positive outcomes for their clients. Many submissions expressed the view that advocacy services should be accountable to the government for the funding they are given, and to people with a disability for the quality of the service they are providing.¹⁰⁷⁴ It was recognised, however, that accountability is difficult to demonstrate in advocacy because of the lack of defined outcomes.¹⁰⁷⁵ Providers of advocacy services stated that it was not easy defining when advocacy had achieved outcomes because the nature of the work is so intangible.¹⁰⁷⁶ Assessing whether a client has become more independent or is more aware of his or her rights is not always possible.¹⁰⁷⁷ Systemic advocacy services stated that it is even more difficult for them to demonstrate that they have achieved social change.¹⁰⁷⁸ A systemic advocacy service gave the example that attending the Commission's public hearings was a way of achieving positive outcomes and systemic change, but it was very difficult for the service to demonstrate that an outcome had been achieved by attending.¹⁰⁷⁹

12.21 **Ways to measure effectiveness.** Certain submissions suggested that quality outcomes need to be specified in the legislation.¹⁰⁸⁰ One submission suggested that advocacy services should have a legal duty of

care to become informed about the needs of the consumer and to represent those needs adequately.¹⁰⁸¹ Submissions indicated that good quality advocacy could be measured by

- developing a model for people to monitor the advocacy needs within their communities
- developing a methodology that scrutinises the level of social equity for people with a disability within the communities
- establishing strong links with community organisations
- developing research projects to find out how peak groups develop their systemic advocacy policies.¹⁰⁸²

MGM report

12.22 ***Outcomes for individual advocacy.*** The MGM report recommended that organisations undertaking individual advocacy (currently self, citizen, parent and group advocacy) should have to demonstrate they have achieved for their clients

- greater self esteem
- improved and/or new skills
- greater participation in community based non-segregated activities
- improved quality of life
- increased understanding of rights
- protection of rights
- protection of health and life
- maintenance of existing positive life circumstances
- positive changes in life as a result of the advocacy
- maintenance of existing positive relationships
- satisfaction and empowerment
- improvements in information and support networks for individuals
- access to necessary services (generic and disability)
- complaints resolution.

The report recommended that organisations be able to identify additional outcomes from their advocacy work.

12.23 ***Outcomes for systemic advocacy.*** Outcomes for organisations undertaking systemic advocacy could be the achievement of

- positive changes in legislation/protection of existing legislation
- positive changes in government policies
- changes in practices and policies of services (generic and disability)

- increased access to generic services by people with a disability
- increased participation by people with a disability in community activities
- new service developments in response to identified need
- changes in models of service
- issues raised by advocacy taken up by government/services/community
- safeguarding and protecting the rights of people with a disability
- changes in community behaviour towards people with a disability
- development of effective networks and coalitions
- improved quality of life for people with a disability.

12.24 ***Evaluating the effectiveness of advocacy services.*** The MGM report recommended that the Department evaluate the effectiveness of advocacy services every three to five years. Advocacy services should be required to demonstrate

- for individual advocacy
 - the methods used to invite and support people with a disability to participate in the annual accountability and review processes
 - how the perspectives of individuals who are unable to participate directly have been included in the context of both annual accountability and review processes
- for systemic advocacy
 - the methods used to invite and support people with a disability (who are members or consumers) to participate in the annual accountability and review processes
 - how they build and maintain links with people with a disability to ensure that they are truly representing the needs and rights of people with a disability.

The Commission's views

12.25 ***Advocacy services should have to observe appropriate standards.*** It should be a condition of receiving funding that advocacy services be required to meet appropriate quality standards. The Commission accepts that the current standards may not be entirely relevant or appropriate for advocacy services. The Commonwealth should work with the States and Territories and industry and consumer groups to develop nationally consistent standards suitable for both individual and systemic advocacy.

12.26 ***Outcomes should be negotiated.*** All advocacy services should have to demonstrate that they achieve positive outcomes with the funding they receive. The Commission acknowledges the difficulty in defining outcomes in an area where so much is subjective and defies measurement. Assessing outcomes is a particular problem for systemic advocacy. The outcomes suggested in the MGM report may be a useful guide. Many of those outcomes, however, involve political, social and economic factors outside the control of the program or service. The Commission is of the view that different outcomes will be relevant for different types of advocacy services. The Commonwealth should negotiate with each advocacy service or program a set of outcomes that must be achieved. The Commission agrees with the MGM report that observance of standards and achievement of outcomes should be regularly monitored.

Recommendation 53

The Commission recommends that the new legislation require all advocacy programs to meet quality standards and demonstrate outcomes as a condition of funding.

Recommendation 54

The Commission recommends that the new legislation require appropriate standards for individual and systemic advocacy programs to be developed in consultation with people with a disability and their representatives, the disability industry, government agencies and community and consumer groups.

Recommendation 55

The Commission recommends that outcomes for advocacy programs not be set out in the legislation. Outcomes for each program should be determined by the Commonwealth in consultation with people with a disability and their representatives, the disability industry, government agencies and community and consumer groups. Outcomes should be included in the funding agreement between the advocacy program and the Commonwealth and should be regularly monitored.

13. Employment issues affecting people with a disability

Introduction

13.1 This chapter looks at the factors which may affect the chances of people with a disability who want to find and keep a job. It considers submissions which make suggestions about how employers and employment training and placement services might work together to improve employment options for people with a disability. It also looks at the issue of workers' rights, discusses wage rates and union membership of employees with a disability and makes recommendations on these matters.

Overcoming barriers to employment

Discussion paper

13.2 In its discussion paper the Commission asked about the factors that make it difficult for people with a disability to find and keep a job in the general workforce and about how the Commonwealth should aim to overcome some of the physical and environmental barriers for people with a disability who want to find and keep employment in the open labour market.

Submissions identified barriers to open employment

13.3 **Factors that make employment difficult.** Most people with a disability who participated in the focus groups organised by the Commission stated that it is more difficult for them to find employment than it is for someone with no disability.¹⁰⁸³ Submissions indicated a number of reasons for the difficulties that people with a disability experience when trying to find a job.

- **Community and employer perceptions.** The majority of submissions and numerous speakers in consultations and focus groups identified community and employer perceptions as a factor making it difficult for people with a disability to obtain or keep employment in the open labour market.¹⁰⁸⁴ ² The problem is more acute in rural areas.¹⁰⁸⁵ Submissions pointed to community prejudice about disability¹⁰⁸⁶ which stems from
 - a lack of education about and understanding of disability¹⁰⁸⁷
 - poor awareness and understanding of the problems people with a disability face when looking for a job¹⁰⁸⁸
 - a perception that people with a disability, particularly people with an intellectual disability, can only do menial tasks¹⁰⁸⁹
 - a lack of publicised examples of successfully employed people with a disability¹⁰⁹⁰
 - society's preoccupation with the way that people look¹⁰⁹¹
 - exaggerated views of the adjustments employers need to make to accommodate workers with a disability.¹⁰⁹²

Community prejudice appears to be a particular problem in relation to people with a psychiatric disability. The Commission heard that employers and the community in general have a fear of psychiatric disability.¹⁰⁹³ One focus group participant with a psychiatric disability from a non-English speaking background had applied for more than 3 000 jobs since 1988.¹⁰⁹⁴

Employers discriminate against us. But we want them to know. We don't want to hide it from them. But as soon as you mention it, you've lost the job.¹⁰⁹⁵ (Person with a psychiatric disability)

People with a sensory disability considered that their main obstacle to employment was the attitude of employers.

There are many jobs that I can do just as well as the next person. But the problem is that potential employers can't see past my blindness. They won't even consider me for a job because they immediately assume I won't be able to do it.¹⁰⁹⁶ (Person with a vision impairment.)

I can work well with people. I just need a month to settle in, so we can figure out how best to communicate. But how many employers are going to give you that chance?¹⁰⁹⁷ (Deaf person.)

- ***Nature and severity of disability.*** Some submissions argued that the nature and severity of some disabilities makes it harder to obtain and keep a job or to carry a 'standard' workload.¹⁰⁹⁸ For example, acquired brain injury can lead to concentration, memory¹⁰⁹⁹ and cognitive problems.¹¹⁰⁰ Submissions stated that people with intellectual and psychiatric disabilities may exhibit behaviour that makes it difficult to hold down a job.¹¹⁰¹ The Commission heard that the side effects of medication may also make certain types of work difficult for people with a psychiatric disability.¹¹⁰² People with severe physical disabilities such as quadriplegia may require long term physical and personal care support.¹¹⁰³ Some physical and neural disabilities can affect people's physical capacity and lead to fatigue.¹¹⁰⁴ Other submissions stated that the problem was not so much with the disability itself as with the attitudes and feelings that have been engendered in people with a disability.¹¹⁰⁵

Years of welfare dependency can mean that people have trouble with motivation and stamina.¹¹⁰⁶

Submissions also stated that time out of the workforce can contribute to poor socialisation skills¹¹⁰⁷ and lack of self esteem.¹¹⁰⁸

- ***A difficult job market.*** Many submissions focused on broader issues which contribute to the difficulties people with a disability face when trying to find a job.¹¹⁰⁹ Besides high unemployment, there have been rapid technological advances within the workplace which can make it difficult for some people with a disability to stay competitive.¹¹¹⁰ Submissions stated that job design is poor in many industries and that flexibility, often crucial for workers with a disability, is lacking.¹¹¹¹ Submissions considered that flexible terms and conditions of employment are being lost as the market becomes more competitive.¹¹¹² Recruitment procedures can also be particularly intimidating for people with a disability.¹¹¹³
- ***Insufficient social infrastructure.*** Submissions commented that the employment prospects of people with a disability were hampered by a lack of basic social infrastructure. Lack of regular and accessible public transport¹¹¹⁴ and appropriate housing for people with a disability is said to make finding employment difficult.¹¹¹⁵ The major barrier to employment identified by people with a disability who participated in focus groups was physical access to buildings and work locations.¹¹¹⁶ Many people with a disability considered that their work prospects had been disadvantaged by the education system.¹¹¹⁷ The Commission heard that children with a disability are not sufficiently prepared or encouraged in school for work in the open market. It is sometimes assumed that when they finish their education they will stay at home or work in a sheltered environment.¹¹¹⁸

They have messed around with my education by trying a variety of methods. So I haven't been prepared for the outside world.¹¹¹⁹ (Deaf person)

At school there's not sufficient information about career paths, so deaf people tend to go to manual jobs.¹¹²⁰ (Deaf person)

The Commission also heard that the transition from school to working in the open market was especially difficult for children in special schools who were not used to integrating with people without a disability.¹¹²¹ Submissions called for a nationally co-ordinated, co-operative approach to improve the employment opportunities for people with a disability by improving support systems.¹¹²²

- ***Lack of available and appropriate support services.*** Various submissions noted that the current services designed to help people with a disability access the labour market are inadequate.¹¹²³ Submissions indicated that there were a lack of job training and placement services, inadequate training offered by services that do exist,¹¹²⁴ and the tendency for some services to try and shift responsibility for clients, especially clients with high support needs, onto other agencies.¹¹²⁵ Submissions indicated in particular a lack of employment support services catering to people with a psychiatric disability¹¹²⁶ and people with acquired brain injury.¹¹²⁷ Submissions were also critical of employment services for failing to pass on information about jobs to consumers¹¹²⁸ and for not recognising the individual abilities of people using their services.¹¹²⁹ Submissions stated that many

employment services fail to provide sufficient ongoing support once people have been placed in a job.¹¹³⁰

How can the Commonwealth assist people to overcome barriers to employment?

13.4 Community education. Several submissions argued that the best way to overcome barriers to employment for people with a disability is to educate employers and the community in general about disability.¹¹³¹ Education is needed to

- change community attitudes, prejudice and misconceptions about people with a disability¹¹³²
- educate employers about successful integration of workers with a disability into other workplaces¹¹³³
- encourage research which addresses problems currently experienced in some workplaces employing people with a disability.¹¹³⁴

One submission suggested that community education could be heightened with the growth in initiatives such as the Prime Minister's Employer of the Year Awards, which reflect positive images of people with a disability.¹¹³⁵ Other submissions stated that the Commonwealth could set a good example by employing more people with a disability.¹¹³⁶

13.5 Targeting support services better. Certain submissions stated that improved needs-based support is the answer to employment barriers currently faced by people with a disability.¹¹³⁷ Various submissions argued that needs-based support should continue once a person has obtained employment, regardless of the service type.¹¹³⁸ Submissions commented that there should be a capacity within funding agreements to ensure changing individual needs are met¹¹³⁹ and that needs should be met in a flexible manner, even if this entails crossing Commonwealth/State Disability Agreement (CSDA) barriers.¹¹⁴⁰ One submission suggested a case management program for the long term unemployed.¹¹⁴¹ Another suggested that people's employment prospects may be improved by increasing the number of advocacy services able to assist people with claims under the Disability Discrimination Act.¹¹⁴²

13.6 Improving social structures. Some submissions argued that structural improvements in society generally are necessary for an improvement in the employment prospects of people with a disability.¹¹⁴³

Improvements occur through generic structures of mainstream society ... not through welfare oriented 'disability' services. We believe the Disability Services Act needs to provide for responsibilities to meet support needs and enable inclusion which are enforceable upon all Commonwealth Departments and all tiers of Government, including local government.¹¹⁴⁴

Submissions indicated that structural inequality needs to be redressed by an inclusive education system,¹¹⁴⁵ improvements in accessible public transport,¹¹⁴⁶ growth in employment opportunities in rural areas¹¹⁴⁷ and a taxation system which provides incentives to employ people with a disability and to make modifications to the workplace.¹¹⁴⁸ Other submissions suggested that incentives be provided for people with a disability who are used to closed employment settings or have been welfare dependant for a long time. One submission suggested that a better 'safety net [be put] in place to encourage disabled people to take the plunge from a secure, if mundane existence into open employment'. The Commission heard in public consultations that a safety net may consist of the opportunity to return to sheltered employment if open employment does not work out for the person.¹¹⁴⁹ Working in open employment should also be financially beneficial to people with a disability. For some people with a disability who work part-time or for less than an award wage, their salary may be less than the amount they would receive on the Disability Support Pension.¹¹⁵⁰

Employers' experience with employment services

13.7 In its discussion paper the Commission asked open labour market employers whether they are aware of the Commonwealth Rehabilitation Service (CRS) and other job training and placement services for people with a disability, whether they had employed a worker with a disability through these services and, if so, what was their experience. The Commission also asked what kind of incentives were necessary to encourage employers to employ people with a disability.

What submissions revealed

13.8 The Commission received very few submissions on this point. One submission identified various problems experienced by employers of workers with a disability who have been through the CRS or other job placement services. It reported a lack of training prior to employment and problems in relation to negotiating the work role, the level of support required in the workplace and wage rates.¹¹⁵¹ One submission stated that the Department of Health and Family Services expects too much of employers taking on people with a disability.

The Department seems to expect on the job training will alleviate some of the intellectual disabilities and aggressive behaviour.¹¹⁵²

An alternative view was expressed by one submission which stated that workers coming from the CRS and other job placement services demonstrated that they had had 'excellent training and support'.¹¹⁵³ Submissions primarily supported financial incentives to employ people with a disability such as financial assistance to facilitate equipment, access, workstation and workplace modifications.¹¹⁵⁴ One submission suggested that if more training and education were offered to employers and other staff, there would be increases in the number of people with a disability employed.¹¹⁵⁵

The Commission's views

13.9 Many submissions pointed to the need to target disability services appropriately so that they meet the needs of people with a disability, and to co-ordinate services and social structures at a national level. The Commission discusses and makes recommendations about these issues in other chapters of the report.¹¹⁵⁶ In addition to these measures the Commission considers that employers should be given incentives to employ people with a disability and be made aware of examples of best practice involving the employment of people with a disability.

Recommendation 56

The Commission recommends that the Department, including the CRS, should, through its information strategies, identify and give prominence to examples of best practice in long term employment situations.

Ensuring fair and equitable working conditions for people with a disability

The right to equitable working conditions

13.10 The principles and objectives provide that people with a disability have the same rights as other members of Australian society to services which will support them in attaining a reasonable quality of life.¹¹⁵⁷ They say that programs and services should be designed and administered so as to provide opportunities for people with a disability to reach goals and enjoy lifestyles which are valued by the community generally.¹¹⁵⁸ This includes the right to the same conditions of employment as workers without a disability. The Disability Services Standards that apply to all services the Commonwealth funds other organisations to provide require that each person with a disability should enjoy comparable working conditions to those expected and enjoyed by the general workforce.

CRS work training schemes

13.11 The CRS's National Service Delivery Principles require all Work Training Scheme arrangements to accord with the CRS-Australian Council of Trade Unions (ACTU) agreement and to be industrially sound.¹¹⁵⁹ The CRS-ACTU Agreement sets out

- the types of assistance a trainee may receive
- the aims and objectives of the work training scheme

- consultation requirements designed to protect trainees
- that a job placement shall not exceed three months
- that approval of the relevant union is required if an employer is to be used for short term assessments
- the requirement that the employer undertake to supervise and instruct the trainee in job skills and working conditions
- the requirement that the CRS be responsible for informing other workers in a workplace of the purpose, nature and circumstances of the scheme
- the responsibility of the CRS to pay special attention to the supervision of trainees in non-unionised workplaces
- the rights of trainees with respect to work orientation, supervision, regular liaison with a counsellor, information, refusal of a placement, refusal of employment at the end of a placement and acceptance of employment without the consent of the CRS.

Not all workers with a disability are paid wages based on an award

13.12 Despite these statements about the rights of people with a disability to equitable working conditions not all workers with a disability receive wages based on an award. The report of the Strategic Review of the Disability Services Program (the Baume report) identified that award wages, or in most cases pro-rata of award wages based on productivity, are paid to 93% of people who use open labour market services funded by the Commonwealth. That percentage is much lower for people who use more supported types of services. 67% of clients in supported employment services receive award wages, or pro-rata award wages, compared with 19% of those in sheltered workshops. Workers in sheltered workshops receive an average of \$49 a week and work an average of 32 hours a week. Supported employment services pay \$132 for an average of 26 hours a week while open labour market services pay \$258 for an average of 30 hours per week.¹¹⁶⁰ All CRS clients are employed under awards.

The Supported Wage System

13.13 In 1993-94, a Supported Wage System (SWS) was established to improve opportunities for people with a disability to access the open labour market. The system enables an employer to employ, for a pro-rata award wage based on productive capacity, people with a disability who are unable to work at a full award wage. The pro-rata wage is independently assessed using a nationally consistent assessment process. The system makes available funds for on-the-job support, changes to the workplace and an employers' allowance to cover their costs. The SWS currently only applies to open labour market services, supported employment services receiving funding under section 10 of the *Disability Services Act 1986* (Cth) or transitional services receiving funding under section 12A of the Act. It does not apply to sheltered workshops (prescribed services) funded under section 13 of the Act.

Discussion paper

13.14 In its discussion paper the Commission asked how the new legislation could ensure that all workers with a disability receive working conditions and wages in proportion to their productivity.

What submissions revealed

13.15 ***Some opposition to productivity based pay.*** Certain submissions rejected the notion that people with a disability should be paid pro-rata wages based on their productivity.¹¹⁶¹ This way of determining wage rates was said to be 'discriminatory' and 'potentially exploitative' since people without disability are not paid on this basis.¹¹⁶²

All workers, regardless of their level of productivity need to be assured a level of working conditions which are in accord with recognised industrial standards ... It is critical when developing and promoting a system of Productivity

Based Wages that all people with disabilities are not devalued as workers ... Perhaps a system where all people are paid at the relevant award, irrespective of productivity, with the Government providing subsidies to employers to compensate for low productivity may be more equitable.¹¹⁶³

Other submissions suggested that normal industrial processes, such as awards¹¹⁶⁴ or enterprise agreements¹¹⁶⁵ were preferable to pro-rata wages. Those submissions proposing enterprise agreements noted that unions¹¹⁶⁶ and employment services¹¹⁶⁷ should be involved in negotiations.

13.16 *Support for productivity based wages.* Some submissions stated that for productivity based wage rates to work effectively, there should be developed a standard form of reference for use by employers which establishes skills point levels.¹¹⁶⁸ Another suggested that monitoring the payment of correct wages could occur through the introduction of a questionnaire to accompany Social Security applications, or specifying on taxation returns or group certificates the award a worker is paid under and the percentage of the award paid.¹¹⁶⁹ Other submissions argued that assessing the productivity levels of some workers with a disability would be difficult and noted the problem of determining who should do the assessment.¹¹⁷⁰ Submissions stated that unions were necessary to ensure that workers with a disability receive working conditions and wages in proportion to their productivity.¹¹⁷¹

The legislation should refer to the right of all workers with a disability to become union members and that the employer has an obligation to make information about unions and other advocacy/rights organisations available to all employees.¹¹⁷²

The Commission's views

13.17 *The new legislation should promote the concept of equal pay for equal work.* In the Commission's view the pay and working conditions of people with a disability should specifically be protected in disability services legislation. Traditionally people with a disability in supported or sheltered employment have not been regarded as employees. This has often resulted in poor wages and working conditions. The Commission is strengthened in this view by findings of the Baume report which indicated that significant numbers of people with a disability were not receiving award wages. The Baume report concluded that all employment services, including supported or sheltered employment services, should pay employees under an award or certified agreement or at least a pro-rata amount of the full award wage consistent with the principles of the Supported Wage System. This level of payment should be made by all services without excluding people with a low productivity rate. The previous Commonwealth government announced that it would work with peak consumer bodies, service providers and the Australian Council of Trade Unions to develop a nationally consistent system for assessing the productivity levels of people in all employment services funded by the Department of Health and Family Services and for paying award based productivity wages. The Commission supports this decision as vital to achieving social justice and equity for all workers with a disability.

Recommendation 57

The Commission recommends that the new legislation reflect the concept of equal pay for equal work for workers with a disability. For those workers unable to work at award wage level, the legislation should refer to their right to a wage equivalent to their assessed productivity level.

Recommendation 58

The Commission recommends that the assessment of productivity should

- involve the person with a disability in decision making
- involve any other person, such as a relative carer or advocate, if the person with a disability chooses
- focus on the ability of the person to perform the job at hand and not on his or her disability generally.

Access to unions

13.18 Workers with a disability may not always be in a position to assert their industrial rights. Unions can play a vital role in protecting and promoting the rights of workers with a disability and in ensuring industrial democracy. The UN Declaration on the Rights of Disabled Persons 1975 provides that people with a disability have the right to unionise.¹¹⁷³ The principles and objectives of the *Disability Services Act 1986* (Cth) state that people with a disability have the same rights as other Australians including access to paid employment and its associated rights and responsibilities such as trade union membership.

Discussion paper

13.19 In its discussion paper the Commission asked whether workers with a disability who work in a sheltered employment setting or in the open labour market had trouble accessing unions. The Commission provisionally proposed that the legislation refer to the right of all workers with a disability to become union members.

What submissions revealed

13.20 ***Workers with a disability can have trouble accessing unions.*** Some submissions considered that workers with a disability working in open employment do not have trouble accessing unions,¹¹⁷⁴ although they may have trouble understanding the processes involved.¹¹⁷⁵ Most submissions, however, stated that people with a disability had trouble accessing unions.¹¹⁷⁶ Submissions argued that union involvement depended on the size of the business¹¹⁷⁷ and the traditional strength of the union at the worksite.¹¹⁷⁸ Submissions stated that employers do not recognise the importance of unions for workers with a disability.¹¹⁷⁹ Other submissions suggested that unions were uninterested in people with a disability,¹¹⁸⁰ particularly when they work in small services,¹¹⁸¹ or that they misperceive workers with a disability as difficult to organise.¹¹⁸² Others identified problems caused by union literature¹¹⁸³ as many people with a disability have communication problems¹¹⁸⁴ or cannot read.¹¹⁸⁵ Submissions stated that information from unions should be accessible and user friendly.¹¹⁸⁶ It was said that people with a disability did not appreciate the concept of unionism.¹¹⁸⁷ Some submissions suggested that the cost of union membership may be a problem for many people with a disability on very low incomes.¹¹⁸⁸ With regard to workers in sheltered employment, submissions suggested that business services gave only token support to union participation.¹¹⁸⁹ One submission stated that the problem lies with inadequate laws for requiring sheltered services to provide access to unions.¹¹⁹⁰ It was suggested that sheltered employers regard unions as a 'threat to [their] paternalistic service model and business plans'.¹¹⁹¹

13.21 ***Submissions suggested ways of improving access to unions for people with a disability.*** Two submissions argued that it was not necessary to put the right to union membership in the new legislation.¹¹⁹² However, most submissions suggested that placing a reference to the right to union membership in the new legislation would be a step forward,¹¹⁹³ especially if the legislation required service provider employers to give information to clients about unions.¹¹⁹⁴ Other submissions stated that unions should be responsible for providing greater access,¹¹⁹⁵ perhaps with the assistance of a government education campaign.¹¹⁹⁶

The Commission's views

13.22 The Commission is of the view that unions play an important role in asserting the rights of workers with a disability and in helping employment services meet their obligations under the disability services standards.¹¹⁹⁷ The Commission considers that the rights of people with a disability to unionise should specifically be referred to in the legislation. This should serve to raise the profile of unions amongst the disability population. The Department should ensure that union membership is encouraged by requiring all employment services, including supported employment services and sheltered workshops, to allow union representatives onto worksites.

Recommendation 59

The Commission recommends that the new legislation refer to the right of workers with a disability to join a union if they wish.

Recommendation 60

The Commission recommends that all disability employment related services provide clients with information about unions. All supported employment services and sheltered workshops should be required, as a condition of funding, to allow and encourage union representatives to visit the workplace.

14. Complaints

Introduction

14.1 Government departments that administer disability services and service providers make decisions each day that greatly affect the lives of people with a disability. There will be times when people with a disability or their friends or relatives will want to complain about a decision made by an organisation funded by the Commonwealth to provide disability services (funded services) or by the Commonwealth Rehabilitation Service (CRS). People may wish to complain about the type or quality of service they receive, for example, inadequate or inappropriate training or job placement, or about treatment by staff. In this chapter the Commission looks at the mechanisms that should be available to ensure that the complaints people with a disability might have are dealt with quickly, cheaply and effectively.

Service providers should be required to have an internal complaints procedure

Funded services are required to have a complaints procedure

14.2 The Disability Services Standards that apply to all funded services state that each person using a service should have access to fair procedures for dealing with complaints and disputes.¹¹⁹⁸ The minimum requirement is that services must have well publicised written policies that deal with resolving clients' disputes in a way that protects people's privacy. There are no official guidelines giving services and consumers examples of complaints procedures that would work effectively. The *Disability Services Act 1986* (Cth) does not refer to complaints procedures for clients of funded services.

The CRS is required to have a complaints procedure

14.3 The *Disability Services Act 1986* (Cth) (the Act) makes provision for internal review by the CRS of certain decisions. It provides that clients of the CRS may, with respect to certain decisions, apply in writing to the Secretary of the Department of Health and Family Services (the Department) requesting that he or she review that decision.¹¹⁹⁹ Once the Secretary receives the request, he or she (or someone else nominated by the Secretary) must review the decision and may agree or disagree with it or may change the decision. The types of decisions the Secretary can review include decisions to

- approve or refuse a rehabilitation program
- approve or refuse particular types of assistance
- end a program
- recover the cost of a rehabilitation program from an insurer
- waive recovery of all or part of the cost of a program or refund all or part of the cost
- pay a training allowance
- require a person to produce documents or answer questions about an allowance or payment of the cost of a program.

In practice a senior officer from the CRS who is independent of the original decision maker will review the decision. The officer will normally talk with the person making the complaint and his or her case manager. The decision of the reviewer must be put in writing, with further appeal mechanisms set out in writing for the client.

What happens to other complaints about the CRS?

14.4 Apart from the review of decisions discussed at para 14.3, there is no internal CRS complaints mechanism specifically referred to in the Act. The Act does not cover general complaints, for example, about

the quality of service a client receives or treatment by staff, or complaints about decisions other than those listed. A standard document issued to CRS consumers on the rights and responsibilities of clients states that they may take their complaint to their case manager. If the matter is not resolved at this level the client can complain to the Regional Manager of the unit and then to the Area Manager and the State Manager.

Issues paper and discussion paper

14.5 In its issues paper the Commission asked people whether they felt they could tell their service if they were not happy with the support provided. In its discussion paper the Commission asked what kinds of complaints or grievances people with a disability and their carers had about funded services or the CRS, what kinds of mechanisms were necessary to resolve minor grievances before they became major complaints, and what kinds of procedures would make people or their carers more comfortable about complaining. The discussion paper also asked whether the legislation should require funded services and the CRS to have satisfactory complaints mechanisms, whether services would find it useful to have model mechanisms in guidelines and how services could publicise the right to appeal more effectively.

What kinds of complaints do people make?

14.6 Submissions indicated that people with a disability and their representatives may wish to complain about a broad range of issues affecting the quality of service they receive.¹²⁰⁰ Causes for complaint identified in the submissions included

- lack of appropriate services¹²⁰¹
- long waiting lists¹²⁰²
- rude treatment by the staff of the Department and services¹²⁰³
- abuse by staff¹²⁰⁴
- an unwillingness on the part of staff to take the opinions, needs and wishes of people with a disability into account when making decisions about them¹²⁰⁵
- a poor assessment system¹²⁰⁶
- a lack of information about services¹²⁰⁷
- the distribution of inappropriate or inaccessible information¹²⁰⁸
- lack of privacy - services collecting too much information or handing out private information to third parties¹²⁰⁹
- the inability of people with a disability and their carers to access personal information¹²¹⁰
- a lack of accountability of government and service providers¹²¹¹
- a lack of culturally appropriate services.¹²¹²

The case managers aren't trained in counselling.¹²¹³

The CRS is dreadful to people with ABI. The assessment they did on me was no use. They need retraining.¹²¹⁴

People wanted to complain about more than certain decisions made by the CRS

14.7 Submissions noted that the *Disability Services Act 1986* (Cth) only allows for review of certain decisions made by the CRS.¹²¹⁵ People suggested that the legislation be expanded to include the right to complain about a broader range of things, for example, treatment by staff.¹²¹⁶

People with a disability and their carers were often reluctant to complain

14.8 The Commission was told in submissions and during consultations that many people with a disability were very reluctant to complain. 23% of respondents to the Commission's questionnaire stated that they felt they could not tell their service when they were unhappy with it because

- they considered themselves fortunate to be receiving any disability services at all¹²¹⁷
- they were frightened of reprisals such as losing their place in a service, being harassed or being the subject of legal action¹²¹⁸
- they feared being labelled a trouble maker¹²¹⁹
- they believed that there was little point in complaining because nothing would change¹²²⁰
- they did not know whether there was an internal complaints mechanism within the service that they could use¹²²¹
- they felt intimidated by the complaints process¹²²²
- complaints had to be in writing and many people cannot write¹²²³
- they have attempted to complain to the Department before but there were no complaints officers to whom they could speak¹²²⁴
- they did not speak English fluently and there was no interpreter available.¹²²⁵

Current mechanisms are inadequate

14.9 Submissions and public consultations indicated that the current internal complaints mechanisms operating in funded services and the CRS were not very effective at receiving or resolving the complaints of people with a disability.¹²²⁶ People in consultations indicated a lack of knowledge about internal complaints mechanisms within services,¹²²⁷ or that services were required by the Standards and, in the case of the CRS, by the law, to have such procedures.¹²²⁸ Other people who had used complaints mechanisms reported being harassed to the point that they just had to walk away from it all.¹²²⁹ Some people reported being excluded from their service by management for complaining and having their reputations tainted so that they were unable to obtain alternative services.¹²³⁰ The requirement for complaints to be in writing under the existing complaints mechanisms was also said to be a barrier for many people who wished to complain.¹²³¹ People in focus groups spoke about the problems associated with obtaining services from large organisations with poor internal communication procedures.

A student I know appealed a decision by the CRS, but the waiting period was so long because it had to go through various levels of bureaucracy. It took nine months to get a resolution.¹²³²

Submissions showed support for an effective internal mechanism

14.10 There was very strong support expressed to the Commission for the proposal that service providers be required, as a condition of funding, to develop mechanisms to deal with grievances and complaints made by people with a disability.¹²³³ People indicated that they would feel more comfortable about expressing their grievances if there were an established procedure for dealing with complaints,¹²³⁴ if they did not have to make the complaint in writing¹²³⁵ and if they could be sure that they would not be the victims of harassment or redress for making a complaint.¹²³⁶ Some submissions disagreed that the legislation should require service providers to develop complaints mechanisms stating that it was enough that the Disability Services Standards required a complaints mechanism¹²³⁷ and that review by the Department would be a more effective and flexible way of ensuring that complaints were handled.¹²³⁸

What features should the mechanism have?

14.11 Submissions suggested any internal mechanism should

- include an agreed time frame in which a complaint should be addressed and a procedure for what to do if it has not been addressed by then¹²³⁹
- be easily accessible for people with a disability¹²⁴⁰
- accept complaints in any format, not just in writing¹²⁴¹
- provide language or deaf interpreters if required¹²⁴²
- promote and clarify the role of advocacy services and carers in assisting with complaints¹²⁴³
- establish safeguards to ensure that there is no retribution against the complainant.¹²⁴⁴

Need for information and consultation

14.12 The Commission was told that service providers and the Department should give people with a disability and their carers more information about internal complaints mechanisms, including information about advocacy services.¹²⁴⁵ The Commission heard that people wanted information about the sorts of things they could complain about,¹²⁴⁶ the steps involved,¹²⁴⁷ the help they could get to complain¹²⁴⁸ and the possible outcomes.¹²⁴⁹ Submissions called for information about complaints procedures to be available in accessible forms,¹²⁵⁰ including pamphlets in community languages,¹²⁵¹ large print material and comic book format for people with an intellectual disability.¹²⁵² Submissions also stated that many complaints would be avoided if services consulted more with clients and consumers before making decisions that affect them.¹²⁵³

Guidance and training needed for service providers

14.13 A significant number of submissions stated that the development of guidelines for a model internal complaints mechanism would help service providers to develop a mechanism to suit the needs of people with a disability.¹²⁵⁴

The Administrative Review Council's Report

14.14 The Administrative Review Council (ARC) recommended that Commonwealth funded service providers and direct Commonwealth service providers such as the CRS be required to have a complaints mechanism to deal with any complaint that a consumer of the service may have.¹²⁵⁵ The minimum requirements for such a mechanism recommended by the ARC were that

- consumers must be given information about the processes for complaining
- privacy and confidentiality must be maintained to the maximum extent possible and consumers should be assured of this
- consumers must not be treated unfairly or services withheld if they complain and they should be assured of this
- consumers must also be given information about the right to complain to someone outside the service
- where appropriate, information should be presented in a variety of formats and styles to maximise its usefulness and effectiveness to consumers
- review should be conducted by a person within the organisation who was not involved in the matter that the complaint is about

- complaints should be addressed within a reasonable time.

The Department has, in broad terms at least, accepted the ARC's recommendations. The Commission has taken note of the views of the ARC in writing this report.

The Commission's views

14.15 *Services must have simple internal complaints mechanisms.* It is an essential element in promoting the rights of people with a disability to identify and resolve grievances that they have about the services they receive. It is in the interests of the person with a disability, service providers and government departments administering disability services that complaints be addressed quickly and informally at a local level. For consumers of a service, it enables them to have a say about the service they receive. This is especially important where lack of available services prevents consumers from transferring to another service. It enables service providers and government to know whether they are providing the kind of service that their consumers wish to receive and, if not, how the service could be improved. A complaints system is an important tool for improving quality of service provision. All services should have a simple, informal procedure for handling complaints.

14.16 *Service providers and the Department should inform people with a disability of their right to complain.* People with a disability and their carers will not be able to exercise their right to complain unless they are aware of the complaints procedures available to them. Service providers and the Department should be required to inform people with a disability of their right to complain, how to go about it and their right to have the assistance of advocacy services or other representatives. People with a disability also should be made aware of their right to pursue their complaint beyond the internal mechanism if their grievance is not resolved. The right to complain and the procedures for making a complaint should be included in the charter of rights the Commission recommends at rec 39. The Commission also recommends at rec 38 that services provide clients with information about complaints procedures.

14.17 *Department should monitor the number and types of complaints made about a service.* The number and type of complaints made about a service or about the CRS is one indicator of the quality of that service. A large number of complaints, complaints of a disturbing nature or repeated complaints of the same type should be followed up by the Department to see if any further action is required.

Recommendation 61

The Commission recommends that the new legislation require that funded services and the CRS establish that they have an effective procedure for dealing with complaints made about any aspect of the operation or management of the service by or on behalf of the people with a disability who receive the service. Complaints should not be limited to particular decisions made about clients or consumers but extend to cover any matter relating to services. The Department should issue guidelines setting out the essential features that complaints procedures must have. A satisfactory complaints procedure would

- be well known to all clients and their representatives
- be simple, cheap and easy to use
- protect privacy and confidentiality
- enable an independent viewpoint to focus on the dispute, that is, the person hearing the complaint within the service should not be one of the parties involved or affected by the complaint
- ensure complaints are dealt with within a set time frame
- ensure people are not disadvantaged by making known a grievance or complaint or by supporting complaints made by others
- encourage clients to use an advocacy service or seek other support if they choose
- provide reasons for any decisions made or action taken
- ensure clients are given information about the right to complain to someone outside the service
- not discriminate against people who are unable to read and write

- respect cultural differences
- provide an interpreter upon request.

The guidelines should outline a model mechanism that service providers can choose if they do not wish to develop their own.

Recommendation 62

The Commission recommends that the Department monitor the number and type of complaints made about each service and about the CRS as part of a continuous quality improvement strategy.

There should be an independent complaints handling body

Currently no independent Commonwealth review body for funded services

14.18 If a client is not happy with the way a funded service has handled his or her complaint, or for some reason does not want the service to handle the complaint, he or she may be encouraged to approach an advocacy service or refer the complaint to the Department. There is no central body independent from the service or the Department at the moment that can look at clients' complaints about service providers.

State and Territory review bodies

14.19 Some State government agencies have been established to deal with complaints about disability services.¹²⁵⁶ These agencies vary between States.

CRS has external review

14.20 People who are not happy with a decision of the Secretary may lodge a complaint or appeal to a number of outside bodies.

- ***Ombudsman.*** The Commonwealth Ombudsman can investigate complaints about Commonwealth agencies such as the CRS. The Ombudsman can consider things like a delay in making the decision or in providing services. The Ombudsman can report to the Department, the Minister or Parliament.
- ***Administrative Appeals Tribunal (AAT).*** A person may appeal to the AAT about decisions made under Part III of the Act, which is about the provision of rehabilitation services by the Commonwealth.¹²⁵⁷ A person may not appeal to the AAT until after the Secretary has reviewed the decision.¹²⁵⁸ The AAT will look at whether the decision the person is complaining about was the right decision. It can agree with the decision, send the matter back to the decision maker for further consideration or replace the original decision with its own decision.
- ***Federal Court.*** The *Administrative Decisions (Judicial Review) Act 1977* (Cth) provides that the Federal Court can decide whether a decision that was made under any legislation was made legally. Unlike the AAT the Federal Court can only look at the legality of the decision. It cannot look at whether the decision was the right decision.

Discussion paper

14.21 In its discussion paper the Commission asked whether there should be a consumer complaints mechanism which is independent of the Department and about the powers and features that such a body should have. It also asked whether decisions made by the proposed independent needs assessment system should be reviewable by the external complaints handling body (see para 9.10). The Commission provisionally proposed that the new legislation should provide for an independent, external body to deal with complaints made by clients about services. It also proposed that decisions of the proposed independent assessment and referral mechanism be open to review by the external complaints handling body.

ARC recommendation

14.22 The ARC recommended that a consumer who has not been able to resolve a complaint against a service provider should be able to take the complaint to the Commonwealth Ombudsman. It recognised that this involved a major expansion in the role and functions of the Ombudsman and made a number of recommendations to bring about these changes.

Submissions supported an external body

14.23 The Commission heard very strong support for an independent complaints handling body.¹²⁵⁹ Any independent complaints body should be cheap,¹²⁶⁰ quick,¹²⁶¹ accessible,¹²⁶² fair,¹²⁶³ user friendly and well known to people with a disability.¹²⁶⁴ It would also need to be culturally appropriate.¹²⁶⁵ Many people expressed the view that such an external complaints mechanism should handle complaints about the Department as well as about services.¹²⁶⁶

All people who use services funded or provided under the new legislation should have a right of review

14.24 CRS clients have the right to seek independent review of decisions they are not happy with. Consumers of funded services do not have that right. Submissions and consultations supported the proposal that all people who use services under the new legislation, whether CRS or funded services, should be entitled to have their complaints about services reviewed independently.¹²⁶⁷

Powers of the new body

14.25 Submissions were divided on the questions whether the Ombudsman should deal with complaints about services for people with a disability or whether there should be a new body specifically established for the purpose. Those submissions supporting the Ombudsman in the role¹²⁶⁸ stated that there would have to be an extension of the power of the Ombudsman,¹²⁶⁹ better communication between Commonwealth and State Ombudsmen,¹²⁷⁰ an advertising campaign to make the Ombudsman more user friendly¹²⁷¹ and some provision for an Ombudsman's representative in rural and remote areas.¹²⁷² One submission argued that the Ombudsman was inappropriate because it is not attuned to the culture of disadvantaged groups.¹²⁷³ Whichever body is chosen, submissions agreed that the body should have the powers it needs to deal with disputes quickly and effectively,¹²⁷⁴ including the power to

- dismiss a complaint¹²⁷⁵
- investigate a complaint¹²⁷⁶
- summon witnesses and call for evidence¹²⁷⁷
- conciliate and mediate disputes¹²⁷⁸
- refer the complaint to another more appropriate body or agency such as the Department, the police or a relevant State or Territory body.¹²⁷⁹

Some submissions also stated that the independent body should have the power to make binding orders to enforce its decisions - it should not be a mere recommendatory body.¹²⁸⁰

Avoiding overlap with State or Territory complaints mechanisms

14.26 Submissions suggested a number of ways to avoid duplication of State or Territory complaints mechanisms. Some submissions stated that the Commonwealth should negotiate with the States and Territories to establish joint mechanisms.¹²⁸¹ This might involve putting a requirement in the legislation that the Commonwealth, in any future agreement with the States and Territories, include the establishment of joint complaints mechanisms as a condition of state funding.¹²⁸² A number supported using State mechanisms where they exist.¹²⁸³

Decisions of the new assessment mechanism

14.27 Most written submissions supported the idea of decisions of the proposed independent assessment and referral mechanism being reviewable by an independent body.¹²⁸⁴ They argued that such decisions should be reviewable because they affected the interests of people with a disability.¹²⁸⁵ One submission that disagreed stated that a mechanism for internal complaints handled by the State Program manager and ultimately by the Minister would be more effective.¹²⁸⁶

The Commission's views

14.28 ***There should be independent review.*** People with a disability or their carers should be able to complain to a body outside the service or the Department if the complaint has not been resolved or dealt with effectively by the internal mechanisms or if they do not feel comfortable approaching the service or the Department with a complaint. There should be a complaints body that is completely independent of the Department to which people with a disability or their carers can go. People with a disability should be encouraged to use the service provider's internal mechanism first. However, they should be able to go directly to the independent body if they wish to do so.

14.29 ***Mechanism must be able to meet the complaints needs of people with a disability.*** The Commission acknowledges that the ARC has recommended that the Commonwealth Ombudsman should be the body which deals with consumer complaints against service providers. The Commission does not, however, favour one kind of external body over another. It would prefer to focus on the necessary characteristics of the body. Whatever independent complaints body is chosen it should be able to meet the needs of people with a disability and their carers in an effective and sensitive manner. It should have the following features.

- ***Powers.*** It should have the power
 - to obtain information and documents and question parties to a dispute
 - to seek advice from or refer matters to relevant bodies
 - to make recommendations to the Department, to service providers and to the complainant that certain action be taken.
- ***Procedures.*** It should
 - be able to handle complaints quickly, informally and in a non-legalistic way
 - be affordable for users
 - encourage people with a disability and service providers to resolve disputes between themselves in the first instance
 - have an emphasis on, and be staffed by people skilled in, investigation, mediation and dispute resolution policy and procedures
 - have procedures which take into account and correct power imbalances between parties, for example, by allowing advocates or other representatives where appropriate
 - keep the parties informed of proceedings
 - supply written reasons for its decisions.
- ***Accessibility.*** It should
 - be approachable and consumer focussed
 - not require complaints to be in writing

- not allow defamation actions to be taken against people with a disability who make a complaint
- take into account the cultural diversity of the Australian community, including any variations in approach to dispute resolution
- as far as possible have a staffing profile which reflects the diversity in culture and disability within the Australian community
- be decentralised with a shop front and outreach approach
- have strong community links
- be accessible to consumers in rural and remote areas and people whose mobility is limited
- regularly consult with community, the Department, industry and specialists including with people of non-English speaking backgrounds, Aborigines and Torres Strait Islanders, people with a disability and people in rural and remote areas at the establishment and operational phases
- have a structure which demonstrates independence from recognisable government institutions
- have a high profile in the community.

It should also have a data collection system which allows it to monitor trends and patterns in complaints. This would enable it to identify systemic problems and high risk service providers. The body should have procedures from the time of its establishment which enable it to evaluate its performance against the above criteria.

14.30 *Body should not make binding orders.* The Commission does not recommend that the independent complaints body should have the power to make binding orders. The Constitution does not allow this. Only courts can exercise the judicial power of the Commonwealth. This includes the power to make binding orders.¹²⁸⁷ The Commission does not consider it necessary to give consumers of disability services a right of appeal from the independent complaints body to a court. Other recommendations of this report provide for the new legislation to protect the rights of consumers. These rights are capable of enforcement by courts. The Commission considers that an independent complaints body with the features recommended by the Commission will be able to deal effectively with consumer complaints against service providers.

14.31 *Duplication should be avoided.* In establishing an independent complaints handling body to deal with disputes involving Commonwealth funded disability services, it is not desirable to duplicate State or Territory mechanisms which people with a disability and their carers can already use to resolve complaints. This would create two possible avenues for complaint and lead to confusion and a waste of resources.

14.32 *The CRS review mechanisms should be maintained.* The *Disability Services Act 1986* (Cth) has always enabled CRS clients to seek review by the Ombudsman, the AAT or the Federal Court of certain decisions made by the CRS. The Commission considers that the new legislation should not remove this right of review. CRS clients should also be able to choose to use the new independent mechanism if they prefer.

Recommendation 63

The Commission recommends that the legislation should provide for an independent, external body to deal with complaints made by people with a disability and their carers about Commonwealth disability services, including the CRS, and the Department.

Recommendation 64

The Commission recommends that the new legislation should give the independent body the powers necessary to deal with disputes quickly and effectively. The body should be able to make recommendations to services, the Department and the Minister. It should have an appropriate structure and appropriate procedures to ensure that it is able to meet the needs of consumers of disability services.

Recommendation 65

The Commission recommends that the external complaints body be obliged to notify a service of a complaint made about it within a set time frame, except in special circumstances such as where

- there is a risk of the loss of evidence through destruction
- there is a risk of harm to the client.

Recommendation 66

The Commission recommends that the existing rights of review available to CRS clients under the *Disability Services Act 1986* (Cth) should continue under the new legislation. Clients should also be able to seek review by the independent review body recommended by the Commission if they choose.

Recommendation 67

The Commission recommends that where a State or Territory has an appropriate independent complaints body able to deal with complaints made by people with a disability about a service provider, the Commonwealth should negotiate with, and where agreement is reached, authorise that body to deal with complaints about disability service funded under Commonwealth legislation. Where there is no State or Territory mechanism the Commonwealth should negotiate with that State or Territory to enable the Commonwealth body to handle complaints about disability services which might otherwise be outside its jurisdiction.

Assisting people to make complaints

Some people may want assistance to make a complaint

14.33 While it is important that people with a disability who use disability services have a right to complain about the quality of the service, it can be a daunting prospect for many people to make such a complaint about a government department, a service or the CRS. People may not be aware of their right to complain or how to set about making a complaint. They may need some advice or encouragement to voice matters that concern them. Sometimes family, friends or carers can give that advice or encouragement. In other situations, an advocacy service may be in the best position to help. In its issues paper the Commission asked people whether they would like someone outside their service to assist them if they wished to make a complaint about their service. In its discussion paper the Commission asked what role advocacy services should have in the complaints process.

Opinion divided about the role of advocacy in complaints procedures

14.34 The Commission received many submissions about the role that advocacy organisations should play in assisting people to complain about services and the Department. Opinion was clearly divided.

- ***Submissions in favour of involving advocacy services in complaints.*** Some submissions expressed the view that an important role of advocacy services should be helping people with a disability to make an effective complaint.¹²⁸⁸ 56% of respondents to the Commission's questionnaire said that they would like someone outside the service to help them with complaints they may have.

We need advocates - someone to represent a person who is unable to represent themselves or compete with legal systems fairly.¹²⁸⁹

I want someone to represent me before the staff in order to settle the complaint. Sometimes I feel scared to complain to staff.¹²⁹⁰

Submissions argued that some people with a disability lack the confidence or ability to complain and need the assistance of trained representatives.¹²⁹¹ Some people who hold this view think that it would be a good idea to guarantee people with a disability the right to an advocate.¹²⁹²

- ***Submissions against.*** Others stated that advocacy organisations have a different role to play and that they should be seen as separate from the complaints system.¹²⁹³ It was said that advocacy was not about individual complaints but about changing systems.¹²⁹⁴ Advocates currently working in the field are not, as a rule, skilled in recognising legal implications or in negotiating complaints mechanisms.¹²⁹⁵ Others observed that the interests of advocates and the interests of people with a disability can vary and that this could lead to advocates taking on guardianship rather than representative roles and acting in a way that does not reflect the needs and wishes of people with a disability.¹²⁹⁶

The Commission's views

14.35 ***There should be specialist complaints advocacy services?*** Not all advocacy services are the same. Some concentrate on broad systemic issues while others help promote the rights of individuals. These roles are important and are discussed further in ch 12. Many submissions considered that some advocacy services, particularly those that deal with rights on an individual basis, could play a role assisting people to assert their right to complain provided that certain practical obstacles, such as the need for proper training, can be overcome. Some advocacy services already assist people to make complaints about disability services. The Commission considers that additional advocacy services should be established that specialise in assisting people to make complaints. This may create a culture where more people feel it is acceptable to complain and may inject greater accountability into the service system. Staff should be properly trained in understanding exactly what the person wishes to complain about and helping them work the system'.

14.36 ***New legislation should reflect people's right to an advocate.*** If the focus of the new legislation is to be on meeting the needs and respecting the rights of people with a disability, the question of whether or not advocacy services should be involved in complaints procedures should be based on the needs and wishes of the person making the complaint.

Recommendation 68

The Commission recommends that the new legislation should refer to the right of people with a disability to seek the assistance of an advocate when making a complaint about a service.

15. Protecting the privacy of people with a disability

Introduction

15.1 All people have aspects of their daily lives which they wish, and are entitled, to keep private. Government departments and other organisations hold in their records information about people which should be protected. Protecting the privacy of people who use services provided directly by the Commonwealth or other organisations funded by the Commonwealth, helps to ensure that people have control, choice and dignity in their lives. This chapter focuses on protecting people's physical privacy and personal or sensitive information about people with a disability held by the Department of Health and Family Services (the Department), the Commonwealth Rehabilitation Service (CRS) and the other services the Commonwealth funds.

Protection of physical privacy

Physical privacy should be adequately protected

15.2 There are certain situations where special attention needs to be given to protecting the physical privacy of people using disability services. For example

- there should not be too many or inappropriate visitors to their service or workplace
- the service or workplace should have suitable toilet facilities and a place where people with a disability can dress or bathe in private
- the service or workplace should have a room where people with a disability can have private discussions
- special care services such as help with going to the toilet should be given in a way that minimises the loss of privacy.

Current law and practice

15.3 Principles and objectives under the *Disability Services Act 1986* (Cth) state that the Department must design its disability programs and administer its services in a way that ensures that the privacy and confidentiality of people with a disability is respected. The Disability Services Standards that apply to all funded services recognise each consumer's right to dignity and privacy, confidentiality and respect.¹²⁹⁷ There are no specific provisions about how the CRS or funded services should protect the physical privacy of the people who use their services.

Issues paper and discussion paper

15.4 In its issues paper the Commission asked if services properly protected personal privacy and, if not, what services should do to protect privacy better. In its discussion paper the Commission asked how the CRS and funded services should protect the physical privacy of people with a disability and whether the new legislation should require services to protect client's physical privacy.

What submissions stated

15.5 *Physical privacy should be adequately protected.* Several submissions commented on the importance of providing suitable facilities on service premises and in CRS offices and rehabilitation centres,¹²⁹⁸ such as

- suitable, accessible toilet facilities¹²⁹⁹
- assistance with going to the toilet which minimises loss of privacy¹³⁰⁰
- a place where people can dress or bathe in private¹³⁰¹

- limits on the number of visitors to the premises¹³⁰²
- private rooms for interviews¹³⁰³
- private rooms for discussions.¹³⁰⁴

A focus on privacy, dignity and rights was said to be crucial.¹³⁰⁵

15.6 ***The new legislation should contain a physical privacy requirement.*** Most written submissions stated that the new legislation should require services to protect client's physical privacy.¹³⁰⁶ One submission argued that legislation could stifle service providers by crushing them with bureaucracy, suggesting it would be better to promote a sense of respect for the dignity of clients than to enforce laws.¹³⁰⁷

The Commission's views

15.7 The Commission is of the view that the protection of physical privacy is vital in a piece of legislation which seeks to uphold the rights of people with a disability. The new legislation should ensure the dignity of people with a disability using services by requiring services, including the CRS, to provide facilities for and to protect physical privacy.

Recommendation 69

The Commission recommends that the new legislation require all services, including the CRS, to protect the physical privacy of people with a disability.

Information held by the Department about people with a disability

Current law and practice

15.8 Information held by the Department is protected in the following ways.

- ***Privacy Act 1988 (Cth).*** The Privacy Act regulates the collection, storage, use, access and disclosure by Commonwealth agencies of personal information, that is, information about people. The core of the Act, the Information Privacy Principles (IPPs), outline federal agencies' responsibilities in relation to personal information they collect and hold. If a complaint is made about an agency breaching an IPP, the Privacy Commissioner investigates the complaint and attempts to resolve it through conciliation or negotiation. If this is not possible, the Privacy Commissioner can make a determination to declare that the agency should stop breaching the Act, do something to remedy the loss or damage suffered by the complainant or order the agency to compensate the complainant for any loss, including out of pocket expenses.¹³⁰⁸
- ***Crimes Act 1914 (Cth).*** The Crimes Act prohibits the unauthorised disclosure of any information acquired by a Commonwealth officer in the course of his or her duties.¹³⁰⁹
- ***Public Service Act 1922 (Cth).*** Under the Public Service Act an officer may be disciplined if he or she takes improper advantage of, or discloses without authorisation, information acquired in the course of his or her employment.¹³¹⁰

The *Privacy Act 1988 (Cth)* protects only personal information. The *Crimes Act 1914 (Cth)* and the *Public Service Act 1922 (Cth)* protect personal and other information held by the Department. The *Freedom of Information Act 1982 (Cth)* enables a person to get access to information about them held by government agencies but prevents release of personal information about someone other than the applicant.¹³¹¹

Information the Department may hold

15.9 The Department currently holds little personal information about clients of the CRS or the other services it funds. The Department may, however, be aware of the type and level of disability a person has

and if the person is receiving a pension. Officers of the Department may discover personal information about people with a disability when they visit a service to check if quality standards or conditions of funding are being met. If the proposed new individually-based funding method is introduced, the Department may have access to a wider range of personal information about clients of the services it funds and provides.

Information held by other agencies set up by the Department

15.10 Other bodies set up by the Department may collect information about people with a disability during the course of their work. The Standards Review Panels¹³¹² may receive information about consumers of a service when investigating allegations of a breach of standards by a service. The proposed independent mechanism to be set up to assess people for employment services¹³¹³ will hold information about the people it assesses. That information may include name and address, the type and nature of the person's disability, medical history, his or her financial and family circumstances and work and education history.

Discussion paper

15.11 In its discussion paper the Commission asked whether current provisions were adequate to protect personal information which the Department may hold about people using services and about the type of personal information that should be protected. It asked whether there should be specific provisions in the legislation about the kinds of information the Department can collect and the purposes it can be used for. It also asked whether the legislation should authorise disclosure in some circumstances, what those circumstances might be and whether unauthorised disclosure should be an offence.

What submissions stated about privacy generally

15.12 Certain written submissions dealing with the protection of personal information held by the Department about clients of services stated that the protection was inadequate¹³¹⁴ or could do with improvement.¹³¹⁵ The remaining submissions were undecided¹³¹⁶ or thought that the privacy provisions were adequate.¹³¹⁷ The Commission was told that Departmental officers may sometimes breach the privacy of people who use services funded by or provided directly by the Department, especially in rural or remote regional areas where everyone knows everyone else.¹³¹⁸

Submissions supported having legislative provisions about the collection of information

15.13 Most submissions stated that the new legislation should contain provisions about the way that the Department collects and protects personal information about people using services.¹³¹⁹ Other submissions differed, stating that current legislation such as the Privacy Act was adequate to protect privacy and that more legislation was unnecessary¹³²⁰ and would result in inflexibility¹³²¹ and complication.¹³²²

What personal information should the Department protect?

15.14 The Commission received numerous submissions dealing with the types of personal information held by the Department that should be protected. Most of these submissions stated that all personal information held by the Department about people with a disability should be protected.¹³²³ One submission stated that people with a disability should have the same privacy protections as the rest of the population.¹³²⁴ The remaining submissions and participants in public consultations stated that particular attention should be directed towards protecting information

- about a person's medical and financial status¹³²⁵
- concerning a person who has a history of being subject to abuse or a history of mental illness (unless non-disclosure of this information may cause harm to that person or others)¹³²⁶
- about a person who has made a complaint.¹³²⁷

When should the Department be able to disclose personal information?

15.15 All submissions but one stated that the Department should be able to disclose information to someone other than the person to whom the information relates in some circumstances.¹³²⁸ Submissions suggested those circumstances should be where

- the person consents¹³²⁹
- it is in the interests of the person with a disability, for example
 - in an emergency where death or further disability is likely and the person with a disability would reasonably expect the information to be released¹³³⁰
 - the information would help with providing appropriate support for the individual concerned¹³³¹
 - the information is necessary to deal with case management and cross program linkages¹³³²
- it is in the public interest,¹³³³ for example
 - where the non-release of information may cause harm to the wider community¹³³⁴
 - where the information affects those who would be involved with the support of the person with a disability¹³³⁵
- information is required by the person's legal guardian, legal representative or person with an enduring power of attorney¹³³⁶
- there is a legal obligation to disclose the information,¹³³⁷ for example, criminal proceedings.¹³³⁸

Submissions suggested that general information should be able to be disclosed for the purposes of research and planning,¹³³⁹ for example, information on location, disability type and support needs. Information about the language and cultural backgrounds of people with a disability should be available for the purposes of good planning and developing appropriate programs for them.¹³⁴⁰

When consent cannot be obtained

15.16 While the majority of submissions considered that information about a person should be released only with that person's consent, a number of submissions raised the difficult issue of what happens when a person is unable to consent, but release of information may be in that person's best interests.¹³⁴¹ The Commission heard that carers or relatives may have difficulty getting access to vital medical or other information about a person with a disability because that person is not able to give an informed consent in writing.¹³⁴² Submissions argued that, in such cases, privacy provisions can work against the best interests of people with a disability.¹³⁴³

Legislation should set out the authorised use and disclosure of personal information

15.17 Most submissions stated that the new legislation should set out the circumstances in which the Department can use and disclose personal information¹³⁴⁴ as this will make people more aware of the information about them that can be disclosed.¹³⁴⁵ Those submissions disagreeing with placing this information in the legislation¹³⁴⁶ stated that it would only lead to more complication and bureaucratisation¹³⁴⁷ and that the existing legislation is good enough.¹³⁴⁸

Submissions supported offences to deal with the unauthorised disclosure of personal information by Commonwealth officers

15.18 There was overwhelming support in submissions for the creation of an offence of unauthorised disclosure for an improper purpose of personal information by Commonwealth officers.¹³⁴⁹ Those disagreeing¹³⁵⁰ argued that the existing legislation was appropriate¹³⁵¹ and that such an offence would be too

draconian.¹³⁵² The Privacy Commissioner stated that where information of a sensitive nature was involved, for example, information contained in a person's clinical records, more stringent controls than the IPPs should apply. He favoured the creation of criminal offences for soliciting the release of information and for the wilful and unauthorised release of information. However, he did not favour including offences in every piece of Commonwealth legislation. Rather, there should be a series of offences that apply to all the activities of the Commonwealth and they should be located in one piece of legislation, such as the Privacy Act.¹³⁵³

Protecting information about people with a disability held by statutory and other authorities

15.19 In its discussion paper the Commission asked whether all agencies that may hold personal information about people using disability services should be subject to privacy provisions. The Commission provisionally proposed that any new provisions protecting personal information held by the Commonwealth should apply to all the bodies and mechanisms the Commonwealth establishes. Most written submissions supported the Commission's proposal.¹³⁵⁴ The two submissions disagreeing stated that existing standards already cover these agencies and are sufficient¹³⁵⁵ and that privacy issues should be a matter for the internal policies of the agencies involved.¹³⁵⁶

The Commission's views

- ***There should not be a blanket prohibition on release of information.*** An individual or service provider who gives the Department information is entitled to expect that the Department will use the information in a responsible manner. Persons are entitled to expect that, generally speaking, the Department will use information it collects only for the purpose for which it was collected and that it will not use or disclose it in a way that will unjustifiably cause embarrassment or harm to the individual or organisation that supplied the information. For these reasons the Commission considers that legislation should deter unauthorised use of information. However, the Commission is of the view that it is not appropriate that criminal law sanctions should apply to the unauthorised release of all kinds of information held by the Department.¹³⁵⁷ This blanket approach to the release of information runs counter to the current trends in administrative policy towards more open government. It encourages undue caution on the part of Commonwealth officers and leads to difficulties in obtaining necessary information.
- ***Personal information should be fully protected.*** In the Commission's view personal information should be protected by criminal sanctions. The unauthorised use or disclosure of personal information is likely to be contrary to the public interest and likely to cause harm. Personal information and its unauthorised use or disclosure can be clearly defined. A person is able to know what action in relation to information would constitute a criminal offence. The law already recognises the sensitivity of personal information and the harm to individuals that disclosure and misuse can cause.

15.20 ***Guidelines on the release of personal information where consent is not possible.*** The Commission is firmly of the view that information should only be released with the consent of the person who is the subject of that information. It is acknowledged, however, that there may be circumstances where release of personal information to a carer or relative would be in the person's best interests even though he or she is not able to make an informed consent at the time. In this situation the Department should issue guidelines that specify to whom the information should be released.

Recommendation 70

The Commission recommends that the legislation should create offences to deter the unauthorised use and disclosure of personal information held by the Department or any bodies established under the legislation. The new legislation should provide that it is an offence

- to release or use, without authority, personal information held by the Department
- to attempt to obtain personal information the Department holds if release of that information is unauthorised and the person seeking it knows or should reasonably know its release is unauthorised
- to offer to supply or hold oneself out as being able to supply personal information the

person is not authorised to supply if the person knows or should know that supply of that information is unauthorised.

Recommendation 71

The Commission recommends that the legislation should specify the circumstances in which the Department or any body established under the legislation can disclose information to someone other than the person to whom the information relates. Those circumstances are where:

- the person consents
- it is in the interests of the person with a disability for example
 - in an emergency where death or further disability is likely and the person with a disability would reasonably expect the information to be released
 - the information would help with providing appropriate services or support for the individual concerned
 - the information is necessary to deal with case management and cross program linkages
- it is in the public interest, for example
 - where the non-release of information may cause harm to the wider community
 - where a service is not acting in the best interests of its clients and all other avenues to protect the public have failed
 - where the information affects those who will be involved with the care of the person with a disability
- information is required for a reasonable investigation by authorised investigators.

Recommendation 72

The Commission recommends that the Department develop guidelines on when personal information can be released in circumstances where a person is not able to give informed consent. Those guidelines should specify that release should occur only when all of the following conditions have been met

- a person has a disability or is on medication relating to a disability that prevents him or her from freely consenting to the release of personal information and
- all information about the issue on which consent is sought has been given to the person and every effort has been made to obtain an informed consent and
- the person's best interests and well-being will be severely threatened if the information is not released.

The guidelines should also specify to whom the information should be released.

Information about people with a disability held by services

Privacy provisions specific to the CRS

15.21 Because the CRS is a Commonwealth agency the protections outlined at para 15.8 apply to the CRS. The *Disability Services Act 1986* (Cth) contains a secrecy provision which applies to officers of the CRS.¹³⁵⁸ This provision prevents officers from disclosing any information before the settlement of any common law proceedings unless the client consents to that information being disclosed or release of the information is declared to be in the public interest. Clients are asked for their signed consent before any information concerning relevant aspects of their condition or rehabilitation program are released to third parties, such as employers, doctors or insurance companies. Principle 15 of the CRS' National Service Delivery Principles state that the CRS must obtain the written consent of the client prior to obtaining information from, or providing information to, any other party. This principle requires staff to have knowledge of the relevant privacy legislation and to obtain signed and dated consent forms before passing on information to any other party.

No legal protection for clients of funded services

15.22 Advocacy, employment and other services funded by the Department are not Commonwealth agencies. The information they hold is not regulated by the *Privacy Act 1988* (Cth) or the *Freedom of Information Act 1982* (Cth).¹³⁵⁹ The *Disability Services Act 1986* (Cth) does not provide for the way in which funded services should protect personal information. Their funding agreement does not refer to privacy. The standards developed for funded services refer in general terms to information privacy. They state that a service should have written policies about privacy that are known to all people who use the service. The standards also state that a service should only collect relevant information about clients and should only release the information with the person's consent.

What information do services hold?

15.23 Services like the CRS and other funded employment services helping people with a disability find and keep a job may record a wide range of personal information about people using the service. This may include addresses, information about families, medical history, type and level of disability, support and training needs, employment and education history, financial affairs and pension entitlements. The CRS may also hold information about a person's insurance details. Advocacy services may hold sensitive information about people with a disability, such as the nature and type of any complaint a person may have about another service. Some of this information is held in service records and may be particularly sensitive. To provide an appropriate service, service providers may need to collect information about a person with a disability that is more sensitive than they would for a person without a disability. Some service providers may collect information they do not really need. One submission noted that

many service providers deal with people with a disability who lead extremely complex and pained lives. It is reasonably common for service providers to hold intensely personal information about individuals some of which may relate to their own safety and the safety of others in the community.¹³⁶⁰

Issues paper and discussion paper

15.24 In its issues paper the Commission asked if people think their service protects the personal information it holds about them and how services could better protect that information. In its discussion paper the Commission asked whether the current provisions were adequate to safeguard information services hold about clients. The Commission also asked what personal information services should collect, which information should be protected, how it should be protected and whether it should be a condition of funding that services only collect certain types of information. It also asked whether it should be an offence for a service provider to disclose the personal information of a client and when service providers should be able to release personal information.

What submissions stated

15.25 ***Some services disclose information without consent.*** Some people told the Commission of incidents where their private lives were discussed by different service providers.¹³⁶¹ This was said to be more of a problem in rural and remote areas than in city areas.

In a small country town, it's difficult to get privacy. Everyone knows everyone. So you go to the hospital and the nurse is your neighbour. You can't be anonymous in a place like this.¹³⁶² (Carer of a person with a psychiatric disability)

12% of people who answered the Commission's questionnaire said that they did not feel that their service properly protected their privacy. 10% of people reported incidents of services giving out personal information to third parties without their consent.

Because the industry is small professionals may discuss your family in less than good terms and you become a difficult family to deal with.¹³⁶³

I received a letter asking if I could do some tests for a survey conducted by ... University students. The letter came directly from the students, without my being asked by CRS.¹³⁶⁴

Groups who expressed the most concern over privacy matters were those, for example, people with an intellectual disability or communication difficulties, who experience trouble speaking for themselves and require the help of others..

That's the problem at school. With interpreters, if you're in trouble with one teacher, the interpreter tells the rest of the people in the Deaf Unit and the gossip goes around and soon you're in trouble with all the teachers.¹³⁶⁵ (Deaf person)

15.26 Submissions stated that some services collect too much information. During public consultations the Commission heard that services collected more information than was necessary in many cases.¹³⁶⁶ Written submissions supported this view.¹³⁶⁷ Some people considered that more information than was necessary was collected for the purposes of eliminating prospective service users.¹³⁶⁸

15.27 Submissions stated that all personal information should be protected. Most written submissions on the subject supported the view that all personal information about people with a disability and their families should be protected information.¹³⁶⁹ The majority of the responses to the Commissions questionnaire also stated that services should keep all personal information confidential and only release it with consent of the client. Other submissions specified that

- all personal information that could identify an individual¹³⁷⁰
- information given in confidence and trust¹³⁷¹
- all information not relevant to service provision¹³⁷²

should be protected.

15.28 Submissions stated that services need to develop privacy policies. Written submissions and responses to questionnaires stated that services should be required to develop and implement privacy policies.¹³⁷³ Policies should

- be clearly defined¹³⁷⁴
- state what information should or should not be revealed¹³⁷⁵
- be known by all staff¹³⁷⁶
- be accessible to all clients¹³⁷⁷
- have a monitoring mechanism.¹³⁷⁸

Other submissions argued that the current privacy requirements were sufficient and that services should be monitored properly for their compliance with them.¹³⁷⁹

15.29 Submissions stated that protection of confidential information should be a condition of funding. Most written submissions stated that it should be a condition of funding that service providers ensure only essential information about people with a disability is collected and that the information is stored, used or disclosed in a way that protects its confidentiality.¹³⁸⁰ The remaining submissions noted the difficulties of imposing such a condition in the legislation. They stated that it is too difficult to define 'essential information' and that this is best left to service providers.¹³⁸¹ They also stated that the information required will vary greatly depending on the individual.¹³⁸²

15.30 Submissions supported making it an offence for service providers to disclose personal information about people with a disability. The majority of written submissions received on this issue agreed that it should be an offence for a service provider to disclose personal information about people with a disability.¹³⁸³ Submissions stated that disclosure of personal information should be an offence where

- the person has not consented to the disclosure¹³⁸⁴

- the client suffers financial or personal damage as a result of disclosure¹³⁸⁵
- the information is used for an improper purpose or there is a conflict of interest¹³⁸⁶
- the disclosure is not ethically sustainable¹³⁸⁷
- the disclosure is indiscriminate, casual and inappropriate¹³⁸⁸
- the disclosure is serious, persistent, careless, reckless or intentional.¹³⁸⁹

One submission stated that it should not be an offence to disclose information where the information is required for the client's medical care and is provided in confidence by the service provider.¹³⁹⁰ Others stated that the paramount concern is what is best for the client, and that this should determine when disclosure is acceptable.¹³⁹¹ Those submissions which argued that there should not be an offence prohibiting services from disclosing personal information in the new legislation stated that this kind of offence should be left to privacy legislation¹³⁹² or treated as a breach of the disability standards which apply to all funded services.¹³⁹³

Privacy Commissioner's view

15.31 The Privacy Commissioner supported giving protection to personal information collected and held by service providers. In his opinion guidelines need to be developed. These should cover issues such as when it is necessary to retain personal information, for example, for potential complaints and law suits, secure destruction at an appropriate time and secure storage until destruction.¹³⁹⁴ The Privacy Commissioner stated that a legal obligation should exist to protect personal information and that there should be limits on use of the information for purposes unrelated to the reason the information was collected.¹³⁹⁵

The Commission's views

15.32 ***Compliance with Information Privacy Principles.*** The Information Privacy Principles (IPPs) form the core of the *Privacy Act 1988* (Cth). They govern

- methods used to collect and solicit personal information
- the storage and security of personal information
- access by individuals to their personal records
- the accuracy of records containing personal information
- the use of personal information.

The IPPs apply to the CRS but do not apply to private sector organisations. In the Commission's view the type of protection provided by the IPPs should be extended to services which the Commonwealth funds because

- the effect of release of personal information on a person with a disability or his or her family or carer is likely to be the same whether the information is held by a government agency or by a Commonwealth funded service (which may often hold information on behalf of the government or as a result of federally imposed requirements)
- as user rights' or consumer protection' is now a fundamental part of Commonwealth policy it is reasonable to expect organisations receiving Commonwealth funding to respect and implement that policy
- national consistency on information protection in disability services is important as a matter of social justice.

In New Zealand the *Privacy Act 1993* (NZ), which is very similar to the *Privacy Act 1988* (Cth), applies to government and non-government agencies. Accordingly IPPs govern personal information about people in a variety of contexts, including dealings with health services, banks, insurance companies and any other business. Extending the IPPs to cover Commonwealth funded services would help to bridge the gap in the current law protecting information held by service providers. In their current form the IPPs are not appropriate for disability services. With some modification, however, they could form a cohesive framework for the protection of personal information held by all services funded by the Department.

15.33 ***The Department should produce guidelines.*** These broad principles could form the basis on which detailed guidelines applicable to the particular service type could be developed. Views expressed in consultations and submissions indicated that services were interested in having guidance about matters of confidentiality. The Department should develop these guidelines in consultation with State and Territory authorities, local governments, the industry and the Privacy Commissioner. The guidelines should include information about the following matters.

- ***Collection.*** The guidelines should give details on
 - what information a service should be able to ask for in its forms and the purposes for which it can ask for and use such information
 - what forms used for collecting information should state about the purposes for which information is being collected, how it will be used and the circumstances in which information will be disclosed to other people.
- ***Storage and use.*** The guidelines should give details on
 - how long the information should be kept
 - the kind of storage which is appropriate
 - who within a service should have access to particular information.
- ***Disclosure.*** The guidelines should give details on the circumstances in which a service may disclose particular information to particular people or agencies.

If the jurisdiction of the Privacy Act were extended, the Privacy Commissioner could endorse these guidelines. The Department should develop a strategy for informing and educating service providers and consumers about these principles and guidelines. Developing and carrying out these strategies would have resource implications for the Department.

Recommendation 73

The Commission recommends that the legislation require, as a condition of funding, that funded service providers comply with the Information Privacy Principles of the *Privacy Act 1988* (Cth) modified to make them suitable for disability services. The amended principles should be developed by the Department and the Privacy Commissioner. They should be included in the legislation. The principles should cover the collection, storage, use and disclosure of personal information held by service providers including procedures for when a person leaves a service.

Recommendation 74

The Commission recommends that the legislation require the Department to issue guidelines setting out how services should collect, store, use and release personal information about their clients.

Services may need to give personal information to employers

15.34 **Discussion paper.** Part of the function of open labour market employment services and the CRS is to place clients in employment or to get them back into employment. To perform these functions, employment services and the CRS may have to divulge personal information about clients to employers or prospective employers. In its discussion paper the Commission asked what type of information these services should be able to pass on to employers.

15.35 **Submissions stated that there should be guidelines.** Most written submissions stated that job placement services may need to pass on personal information to employers.¹³⁹⁶ The issue of how much information about people with a disability employers or prospective employers should be given by services is a major one,¹³⁹⁷ especially for people with a psychiatric disability.¹³⁹⁸ Submissions suggested strict guidelines governing the type of information that can be passed on. They stated that only

- information relevant to obtaining and performing the job¹³⁹⁹
- essential information¹⁴⁰⁰
- information of which the client is aware¹⁴⁰¹

should be disclosed to employers.

The Privacy Commissioner stated that services should be open with clients over the information that will, or may, be disclosed to employers. The Privacy Commissioner also recommended that an assessment of whether information is relevant to an employer should include consideration of whether the supposed relevance is based on a reasonable opinion.¹⁴⁰² Others argued that any type of personal information should be able to be passed on to employers only with the consent of the person with a disability.¹⁴⁰³

15.36 **The Commission's views.** Employment services including the CRS may need to release personal information to employers or prospective employers about clients they are trying to place in a job. Even so, there should be safeguards to protect the privacy of clients. The new legislation should require the Department to develop guidelines setting out the type of personal information about clients employment placement services can release and when that information can be released.

Recommendation 75

The Commission recommends that the new legislation require the Department to develop guidelines about the type of personal information about clients which the CRS and other employment placement services should be able to disclose to employers and prospective employers and when that information could be disclosed. Those guidelines should specify that only information of which the client is aware is being released and is relevant to the job or necessary for workers' compensation insurance purposes should be revealed.

Personal information given to insurers

15.37 People who are insured and who are receiving rehabilitation from the CRS are in a unique position when it comes to privacy laws. Generally, insurance companies will not pay for a rehabilitation program until the CRS has disclosed all relevant information about the client's rehabilitation. If the CRS supplies this information, it breaches s 28 of the *Disability Services Act 1986* (Cth) which prohibits the release of information about a client's program before the settlement of any common law proceedings unless the client consents to that information being disclosed or release of the information is declared to be in the public interest. If the CRS does not disclose the information the client may risk losing the service because the insurance company will refuse to pay for it. Some submissions asked the Commission to recommend an amendment to this provision.¹⁴⁰⁴ The Commission is of the view that the best interests of clients would be served if all clients whose program is to be paid for by an insurer were informed of the need to release details of their program to the insurer and that consent to this release is a precondition of starting a CRS program. It

is consistent with established privacy principles that people wishing to derive a benefit or gain from a service may need to consent to some personal information being released to the service.

Recommendation 76

The Commission recommends that the new legislation provide that the CRS must

- inform clients whose program is to be financed by an insurer of the possible need to release information about the program to the insurer and the purpose for releasing that information
- inform clients that if they do not consent to the release of the information their rehabilitation program may have to be suspended or terminated
- not release to an insurer any information about the client apart from information relevant to the insurance claim
- keep the client informed about the detail of information which needs to be released.

PART 4 - FUNDING AND ACCOUNTABILITY OF SERVICES

16. Funding issues

Introduction

16.1 This chapter examines how the Commonwealth, through the Department of Health and Family Services (the Department), funds organisations to provide support services for people with a disability. It looks at funding for employment, advocacy and other services and projects for people with a disability. It examines how the Commonwealth gives money to States and Territories to help them provide and improve the quality of services for people with a disability. This chapter does not cover the Commonwealth Rehabilitation Service which is a direct Commonwealth service provider.

Deciding who should be eligible to provide services

Current funding criteria

16.2 Many matters affecting the rights and obligations of service providers who receive funding from the Commonwealth are not dealt with in the *Disability Services Act 1986* (Cth) (the Act), such as the way in which the Commonwealth determines which organisations receive funding and how much funding they receive. Such matters are contained in guidelines, funding agreements or terms and conditions. The Minister determines how available funding should be allocated. The funding priorities that must be observed in the planning process are outlined in chapter 6. Since no new sheltered workshops or print disability services are being funded by the Commonwealth, decisions about who should get new funding only apply to open labour market, supported employment, advocacy and information services and to research and development projects. Current funding criteria state that applicants who have not been funded before or who have been funded but wish to receive further funding in order to expand must

- address funding priorities set by the Minister
- be an eligible organisation as defined in s 7 of the Act¹⁴⁰⁵
- offer to provide services predominantly for people in the target group
- show that the service they are proposing to provide is of a class approved by the Minister under section 9 of the Act and is one that the Commonwealth funds under the Commonwealth State Disability Agreement
- show how the service will meet required standards
- show that they will be financially viable and cost effective
- show that they can meet any particular or special needs that may be required
- show that they can link with existing services
- show that the service is managed by people with a range of relevant skills and abilities.

Discussion paper

16.3 In its discussion paper, the Commission asked what criteria the Department should use to decide who should receive funding and whether funding criteria should be set out in the new legislation. The Commission provisionally proposed that the new legislation should clearly set out all the matters that affect

the rights and obligations of service providers and that the funding criteria should be set out in the new legislation.

Submissions commented on the funding criteria

16.4 Some submissions stated that the criteria were adequate. Some submissions considered that the current criteria were adequate.¹⁴⁰⁶ However, one stated that the issue was not the criteria, but rather the lack of funds to ensure the availability of all necessary support services.¹⁴⁰⁷ Another stated that the current criteria work well, but should include a requirement of on-going training for service staff.¹⁴⁰⁸ It was suggested that services which show promise but do not meet all criteria should be given assistance and be reappraised.¹⁴⁰⁹ Submissions suggested that the existing criteria should be clarified with respect to sheltered workshops.¹⁴¹⁰

16.5 Submissions considered outcomes to be important. Certain submissions noted the importance of outcomes and equity for consumers as factors the Department should consider when allocating funding.¹⁴¹¹ Funding criteria should specify that services can demonstrate their ability to achieve appropriate outcomes for their clients and should ensure that the priorities set by the Minister allow equitable distribution of services across disability types¹⁴¹² and proper protection of the disempowered and those with high support needs.¹⁴¹³ Other submissions suggested that services should demonstrate quality as a criterion of funding.¹⁴¹⁴ Submissions suggested that funding criteria should require services to

- employ experienced and trained staff¹⁴¹⁵
- demonstrate that they are able to implement disability service standards¹⁴¹⁶
- adhere to human rights and social justice principles¹⁴¹⁷
- ensure that all staff participate in on-going in-service training to ensure skills and abilities remain current¹⁴¹⁸
- take a holistic and flexible approach to their clients' needs¹⁴¹⁹
- promote and comply with the Act.¹⁴²⁰

In consultations people considered that the Department should base funding decisions on the needs of the ultimate client and not primarily on which funding applicant submitted the lowest priced tender.¹⁴²¹

16.6 Submissions considered that criteria should be more flexible. Some submissions stated that developing criteria was not the job of government,¹⁴²² and that criteria should be developed in consultation with consumers and service providers.¹⁴²³ Another argued that market forces should determine which services receive funding, with the government funding the services that people with a disability and their families want.¹⁴²⁴ Some submissions suggested that rather than funding services, the Commonwealth should give funding directly to people with a disability and their families to spend on meeting support needs.¹⁴²⁵ One submission stated that the Commonwealth should fund sufficient services for all people with a disability who require support.¹⁴²⁶ Another submission considered that the criteria should be more comprehensive and include organisations not currently funded, such as those supporting carers.¹⁴²⁷ In consultations some people considered that the funding criteria should be less rigid to enable carers or relatives of people with a disability to receive funding to provide support services for those people if carers or relatives can demonstrate that they could best meet the needs of the people for whom they care.¹⁴²⁸ It was said that this would be especially beneficial in rural or remote areas where carers and relatives provided the main support for people with a disability since few services exist and choice is limited.¹⁴²⁹

16.7 Most submissions considered that funding criteria should be in the new legislation. The majority of submissions and people with whom the Commission consulted considered that the funding criteria should be set out in the new legislation.¹⁴³⁰ One advocacy organisation suggested that specific criteria for funding advocacy agencies should be included.¹⁴³¹ Those disagreeing referred to the need for periodic revision of the criteria¹⁴³² and the risk of set criteria becoming restrictive and inflexible and likely to lead to 'over-

bureaucratisation in funding decisions'.¹⁴³³ Even those supporting the inclusion of criteria in legislation stressed the importance of maintaining flexible criteria.¹⁴³⁴

The Commission's views

16.8 ***Criteria should promote flexibility and the principles and objectives.*** The Commission is of the view that the central focus of the new legislation should be on funding support to assist people with a disability to achieve outcomes in accordance with their needs. It follows that the funding criteria should ensure that the Commonwealth approves only services that can demonstrate they meet the principles and objectives of the Act and can achieve positive outcomes for individuals with a disability. There is currently too much concern over the type of service being funded. It should not matter which services provide support or how different services meet individual needs so long as quality is maintained, the principles and objectives of the Act are upheld and positive outcomes for clients are achieved.

16.9 ***Individuals and mainstream services should be able to be funded as providers.*** Under existing criteria the Commonwealth cannot approve an individual to receive funding to supply services for people with a disability. The Commission considers that the funding criteria in the new legislation should be flexible enough to enable an individual, such as a relative, friend or carer of a person with a disability to apply to receive funding to provide support for that person. That individual should have to demonstrate that he or she was acting with the consent of the person with a disability, could meet the principles and objectives of the Act and could achieve positive outcomes for the person for whom they were providing the service. The new legislation should also enable a mainstream service, that is, not a specialist disability service, to receive funding under the Act provided it could achieve positive outcomes for clients with a disability and meet the principles and objectives of the Act.

16.10 ***Broad criteria should be in the legislation.*** The Commission takes note of and appreciates the argument that placing strict criteria in the legislation may result in inflexibility. The Commission is of the view, however, that including broad criteria in the legislation would promote transparency in funding decisions and assist those who may wish to seek review of funding decisions.¹⁴³⁵ The criteria contained in the new legislation should be broad and flexible and reflect the Commonwealth's commitment to basic human rights and social justice principles. The criteria should apply to all services funded under the new Act. They should not be restricted to the services that the Commonwealth funds at the moment as this situation may change in the future.

Recommendation 77

The Commission recommends that the new legislation should be flexible enough to enable a relative, friend or carer to be approved to provide services for a person or people with a disability as long as that person can meet the funding conditions and demonstrate that he or she can achieve outcomes for people with a disability.

Recommendation 78

The Commission recommends that the new legislation should contain a set of broad criteria for the allocation of funding. The criteria should state that a service should have to demonstrate that it

- has as its paramount objective respecting the rights and meeting the needs of individuals with a disability
- is capable of providing appropriate support to meet identified needs
- complies with every one of the Disability Services Standards and eligibility and priority of access guidelines
- consults regularly and effectively with clients
- provides clients with information regularly, and in accessible ways
- has an established complaints system
- respects the privacy of clients
- has properly qualified staff.

Recommendation 79

The Commission recommends that the criteria be adapted as necessary where an individual rather than an organisation is being funded as a provider of disability services.

Conditions of funding

Conditions are consistent

16.11 There is one funding agreement setting down terms and conditions for all types of disability services receiving Commonwealth funding and for all types of funding given. The terms and conditions of funding provide that funding recipients must

- observe the required standards and objects of the Act and the principles and objectives
- comply with any program priorities and any special requirements attaching to the grant
- use the grant monies only for the purposes stated in the offer of grant
- use the grant monies only or predominantly to provide services for people included in the target group
- only use the grant to provide services to a named person if the grant is made in respect of named individuals
- repay all monies not used in accordance with the funding agreement
- promptly inform the Department of any relevant matters that might affect the recipient's ability to meet its obligations under the agreement or affect the welfare, opportunities or development of the service's clients.

Legislation empowers the Minister to vary conditions of funding with the agreement of the service provider

16.12 The *Disability Services Act 1986* (Cth) currently empowers the Minister to vary the terms and conditions of a grant with the consent of the funding recipient¹⁴³⁶ or without consent if the grantee does not meet the standards or comply with the terms and conditions.¹⁴³⁷ The Act does not provide for the Minister to waive or add funding conditions.

Discussion paper

16.13 In its discussion paper the Commission asked whether the conditions of funding should be in the new legislation and whether and in what circumstances the legislation should give the Minister the power to waive, vary or add conditions of funding approval.

Submissions commented on conditions of funding

16.14 ***Most submissions considered conditions should be in the new legislation.*** The majority of submissions and views expressed in consultations supported placing conditions of funding in the legislation in broad terms.¹⁴³⁸ Submissions argued that conditions should be legislated on the grounds that

- conditions of funding need to be clear so that services and clients know what they are¹⁴³⁹
- putting conditions in the legislation will ensure they remain consistent¹⁴⁴⁰
- if conditions of funding are in the legislation it will enable legal enforcement when there are breaches¹⁴⁴¹
- it would assist appeal and review procedures.¹⁴⁴²

The NSW Department of Ageing and Disability suggested that the Commonwealth legislation should reflect the terms and conditions in the NSW Disability Services Act.¹⁴⁴³

16.15 ***Other submissions disagreed.*** Those disagreeing with the proposal argued that putting the conditions in the legislation would result in lack of flexibility¹⁴⁴⁴ and over-bureaucratisation in funding decisions and administration.¹⁴⁴⁵ Another submission stated that funding conditions would be more effective if they were developed outside the Act, suggesting that the Act should merely refer to funding being dependent on performance.¹⁴⁴⁶

Submissions commented on the power to waive, vary and add conditions of funding approval

16.16 Most submissions stated that the Minister should have the power to waive, vary or add conditions of funding approval with the agreement of the service provider in order to promote flexible and innovative service delivery.¹⁴⁴⁷ One submission argued that 'allowance for flexibility is important'.¹⁴⁴⁸ Another stated that the Minister should have this power regardless of whether the service provider agrees.¹⁴⁴⁹ Submissions indicated that the Minister should be able to waive, vary or add conditions of funding

- where it will promote client interests in line with the principles and objectives of the Act¹⁴⁵⁰
- where it will lead to consistency and fairness¹⁴⁵¹
- where it will result in better outcomes for clients¹⁴⁵²
- to tailor support to meet the particular needs of a region or group of people¹⁴⁵³
- where the nature of a service makes it difficult for it to comply with a particular condition.¹⁴⁵⁴
- where it will avoid disadvantaging a service provider¹⁴⁵⁵

- where it will help a service implement a strategic plan¹⁴⁵⁶
- where the service is below standard.¹⁴⁵⁷

Some submissions considered that the Minister should never be able to waive conditions of funding so as to exempt services from particular requirements.¹⁴⁵⁸ One submissions stated that the power to vary conditions should apply only in exceptional circumstances.¹⁴⁵⁹ Another submission suggested that the Minister should not be able to exercise these powers unless there was consultation with a special panel established for this purpose.¹⁴⁶⁰

The Commission's view

16.17 ***Conditions should be in the legislation.*** Conditions of funding affect the interests of services and assist consumers to know what the Commonwealth expects of services. The Commission is of the view that if the conditions of funding are put in the legislation it will improve service provider and consumer knowledge of what conditions are and will assist in monitoring services which do not meet conditions. If conditions are put in the legislation it will also assist legal or merits review of decisions made by the Commonwealth relating to the conditions. To preserve flexibility, conditions could be included in a schedule to the legislation. The schedule would still form part of the legislation but could be amended by regulation rather than an Act of Parliament.

16.18 ***Minister should have the power to waive, vary or add conditions in certain circumstances.*** The Commission considers that the primary focus of service providers should be on meeting needs and achieving outcomes. This may require, from time to time, a more flexible approach to service provision. For example, a specific need for particular support may exist in a rural or remote area. That need may not reflect need in the rest of the population and may not be a priority of the Commonwealth's disability program. In the interests of meeting needs, however, it may be appropriate to waive the condition that funding must comply with program priorities. The power to waive, vary and add conditions of funding for the purposes of flexibility and innovation should reside with the Minister. The current ability of the Minister to vary conditions without the consent of the service provider in cases where the service does not meet the standards or the terms and conditions relates more to sanctions and is discussed at para 17.25-34.

Recommendation 80

The Commission recommends that broad conditions of funding be set out in a schedule to the legislation. The legislation itself should specify that funding is conditional on achieving positive outcomes for people with a disability. Specific conditions should require services to

- observe the required standards and the principles and objectives of the Act
- comply with eligibility requirements, program priorities, priority of access guidelines and any special requirements attaching to the grant
- use the grant monies only for the purposes stated in the offer of grant
- use the grant monies only to provide services to a named person if the grant is made in respect of named individuals
- promptly inform the Department of any relevant matters that might affect the service's ability to meet its obligations under the legislation or the funding agreement or affect the welfare, opportunities or development of the service's clients.

Recommendation 81

The Commission recommends that the new legislation should give the Minister power to vary, waive and add conditions of funding approval with the consent of the service provider

- where it will promote client interests in line with the principles and objectives of the Act
- where it will lead to consistency and fairness
- where it will result in better outcomes for clients
- to tailor support to meet the particular needs of a region or a group of people
- where the nature of the service makes it difficult for it to comply with a particular condition.
- where it will avoid unfairly disadvantaging a service provider
- where it will assist a service to implement a strategic plan.

Determining how much funding services should receive

Open labour market and supported employment services

16.19 **Start up funding.** Open labour market and supported employment services were established after 1987 and are funded under the *Disability Services Act 1986* (Cth). Service providers may receive an amount of money to set the service up. The amount is negotiated between the organisation and the Department. In negotiating the amount of funding, the Department considers the capacity of the service to contribute its own resources. Accordingly, different organisations providing the same type of service have received different amounts of start up funding.

16.20 **Recurrent funding.** A financing strategy was developed in 1989 to determine the level of recurrent funding for services established after that date. Funding is calculated annually and is paid monthly in advance, based on a formula which determines the average number of support hours and estimates the number of clients a service will deal with in a year. There is a notional cost of \$18-20 per hour of support (\$14-16 for larger services) upon which the grant is calculated. Since 1993 the Department has approved recurrent grants for new services using a benchmark of an average grant per client of \$7 200. For services which began between 1987 and 1989 the base amount is the amount that was negotiated between the service and the Commonwealth when the service was first funded plus indexation. Recurrent funding deals with rental assistance and support only and does not apply to the costs of operating a business.

16.21 **Funding to upgrade premises and equipment.** Open labour market and supported employment services can apply for funding to upgrade premises and to buy or upgrade equipment. Services submit an application to the Department setting out the details of how much funding they want and what they want it for. The Department considers whether to approve the grant based on its merits and the amount of available funding.

Sheltered workshops

16.22 ***No new funding.*** Since 1987 there has been no funding given to establish new sheltered workshops. Existing services continue to be funded to support people with a disability and are encouraged to improve their service standards to try to meet the principles and objectives of the Act.

16.23 ***Recurrent funding.*** Sheltered workshops have been funded under the Act at the same level as before the Act came into operation with indexing to reflect price and cost movements. Sheltered workshops receive block funding covering salary, rental assistance and administration. The average amount of funding for each place each year is about \$5 000.

16.24 ***Transitional funding.*** All sheltered workshops are expected to upgrade to meet the higher standards that open labour market and supported employment services are expected to meet. Funding for specific purposes is available to sheltered workshops to assist them to upgrade the service and improve outcomes for clients. Services make submissions for grants. These are subject to negotiation between the Department and the service.

National information services

16.25 The Department funds two national information services, the National Information and Community Awareness Network and the Australian Caption Centre. They may receive grants for recurrent expenses, the cost of purchasing land and buildings, altering and extending buildings and the cost of purchasing, altering or installing equipment. The amount of funding is negotiated between service providers and the Department on an annual or a one-off basis. The amount will vary depending on the nature of the service, any other sources of income and the projected need.

Print disability services

16.26 The Department funds fourteen print disability services to help them meet their operating costs. The amount of recurrent funding services receive each year is based on agreed levels of production. Funding of new services is now a State and Territory responsibility.

Funding for research and development projects

16.27 The Department provides funding for certain research projects under s 12 of the Act. Projects can increase public awareness about issues for people with a disability and can lead to new policy being developed. Organisations may apply for funding giving an estimate of their costs or the Department may call for submissions.

Advocacy services

16.28 Advocacy services may receive funding to establish the service and to purchase equipment. Services make submissions for establishment and equipment costs and these are subject to negotiation between the Department and the service. The amount of recurrent funding advocacy services receive is negotiated between the service and the Department and then indexed annually. Because of the special nature of the work performed by advocacy services, there is no 'per client' funding formula. The amount of funding advocacy services receive is based on the nature of the service, the projected need, the likely outcomes it will achieve and consideration of any other sources of income. Generally they are funded on a full cost basis.¹⁴⁶¹

Discussion paper

16.29 In its discussion paper the Commission asked whether the new legislation should set out for each type of service or project

- how the amount of funding they are entitled to receive is calculated
- how to apply for funds

- how the Commonwealth checks that the correct amount has been paid
- how the Commonwealth can recover surplus funds or pay service providers extra amounts.

It also asked whether sheltered workshops should be required to demonstrate that they have worked towards achieving their action plan as a condition of funding

Submissions commented on the application for and calculation of funding

16.30 Various submissions considered that the legislation should set out for each type of service or project how to apply for funding and how the correct amount is calculated.¹⁴⁶² Those disagreeing stated that the matters involve administrative procedures and so are subject to change.¹⁴⁶³ It was said that putting these things in the legislation would be too restrictive.¹⁴⁶⁴ One submission suggested that it would be more practical and flexible to set out the framework for these matters in the legislation rather than the specific formulae or processes.¹⁴⁶⁵

The Commission's views

16.31 **Legislating the funding process.** The funding of services should be designed with the rights and needs of people with a disability in mind. In the Commission's view the new legislation should set out broad principles. It should say, for example, that funding is calculated on the assessment of need and paid on the achievement of outcomes.¹⁴⁶⁶ Although the legislation will need to clarify how need is to be worked out and what is meant by an outcome it should not set out formulas, as this would be too inflexible. Instead, the legislation should require the Commonwealth to issue guidelines setting out

- how funding is calculated
- what funding can be allocated, for example, funding for administrative/infrastructure costs and funding to meet support needs
- how service providers apply for funding.

Recommendation 82

The Commission recommends that the legislation require the Commonwealth to issue guidelines setting out

- how funding is calculated
- what funding can be allocated
- how service providers apply for funding.

Funding should be based on outcomes

Problems with the current funding arrangements

16.32 The current arrangements do not reflect a consistent approach to funding. Services established before 1987 are funded on a different basis from services funded after 1989. Funding generally is given regardless of the support needs of each client or the outcomes achieved for each client. There are no incentives for the service provider to achieve positive outcomes for the client or to provide for clients with high support needs. Services funded under the funding formula receive an amount based on the estimated number of clients and their anticipated support needs. There is also no consistent way of estimating clients' support needs in advance or guaranteeing that the service actually supports the number of clients it is funded to support.

Discussion paper

16.33 In its discussion paper the Commission discussed current and proposed funding arrangements. It received many submissions and comments in consultations which addressed this issue.

Submissions stated that the current arrangements were inadequate and unfair

16.34 ***Impact on people with a disability.*** The submissions indicated many problems with the current method of funding services for people with a disability.¹⁴⁶⁷ People with a disability complained that too much of the current funding was directed to meeting only the most basic needs.¹⁴⁶⁸

We don't plan for the future. We take it day by day.¹⁴⁶⁹ (carer of a person with intellectual and physical disabilities.)

It was argued that this prevents people from attaining true independence.¹⁴⁷⁰ People were given help to get out of bed in the morning but no work or recreation options for the rest of the day.¹⁴⁷¹ There was also said to be a problem with inequitable distribution of funds. People with a disability living in rural and remote areas stated that funding decisions are often made in Canberra with little understanding of the needs of people in rural or remote areas.¹⁴⁷² The Commission heard that very few, or in some cases, no, new services were established in rural or remote areas because of funding decisions made by the Department in Canberra.¹⁴⁷³ Another problem identified in submissions related to the power that service providers have under the current system.

The ultimate problem with services at the moment is that the individual has been forced to fit the mould of service.¹⁴⁷⁴ (Person with a vision impairment.)

In almost every public consultation the Commission heard that funding was often not getting through to the people most in need.¹⁴⁷⁵ Submissions called for more accountability of government and service providers to clients,¹⁴⁷⁶ suggesting that services inform clients of the amounts that the service is receiving from government funding and of the way that the money is being spent.¹⁴⁷⁷

16.35 ***Impact on service providers.*** The Commission was told by service providers that the current system of allocating funds based on the amount received in the previous year makes it very difficult, and in some cases impossible, to set up new services.¹⁴⁷⁸ The Commission heard that this problem was particularly acute when establishing services for people with a disability which has not previously been recognised because there are no benchmarks by which funding levels can be determined. People with an acquired brain injury, for example, have found it very difficult to establish government funded support services.¹⁴⁷⁹ Services also complained about the lack of consistency in the current funding arrangements, with services receiving different amounts to meet the same support needs.¹⁴⁸⁰ Providers of open labour market services complained that some sheltered workshops receive the same and sometimes more funding to provide less support.¹⁴⁸¹

New funding arrangements for employment services

16.36 The chapter so far has concerned different types of services for people with a disability that the Commonwealth funds. In the following paragraphs, the Commission discusses new proposals relating specifically to employment services. The Commission is of the view, however, that many aspects of the proposals for employment services can be generally applied to the other types of services funded by the Commonwealth.

Funding for employment services to be based on outcomes

16.37 The Baume report was critical of the practice of block funding services regardless of the number of clients and the type of support provided. It recommended that funding should be given to service providers to meet the independently identified support needs of and to achieve certain outcomes for particular individuals.¹⁴⁸² The former Commonwealth government indicated that it planned to introduce the funding system recommended in the Baume report to drive business efficiencies and establish a more equitable approach to funding services and meeting clients' needs.

How does the Department propose to implement the new funding system?

16.38 ***Independent assessment.*** In October 1995 the Department released a position paper on performance based funding describing the broad framework for the proposed funding arrangements.¹⁴⁸³ The focus of the new funding formula is on outcomes, individuals, equity and efficiency. Under the proposal an individual wishing to use a service would

- have his or her broad level of support need assessed by an independent, accredited assessor using a standardised assessment tool¹⁴⁸⁴
- be assigned a level of funding, called a funding classification, based on his or her broad level of support need
- be given a priority ranking for entry to a funded service based on set priority of need criteria
- be offered the opportunity to choose an available service
- after being accepted by a service, develop an individual program plan in consultation with the service provider.

16.39 ***Funding based on outcomes.*** Under the new system, the way that money is paid to services would change. Rather than block funding particular service types the Department would purchase employment or employment preparation support from services based on outcomes achieved for individuals. Once a client's broad level of need was assessed the service would be entitled to a certain amount of funding to meet the client's support needs. The funding would not go to the service all at once but would be paid periodically upon the achievement of certain outcomes. For example, a service may receive some funding in advance, followed by 'key steps' payments each month providing that certain key steps in the client's program of support have been completed. Funding would also have a fixed component to cover costs of rent, building maintenance and staff training.

Discussion paper

16.40 In its discussion paper the Commission asked how the new funding system for employment services would improve flexibility and meet clients' needs better. The Commission provisionally proposed that whatever steps the Department took in implementing the new funding system it should

- ensure that service providers who have clients with similar support needs and who wish to achieve similar outcomes receive similar amounts of funding
- consider service viability
- create incentives for service providers to take clients with high support needs or special needs
- not restrict flexibility in the way service providers meet clients' needs.

General community support for overall proposal

16.41 Most submissions supported the idea of an individualised funding approach.¹⁴⁸⁵ Many people with whom the Commission consulted were of the view that the overall approach of performance based funding was a positive step.¹⁴⁸⁶ A number of submissions, however, expressed concern about how the new system would be implemented.¹⁴⁸⁷

Concern that people with high support needs may be disadvantaged

16.42 An overwhelming concern in submissions and consultations was that performance based funding would discourage services from taking on people with high support needs or with 'difficult disabilities'.¹⁴⁸⁸ Submissions stated that since funding would depend on achieving outcomes, services would be tempted to accept only people for whom outcomes would be easy to achieve.¹⁴⁸⁹ Submissions indicated that this may result in access for people with high support needs or people with certain psychiatric disabilities becoming more difficult as outcomes for those people may be harder or more costly to achieve or identify.¹⁴⁹⁰ However, another submission expressed the view that the new system, if properly implemented, might provide more support for people with high support needs.¹⁴⁹¹ Some submissions suggested that if people were assessed as having high support needs and funded accordingly then there would be no excuse for services not to provide for them.¹⁴⁹²

Concern that quality may be compromised

16.43 In consultations people were concerned that service quality might be compromised as services would be tempted to push people through faster to get funding sooner.¹⁴⁹³ This concern related to the three month limit mentioned in the Department's funding paper for the achievement of an outcome. Service providers were concerned that if an outcome had not been achieved within three months they would not receive the next funding instalment. Service providers indicated that this could result in services neglecting to achieve the right outcomes for people.¹⁴⁹⁴ It was said that quality could also be affected by the need for services to take on a high volume of clients in order to maintain adequate levels of funding.¹⁴⁹⁵

Services were concerned about funding levels

16.44 Service providers expressed concern during consultations about being funded progressively as they achieve 'milestones'.¹⁴⁹⁶ Submissions indicated a problem with the fact that people with high support needs often require greater start up spending¹⁴⁹⁷ or greater spending on specialised services.¹⁴⁹⁸ Since money would be allocated in a piecemeal fashion under the performance based funding proposal, many services argued that they would be unable to provide for people with high support needs because the greatest funding outlay occurs when those people first come into the service.¹⁴⁹⁹ Services were also concerned about how the funding would be calculated.¹⁵⁰⁰ One submission argued that the Department's proposal was unrealistic.

The proposed figures quoted by the department are based on inadequate and incorrect assumptions. The department's unit cost figures that it is presently quoting would be inadequate to support quality programs outside open employment and larger congregate work sites and then only for people with low support needs.¹⁵⁰¹

What is an outcome?

16.45 ***Outcomes are difficult to define.*** Achieving positive outcomes as a basis for funding was supported in principle by many submissions.¹⁵⁰² However, submissions raised concerns about how outcomes would be identified and measured.¹⁵⁰³ Submissions noted that

- outcomes would be difficult to assess initially, especially for people whose needs and capacities change constantly¹⁵⁰⁴
- some clients may have unrealistic expectations or seek inappropriate outcomes¹⁵⁰⁵
- outcomes will differ depending on whose perspective they were viewed from (for example, it would be an outcome for a service to place a client in a job but it may not be an outcome for the client if he or she is not satisfied with that job)¹⁵⁰⁶
- it would be difficult to determine when an outcome had been achieved (for example, would an outcome be achieved when a client is placed in a job if he or she loses it a week later?).¹⁵⁰⁷

16.46 ***Outcomes could be affected by a number of factors.*** Submissions and consultations noted that improper assessment could affect the outcomes that people may achieve.¹⁵⁰⁸ If a person assessed as having moderate support needs in fact has higher support needs, the funding level attached to them may not be adequate to achieve his or her goals.¹⁵⁰⁹ Environmental factors such as the availability of particular types of work in certain areas or accessibility of public transport and housing could also affect the outcomes that might be achieved.¹⁵¹⁰

All the other sorts of services can have effects on employment. If there's a lack of flexibility in the other services, like if you can't get someone to help you in and out of bed and you can't get onto transport, there's no point in having a job.¹⁵¹¹ (person with a physical disability)

One submission noted that many businesses employing people with a disability have pre-existing business commitments and deadlines that may affect the nature and timing of outcomes that can be achieved.¹⁵¹²

16.47 ***Outcomes should not be limited to employment.*** Submissions stated that defining outcomes solely in terms of employment may create many problems.¹⁵¹³ It could result in fewer places for people with high support needs because many of these people may be unable to work or would be more expensive to train.¹⁵¹⁴

It also removes incentives for service providers to provide other services in conjunction with employment services.¹⁵¹⁵ The Commission heard in public consultations that many services funded as employment services also provided living skills courses and communication courses as a complement to job training.¹⁵¹⁶ Services are concerned that these kinds of services will be lost if outcomes are limited purely to employment outcomes.¹⁵¹⁷ Submissions indicated that focusing outcomes exclusively on employment would fail to recognise the complex social infrastructure that is necessary to support successful employment outcomes.¹⁵¹⁸ Submissions considered it to be unrealistic to devise employment programs when the basic needs, such as a home, transport and social skills, remain unaddressed.¹⁵¹⁹ Submissions overwhelmingly called for the Commonwealth to take an holistic approach to service provision.¹⁵²⁰ Submissions suggested that the Commonwealth recognise that everybody has different needs, and that outcomes are as individual as the individuals who seek them.¹⁵²¹

16.48 *What happens when outcomes are not achieved?* Many service providers were concerned about what would happen to their funding if, for some reason, outcomes could not be achieved for clients or took years to achieve.¹⁵²² Some service providers told the Commission that they had some clients on their books for years despite trying to achieve job placements for them.¹⁵²³ Service providers claimed that under the proposed funding arrangements services would have no incentive to keep these people on as they would receive no funding.¹⁵²⁴ Some people questioned what would happen if a client exhausted the funding allocated to him or her but was not satisfied with the outcome - could he or she reapply for another grant or are they only entitled to one funding allocation?¹⁵²⁵

The Commission's views

16.49 *Funding support needs rather than services.* The new legislation should focus on individual people with a disability rather than services. People with a disability should not be required to conform to models of service delivery, rather, services should develop around the needs of people with a disability in order to achieve real outcomes. In the Commission's view the performance based funding proposal being developed by the Department foreshadows a system of funding focused more on meeting actual support needs and achieving outcomes rather than on funding particular service models which may or may not be effectively meeting real needs. For the system to work fairly, however, certain safeguards need to be incorporated. For example, the new system should ensure that

- sufficient and timely funding is allocated to people with high support needs
- quality and follow up support is not compromised because of 'fast-tracking' to achieve quick outcomes.

16.50 *An agreement between the service and the client.* There is much confusion in the community about how the proposed new system of funding for employment support based on outcomes would be implemented. Clear details should be supplied by the Commonwealth in order to allay this confusion and make service providers and consumers aware of how the new system will operate. What constitutes an outcome would obviously be different in every case depending on the individual being assessed, the type of needs they had and the strategies that should be put in place to meet those needs. The best way of ensuring clarity in determining what is meant by an outcome and how it can be measured would be to have an individualised funding agreement in respect of each consumer. The funding agreement should be developed by the person with a disability and the service provider. The agreement should set out

- what is meant by an outcome in that particular case
- how the parties will know when an outcome has been achieved
- how much funding will be given to meet particular support needs and the stages at which funding will be given
- the review rights the parties have if they are not happy with the progress towards meeting the agreement.

The agreement should be able to be changed at any time with the consent of the parties and terminated by the client should he or she decide to transfer to another service.

16.51 *Outcomes should not be based solely on employment.* The Commission considers that outcomes need to be defined broadly. Given that the new needs assessment mechanism would consider all the support needs of a person it follows that outcomes also must be more broadly defined. The Commission is of the view that the whole circumstances of someone's life impact on their success in employment and should be considered when outcomes are being determined and measured. Factors to consider in allocating funding should include any difficulties a person may experience in achieving his or her outcomes because of

- where he or she lives
- lack of access to available support
- his or her cultural or language background, race or sex
- lack of access to necessary carer support.

16.52 *Advocacy dealt with separately.* The Commission recognises that determining outcomes for advocacy services, particularly systemic advocacy services involves different issues to those relevant when discussing employment services. Outcomes for and the general role of advocacy services are discussed in ch 12.

Recommendation 83

The Commission recommends that the new legislation should provide for funding to be allocated to services based on the cost of achieving positive outcomes for consumers. What constitutes an outcome should be determined for each allocation of funding and should be particular to the need in each situation.

Recommendation 84

The Commission recommends that, for services that deal directly with individual consumers, an agreement be entered into between the consumer and the service setting out

- what is meant by an outcome in that particular case
- how the parties will know when an outcome has been achieved
- how much funding will be given to meet particular support needs and the stages at which funding will be given
- the review rights the parties have if they are not happy with the progress towards meeting the agreement.

That agreement should be able to be changed at any time with the consent of all parties.

Recommendation 85

The Commission recommends that in allocating an amount of funding to achieve an outcome, regard should be had to the whole of a person's life, not just his or her employment needs. Factors to consider in allocating funding should include any difficulties a person may experience in achieving his or her outcomes because of

- where he or she lives
- lack of access to available support
- his or her cultural or language background, race or sex
- lack of access to necessary carer support.

Commonwealth funding of States and Territories

What money do States and Territories receive?

16.53 Under the Commonwealth/State Disability Agreement (CSDA) the Commonwealth transferred responsibility for the administration of certain services to the States. The States and Territories alone are responsible for administering accommodation support, respite and recreation services. The Commonwealth provides funding to States and Territories under the CSDA to help them administer and improve the quality of these services. States and Territories receive

- \$214 million each year over the 5 year life of the CSDA in baseline funding to facilitate the transfer of existing services to either State or Commonwealth responsibility depending on whether they are accommodation support or employment related services
- \$100 million (over 5 years) in growth funding to help States and Territories fund growth in services
- \$145 million (over 5 years) in transitional payments to assist States and Territories to improve the quality of the services they administer.

The amount pledged by each State and Territory for the term of the CSDA is not publicly known.

How do States and Territories have to account for the money they receive?

16.54 Payments are made through monthly appropriations to the States and Territories. Funding is given as specific purpose payments which means that States and Territories must use the funding on services for people with a disability. The CSDA requires States and Territories to supply audits so that the Commonwealth can check that they are spending the money it gives them on disability services. There is no formal mechanism by which the Commonwealth checks the outcomes the States and Territories achieve with this money, although it could check the annual reports of State government departments for this information. The Commonwealth has no way of checking how much money the States and Territories themselves contribute.

Discussion paper

16.55 In its discussion paper, the Commission asked how the new legislation should reflect the funding arrangements between the Commonwealth and States and Territories and whether it should require States and Territories to account to the Commonwealth for the way they spend Commonwealth funding. The Commission provisionally proposed that the new legislation contain a mechanism for ensuring that States and Territories account to the Commonwealth, and therefore to the Australian people, for the money that they receive under the CSDA and for the outcomes they achieve.

Most submissions supported accountability

16.56 ***Consultations stated that the Commonwealth should be ultimately responsible.*** The overwhelming view expressed in public consultations was that the Commonwealth should be ultimately responsible for how the funding it allocates to disability services is spent nationally.¹⁵²⁶

16.57 ***States and Territories should be accountable.*** Most submissions considered that the new legislation should contain a mechanism for ensuring that States and Territories account to the Commonwealth for the money that they receive under the CSDA and for the outcomes they achieve.¹⁵²⁷

It should no longer be possible for States (just) to say that they have spent it in line with the principles and objectives of the Disability Services Act.¹⁵²⁸

One submission stated that the legislation should require the States and Territories to contribute at least as much as the Commonwealth contributes.¹⁵²⁹ Another submission suggested that there be an annual audit of States and Territories by the Commonwealth in order to check that money has been properly spent.¹⁵³⁰ It was also suggested that any accountability mechanism should draw a clear distinction between money spent by

States and Territories on government administration charges and money actually funding disability support. This submission stated that the accountability mechanism should ensure that most of the money given to States and Territories is actually being directed to consumers with administration costs being kept to a minimum.¹⁵³¹ Concern was expressed in consultations that Commonwealth money goes into the general coffers of the States and Territories and does not exist as a separate amount to be spent on disability, making it very difficult for State and Territory governments to account for the money or to trace where it has been spent.¹⁵³² One submission expressed the view that the legislation should specify the obligations and responsibilities of the parties to the CSDA in terms of areas of exclusive and joint responsibility and co-operative planning arrangements. It argued that the legislation should include an enforceability framework in which certain third parties, such as independent advocacy groups, have legal standing to bring an action in respect of a failure to comply with the terms of the agreement.¹⁵³³ Some submissions considered that the CSDA is sufficient for ensuring accountability.¹⁵³⁴

The Commission's view

16.58 Since the Commonwealth gives money to the States and Territories for disability services, and since the Commonwealth has human rights and social justice responsibilities towards all Australians, the Commonwealth should be responsible for ensuring quality services that meet needs, respect rights and achieve outcomes for people with a disability on a national basis. The Commonwealth has a responsibility to the people with a disability who will ultimately benefit from funding to ensure that funding is used properly. This is in line with the more 'whole of government' approach advocated by the Commission in ch 4.

Recommendation 86

The Commission recommends that the new legislation require any funding agreement between the States and Territories and the Commonwealth to contain an adequate and enforceable accountability mechanism. The mechanism should require

- for each year, publicly available information on the separate funding contributions of the Commonwealth and the States and Territories
- the States and Territories to show how Commonwealth funding has been used to meet the principles and objectives set out under the new legislation
- the States and Territories to demonstrate the outcomes they have achieved for people with a disability
- the States and Territories to produce audit certificates to identify against their own appropriations and the appropriations from the Commonwealth how the money was actually spent on services for people with a disability.

The Commonwealth should be responsible for collecting information and monitoring compliance with the agreement.

17. Financial accountability

Introduction

17.1 This chapter looks at how the Commonwealth ensures that the community resources put into funding employment, advocacy, print disability and information services are protected. It examines ways to ensure that funded services remain open for as long as they are needed and that they serve the needs of people with a disability. It also looks at how service providers account for the public money they receive, the powers of Commonwealth officers in protecting community resources and appropriate sanctions for non-compliance with accountability requirements. This chapter looks at the accountability of organisations receiving Commonwealth funds. It does not cover the Commonwealth Rehabilitation Service (CRS).

The Commonwealth's capital investment

What is capital funding?

17.2 Capital funding is money the Commonwealth gives to service providers to buy land, to build, demolish, rebuild or upgrade premises and to purchase equipment to set up a service. The Commonwealth's goal in providing capital funding is to ensure that services are located where they are needed and not just where it is cheaper to establish them. Capital funding also helps services meet State and Territory occupational health and safety standards and licensing requirements.

What return should the Commonwealth get on its investment?

17.3 The Commonwealth aims to ensure that services receiving capital funding provide their service for as long as it is needed. If it becomes impracticable for a service provider to continue to operate and no new service operator can be found, the Commonwealth's concern is to get its money back, so far as possible, so that it can be used to fund new services.

Current law and practice

17.4 The *Disability Services Act 1986* (Cth) (the Act) provides that the Commonwealth can assist services by giving grants for the purchase of land, buildings and equipment. In practice the Department of Health and Family Services (the Department) generally does not provide grants to service providers to purchase land or buildings but gives money to purchase equipment.

Discussion paper

17.5 In its discussion paper the Commission provisionally proposed that the following recommendations it made in the child care¹⁵³⁵ and aged care¹⁵³⁶ reports should apply to Commonwealth funding given for land and buildings for disability services.

- The legislation should provide a set of core provisions which apply to all services receiving capital funding from the Department. There should also be program and project specific conditions where appropriate.
- All parties with an interest in a capital funded service should be subject to conditions and obligations. Conditions should apply to the owner of the land on which a service is being built and the operator of the service.
- The operator of the service should be subject to at least the following conditions
 - to make the service available for a period of at least 30 years, or less depending on the amount and circumstances of the grant
 - not to cease to operate the service without the approval of the Secretary of the Department

- not to dispose of the operator's interest in the land or building, or encumber it, without the approval of the Secretary.
- The landowner should also be subject to specific obligations
 - to continue to make the land or buildings available to the operator, or whoever replaces the operator as operator, for at least 30 years, or less as determined by the Commonwealth
 - not to charge or otherwise give security over the land or buildings to a person other than the Commonwealth without the approval of the Secretary.
- The legislation should require that as a general rule the Commonwealth should take security over the land on which a capital funded service is built. The landowner should not be permitted to sell or otherwise dispose of the land or to mortgage it or give some other form of security over it without the approval of the Secretary.
- The legislation should give the Secretary power to require repayment of a capital grant in full or in part. That decision should be reviewable by the Administrative Appeals Tribunal. The legislation should prescribe matters to be taken into account in making this decision including
 - whether the need for the service still exists
 - how long the service has been operating since the grant was made
 - the age and condition of the building and whether there is a need to upgrade it
 - the use to which the building will be put after it is sold, for example, whether it is to be used for another community service
 - the proportion of the Commonwealth's contribution to the value of the land or building.
- The legislation should provide that the amount of capital funding to be repaid should reduce in accordance with the length of time the service has operated. The whole of the grant should be repayable if the service closes within the first 10 years of the 30 year period. The obligation to repay will decrease more rapidly in the last 10 years of the 30 year period. The obligation to repay will end after the service has operated for 30 years, unless it has been extended by additional funding.

The Commission asked in the discussion paper whether any or all of the recommendations made should apply to help protect the Commonwealth's capital investment in disability services.

What submissions revealed

17.6 Most submissions which addressed the issue of capital investment agreed with the Commission's provisional proposal that the recommendations in the child care and aged care reports should apply.¹⁵³⁷ They stated that such conditions would safeguard the Commonwealth's investment¹⁵³⁸ and would allow accountability for taxpayer's funds.¹⁵³⁹ One submissions stated that it was a good idea to have the same rules apply across programs administered by the Department.¹⁵⁴⁰ Those submissions which disagreed with the proposals did so on the grounds that more flexibility is required in order to assist the commercial development of services and choice for consumers.¹⁵⁴¹ Some submissions also argued that in most cases, land and buildings are purchased due to the fundraising efforts of services themselves.¹⁵⁴² Capital funding is received mainly for the purchase of equipment. The particular requirement that the Commonwealth should take security over land was therefore rejected as unfair.¹⁵⁴³

There seems to be adequate protection of the Commonwealth's legitimate interests in the other conditions suggested.¹⁵⁴⁴

Other submissions stated that funding agreements should be very clear about whether the funding is for land and buildings or equipment¹⁵⁴⁵ and about the amount of funding actually involved.¹⁵⁴⁶ This would result in less confusion about the assets over which the Commonwealth has security.¹⁵⁴⁷

The Commission's views

17.7 The Commission is aware that currently, most capital funding is given to services for the purchase of equipment rather than land or buildings. The Commission agrees with submissions that when funding is not for land and buildings, it would be wrong for the Commonwealth to take security over land. Funding agreements should clearly specify whether Commonwealth funding is for equipment or for land or buildings. If it is for land or buildings, the new legislation should protect the Commonwealth's investment. It is also important for there to be some consistency across programs. When services apply for capital funding for disability services, they should be subject to essentially the same conditions as services operating in the aged care and child care areas.

Recommendation 87

The Commission recommends that the recommendations made in its child care (ALRC 70) and aged care (ALRC 72) reports should apply to funding for land or buildings used by disability services.

- The legislation should provide a set of core provisions which apply to all services receiving capital funding from the Department. There should also be program and project specific conditions where appropriate.
- All parties with an interest in a service receiving funding for land or buildings should be subject to conditions and obligations. Conditions should apply to the owner of the land on which a service is being built and the operator of the service.
- The operator of the service should be subject to at least the following conditions
 - to make the service available for a period of at least 30 years, or less depending on the amount and circumstances of the grant
 - not to cease to operate the service without the approval of the Secretary of the Department
 - not to dispose of the operator's interest in the land, building or equipment, or encumber it, without the approval of the Secretary.
- The landowner should also be subject to specific obligations
 - to continue to make the land or buildings available to the operator, or whoever replaces the operator as operator, for at least 30 years, or less as determined by the Commonwealth
 - not to charge or otherwise give security over the land or buildings or equipment to a person other than the Commonwealth without the approval of the Secretary.
- The legislation should require that as a general rule the Commonwealth should take security over the land on which a capital funded service is built in cases where grants are given for land or buildings. The landowner should not be permitted to sell or otherwise dispose of the land or to mortgage it or give some other form of security over it without the approval of the Secretary.
- The legislation should give the Secretary power to require repayment of a capital grant in full or in part. That decision should be reviewable by the Administrative Appeals Tribunal. The legislation should prescribe matters to be taken into account in making this decision including
 - whether the need for the service still exists
 - how long the service has been operating since the grant was made
 - the age and condition of the building and whether there is a need to upgrade it

- the use to which the building will be put after it is sold, for example, whether it is to be used for another community service
 - the proportion of the Commonwealth's contribution to the value of the land or building.
- The legislation should provide that the amount of capital funding to be repaid should reduce in accordance with the length of time the service has operated. The whole of the grant should be repayable if the service closes within the first 10 years of the 30 year period. The obligation to repay will decrease more rapidly in the last 10 years of the 30 year period. The obligation to repay will end after the service has operated for 30 years, unless it has been extended by additional funding.

Recommendation 88

The Commission recommends that funding agreements should clearly specify the nature and extent of the Commonwealth's contribution to the capital expense, in particular, whether the grant is for land or buildings or for equipment.

Accountability for recurrent funds

What is recurrent funding for?

17.8 The Commonwealth provides recurrent funding to disability services to enable them to provide appropriate support for people with a disability. The Commonwealth does not fund the business operations of a service, for example, wages of supported employees or manufacturing costs. The grant is used solely for the costs associated with providing appropriate support for the client.

How do service providers account for the funding they receive?

17.9 The Act does not state how service providers should account for the funding they receive. The Act provides, however, that the Minister may specify certain terms and conditions that will attach to the grant. Providers of all types of services are subject to the same terms and conditions of funding. The terms and conditions are part of the funding agreement between the Department and the service provider. Under the terms and conditions a service provider must

- keep accurate and updated records of all of the service's transactions and affairs, including details of how the grant money has been used
- ensure that all payments are correctly made and properly authorised and that adequate control is maintained over the incurring of liabilities
- provide annually an audited income and expenditure statement and an audited balance sheet
- provide, on request from the Department, a statement demonstrating the progress the service provider has made towards meeting any outcomes and targets specified in the offer of grant
- allow authorised departmental officers to enter the premises and inspect accounts and records and provide any necessary information to officers.

The Act provides that departmental officers must check at least every five years that a service that has received funding has fulfilled the terms and conditions on which the grant was made.¹⁵⁴⁸ The Department does not check that services actually use the funding to provide quality services that meet clients' needs and achieve appropriate outcomes.¹⁵⁴⁹ The Department has very little nationally consistent data on how services spend the recurrent funding they receive.

Discussion paper

17.10 In its discussion paper the Commission asked how services should have to account for the recurrent funding they receive.

What submissions revealed

17.11 ***Submissions supported annual auditing.*** Some submissions stated that services funded by the Commonwealth should be expected to comply with the rules of normal business management and auditing¹⁵⁵⁰ and that a statement of outcomes should be included in the annual audit.¹⁵⁵¹ Other submissions stated that the rules for recurrent funding should be part of the conditions of funding in the service's funding agreement and that service records should indicate compliance with the conditions.¹⁵⁵² One submission pointed out that current requirements under the Act were adequate but the problem is that the Department does not monitor the audit reports regularly enough.¹⁵⁵³

17.12 ***Funding should be conditional on outcomes.*** Submissions stated that ongoing grants of recurrent funding should depend on the achievement of quality outcomes for clients by services.¹⁵⁵⁴

Funding should be tied to outcomes, for example, inclusion, income and employment levels and other customer satisfaction' measures.¹⁵⁵⁵

One submission stated that anticipated outcomes should be one of the binding conditions agreed to by services and that funding should be conditional upon the meeting these binding conditions as outlined in a document on the management of government grants produced by the Independent Commission Against Corruption (ICAC).¹⁵⁵⁶

The Commission's views

17.13 The new legislation should require services receiving Commonwealth funding to use that funding appropriately in a manner that furthers the principles and objectives of the legislation. The current accountability mechanisms provided for in the terms and conditions are appropriate ways of accounting for Commonwealth money. Accountability requirements should also reflect the focus of the new legislation on meeting the needs of people with a disability and achieving positive outcomes. Regional offices of the Department are best placed to implement and monitor the accountability mechanisms as they can foster a co-operative relationship with local services.

Recommendation 89

The Commission recommends that the new legislation should require service providers to account for the recurrent funding they receive from the Commonwealth. The legislation should require services to submit annual audits in the form specified in the terms and conditions of funding. The audits should include details of

- the amount of funding received
- how that amount was spent
- how many clients received support
- the broad level of each client's support needs
- the outcomes achieved with the funding.

Recommendation 90

The Commission recommends that the regional offices of the Department regularly monitor the annual audits.

Duties of service providers

Discussion paper proposed that legislation contain duties

17.14 In its discussion paper the Commission provisionally proposed that the new legislation impose record keeping and other duties on services to ensure accountability for Commonwealth funds. Many of the duties proposed by the Commission already exist in the Disability Services Standards or as terms and conditions of funding.¹⁵⁵⁷ The Commission proposed that the new legislation should impose specific duties on providers of all services receiving funding under the legislation.

- *A duty to keep records for at least seven years.*
- *A duty to inform the Department of changes in financial status that may affect entitlement to funding.*
- *Duty to help and co-operate with departmental officers.* The management and staff of a service should be required to provide reasonable help and co-operation. This duty could involve showing department officers certain parts of the premises or arranging for interviews with management, staff and clients.
- *Duty to allow entry during specified hours.* The occupier of premises where records are required to be kept should be required to allow an authorised officer to enter the premises during business hours for the purpose of searching for and inspecting relevant documents and records to assess service quality, verify claims for and expenditure of Commonwealth funds or check compliance with funding conditions.
- *Duty to answer questions.* Management and staff of a disability service should be required to answer questions posed by departmental officers relevant to the inspection or monitoring to the best of their knowledge, information and belief. This duty should not be imposed on clients or their families.
- *Duty to obey authorised directions.* Service providers should be required to comply with an authorised direction given by an officer, for example, a direction to produce a document relevant to inspection or monitoring when requested to do so.
- *Duty to provide information.* Service providers should be subject to a duty to provide all information relevant to the funding received. The frequency with which the funding recipient must provide such information would be tied to the purpose and conditions of the funding.
- *Duty of third parties.* In some instances, third parties, such as accountants or banks, may hold information necessary to establish whether a service has complied with the requirements imposed on it. A duty could be placed on third parties who have relevant information or documents to answer any reasonable questions and produce documents in their possession.

The discussion paper asked whether there were likely to be any difficulties complying with these duties of co-operation and, if so, what kind of difficulties. The paper asked whether the legislation should require services to notify the Department when they are in financial difficulty and, if so, what indicators should trigger a requirement to provide information. It also asked about the types or classes of records that service providers should be required to keep to ensure financial accountability.

What submissions stated

17.15 *Records should be kept.* Submissions stated that services should keep records for seven years¹⁵⁵⁸ of

- financial accounts¹⁵⁵⁹
- wages¹⁵⁶⁰

- bank statements¹⁵⁶¹
- work plans and policies¹⁵⁶²
- consumer outcome information.¹⁵⁶³

17.16 *Some submissions argued duties of co-operation were problematic.* Some submissions argued that positive outcomes for people with a disability would only be achieved if the Commonwealth and services worked together in partnership for the best results.¹⁵⁶⁴ They stated that onerous duties of record keeping and disclosure placed on services with no comparable duties placed on Commonwealth officers was unfair and would be detrimental to good relations between services and the Department.¹⁵⁶⁵ Submissions indicated that this could lead to a lack of trust on the part of service providers¹⁵⁶⁶ and result in isolation of the Department, leaving it more open to the possibility of disputes and challenges.¹⁵⁶⁷ A co-operative approach was preferred, with duties on both parties.¹⁵⁶⁸ One submission suggested that the parties agree to their co-operative duties in the funding contract rather than placing duties of compliance in the legislation.¹⁵⁶⁹ A few submissions agreed with the Commission's proposal for placing specific duties of co-operation on service providers in the legislation.¹⁵⁷⁰

17.17 *Submissions stated services should notify the Department when in financial difficulty.* Most submissions stated that the legislation should require services to notify the Department when they are in financial difficulty.¹⁵⁷¹ Submissions stated that indicators which should alert services to a requirement to inform the Department they are in financial difficulty include

- balance sheets being in deficit¹⁵⁷²
- loss of significant contracts¹⁵⁷³
- loss of reserves¹⁵⁷⁴
- inability to meet staff costs¹⁵⁷⁵
- cash flow problems¹⁵⁷⁶
- discovery of significant misappropriation of funds¹⁵⁷⁷
- accident or act of God such as fire or flood¹⁵⁷⁸
- seasonal impacts.¹⁵⁷⁹

Some submissions stated that services should also have to inform the Department when they are in difficulty other than financial difficulty¹⁵⁸⁰ such as when they experience significant client loss¹⁵⁸¹ or are unable to meet their obligations to clients because they cannot meet duty of care requirements or agreed individual outcome targets.¹⁵⁸² Submissions disagreeing stated that this was an administrative rather than a legislative matter¹⁵⁸³ and that existing requirements were adequate.¹⁵⁸⁴

The Commission's views

17.18 *Duty to keep records should be in the legislation.* Under the new legislation services will be accountable for achieving outcomes as well as for the money they receive from the Commonwealth. In order to fulfil auditing requirements services will be required to have records readily available which detail their service provision and spending. These records will form the basis of the new accountability system. Services will be required to provide departmental officers with records on request. The Commission considers that appropriate record keeping requires guidance from the legislation about the type of records services should keep, the persons who should keep them, where, and the period of time for which they should be kept. Services should be required to keep only such records as are necessary to assess whether or not a service is using its funding appropriately.

17.19 ***Duties of co-operation.*** Whilst the Commission appreciates the argument that service providers and the Commonwealth should work together to achieve positive results for people with a disability, it is not of the view that placing certain duties on service providers to co-operate with Commonwealth officers in the legislation is necessarily detrimental to good relations. Services are already subject, under the Disability Services Standards and the terms and conditions of funding, to many of the duties proposed by the Commission. The Commission is of the view that as long as services continue to receive Commonwealth funding to meet the support needs of their clients, they should also continue to be subject to duties to ensure the funding is used appropriately. Because those duties affect the interests of service providers, the Commission considers that they should be in the legislation so that all service providers are aware of them.

17.20 ***Duties to inform Department of difficulties.*** The legislation should contain a requirement for service providers to inform the Department when they are in financial difficulty. Given that the new legislation will be about needs and outcomes for people with a disability, the Commission agrees that services experiencing difficulty other than financial difficulty should also have a legislative responsibility to inform the Department of such a problem. If services cannot provide clients with the kinds of outcomes they have agreed to provide them with then they should be required to inform the Department so that assistance can be given to them to help them improve.

Recommendation 91

The Commission recommends that the new legislation should require services to keep records. The legislation should give the Secretary of the Department the power to specify what types or classes of records must be kept, those who must keep them, where they must be kept and the minimum time for which they must be kept (seven years for all services).

Recommendation 92

The Commission recommends that the legislation impose on services specific duties of co-operation with authorised Commonwealth officers, such as the duty

- to help and co-operate with departmental officers
- to allow departmental officers entry to premises during specified hours
- to answer questions of departmental officers
- to obey authorised directions
- to provide information relevant to funding
- on third parties, such as accountants or banks who may hold information necessary to establish whether a service has complied with the requirements imposed on it, to answer any reasonable questions and produce documents in their possession.

Recommendation 93

The Commission recommends that the legislation require service providers to notify the Department of any change in circumstances that may affect the service's entitlement to funding. Change in circumstances refers to change in financial circumstances and change in the service's ability to meet clients' needs and desired outcomes.

Powers of Commonwealth officers

Current powers

17.21 Under the current terms and conditions of grant, the grantee must, upon being given reasonable notice, allow Departmental officers to enter the service premises to inspect accounts and records, to determine the quality, appropriateness and financial management of the service and to monitor the service provider's compliance with the agreement.¹⁵⁸⁵ The service provider must give Departmental officers full and free access to premises, staff and/or consumers of the service, must provide information relevant to the provision of the service or the grant and must not cause obstruction or hindrance.¹⁵⁸⁶

Discussion paper

17.22 In its discussion paper the Commission provisionally proposed that the new legislation should give Commonwealth officers whose duty it is to inspect or monitor the operation of disability services clear powers necessary to do so effectively.

- ***Power to enter service premises.*** Authorised officers should be able to enter service premises during business hours or with the consent of the occupier. Generally speaking an officer should be required to get a warrant to enter outside business hours if consent is refused. However, officers should have the power to enter premises outside business hours without a warrant where there is a serious emergency which justifies the immediate exercise of the power without the authority of a warrant or order of a court. This would be where a person's well being is seriously at risk.
- ***Power to enter premises where records are kept with the Secretary's approval.*** If the Secretary of the Department has approved premises as a place where records may be kept, authorised officers should be able to enter these premises during normal business hours or with the consent of the occupier.
- ***Power to enter other premises.*** An authorised officer must have the occupier's consent or a warrant to enter premises where the officer reasonably believes records or information relevant to the monitoring exercise may be kept.
- ***Power to search for, direct production of, examine and copy documents.*** Officers should be able to search for, direct production of and examine documents that relate to compliance with the conditions of funding of a service. They should be able to make copies of documents. Once an authorised officer has entered premises he or she should have full and free access to the premises to conduct the search.
- ***Power to ask questions.*** Officers should be able to ask questions of the management and staff of a service and relevant third parties so that, for example, financial and other records can be explained. Officers should have the power to interview staff or clients concerning such matters in the absence of management.
- ***Power to direct third parties.*** Often third parties may hold documents or information relevant to the administration of funding for a disability service, for example, banks, accountants, suppliers of building materials or doctors. Where a Commonwealth officer believes on reasonable grounds that a third party may provide relevant information, there should be the power to require, by written notice, that the third party answer any reasonable questions and produce any relevant documents or records.

The Commission asked in its discussion paper whether these powers were appropriate.

What submissions stated

17.23 Most submissions stated that the powers set out in the discussion paper were appropriate¹⁵⁸⁷ as they would ensure accountability to taxpayers¹⁵⁸⁸ and the well-being of people using services who may otherwise be at risk.¹⁵⁸⁹ Submissions which considered the powers to be inappropriate argued that they were

- unacceptably autocratic¹⁵⁹⁰
- open to abuse¹⁵⁹¹
- unreviewable¹⁵⁹²
- a threat to privacy.¹⁵⁹³

The Privacy Commissioner stated that

The legislation could draw a distinction between powers of access to identified client records for monitoring versus powers for investigation where there is a reasonable suspicion of fraud or activities seriously detrimental to clients.¹⁵⁹⁴

Where the power to interview clients in the absence of management is used the Privacy Commissioner recommended that the client be clearly advised that they have a right not to answer questions.¹⁵⁹⁵ When exercising powers of entry and access, Commonwealth officers should respect privacy as much as possible.¹⁵⁹⁶

The Commission's views

17.24 The Commission agrees with submissions that the privacy rights of people with a disability should be respected during any investigation of a service undertaken by Commonwealth officers. It is also important, however, that Commonwealth officers who have a duty to inspect or monitor the operation of services have enough power to do their job effectively. The privacy of service providers and clients should be respected at all times during the exercise of the powers recommended by the Commission. The powers to search for and direct production of documents and information are necessary to ensure that service providers comply with funding obligations. The power to obtain information from third parties is likewise necessary, though expected to be used in limited circumstances, for example, to verify data given by a service provider in a case of suspected fraud.

Recommendation 94

The Commission recommends that the new legislation give authorised Commonwealth officers whose duty it is to inspect or monitor the operation of disability services clear powers necessary to do so effectively. Officers should have the power to

- enter service premises during business hours or at any time with consent of the occupier or, if consent cannot be obtained, with a warrant
- enter service premises at any time in the event of an emergency or where the departmental officer reasonably suspects that the health or well-being of clients is at risk
- enter, with the Secretary's approval, premises where records are kept
- enter other premises where the officer reasonably believes records or information relevant to the monitoring exercise may be kept
- search for, direct production of, examine and copy documents
- ask questions
- direct third parties to answer any reasonable questions and produce any relevant documents or records.

Recommendation 95

The Commission recommends that the privacy of service providers and clients be respected during the exercise of powers of Commonwealth officers.

Enforcing obligations

Current law and practice

17.25 ***Terms and conditions contain sanctions.*** The Commonwealth needs to be able to take action if a service does not comply with conditions of funding. The terms and conditions currently provide the following sanctions for non-compliance

- suspension of annual indexation increases until the Minister is satisfied that the conditions have been complied with
- suspension of a percentage (amount at the Minister's discretion) of each payment until the Minister is satisfied that the conditions have been complied with
- suspension of all payments until the Minister is satisfied that the conditions have been complied with

- downgrading the status of the service, for example, from a supported employment service to a sheltered workshop
- termination of the funding agreement altogether.

The Commonwealth is reluctant to take any action that reduces the amount of money a service gets because it may reduce the quality of service provision for clients. Sanctions may also result in the service closing.

17.26 Power to vary or add conditions of funding without the service's consent. Currently, under s 15(3) of the *Disability Services Act 1986* (Cth) the Minister may only vary the terms and conditions of a grant with the consent of the person or organisation receiving the grant. However, where the Minister has made a declaration under s 14G of the Act that the service provider has failed to meet the applicable standards the Minister may vary the terms and conditions of the grant without consent of the service provider in order to take appropriate action against a service.

17.27 Naming a service in a public document. The Minister may currently issue a declaration that a service is not complying with the required standards. This sanction is not available for breaches of terms and conditions.

Discussion paper

17.28 In the discussion paper the Commission asked how effective the current sanctions were in deterring service providers from breaching the standards and the terms and conditions and whether the new legislation should set out the sanctions that can apply and the circumstances in which they can be applied. It also asked whether the new legislation should contain a power to vary or add conditions of funding without the service's consent and what sort of limits there should be on the kinds of conditions that can be varied or added. It asked whether the Commonwealth should be able to appoint an administrator in specified circumstances, what those circumstances should be and who should bear the costs of appointing the administrator. It also asked whether the Minister should be able to name a service in breach of the terms and conditions in a public document and the nature of the breach which would allow this.

What submissions revealed

17.29 New legislation should set out sanctions. Half of the submissions received by the Commission on this point considered the current sanctions to be adequate in deterring service providers from breaching the disability standards and the terms and conditions of funding.¹⁵⁹⁷ The submissions which argued that sanctions are ineffective¹⁵⁹⁸ stated that

- they make consumers suffer¹⁵⁹⁹
- they are never used and so poor services continue to exist¹⁶⁰⁰
- they are unfairly imposed - service types rather than client outcomes are the criteria used to decide whether sanctions should be applied¹⁶⁰¹
- they do not apply to non-profit unfunded services¹⁶⁰²
- the focus should be on support rather than punishment.¹⁶⁰³

All submissions received by the Commission on this point stated that the new legislation should set out the sanctions the Secretary or Minister can apply and the circumstances in which they can be applied.¹⁶⁰⁴ One submission stated that the sanctions should be set out in the legislation only if service providers are also given the right to appeal against sanctions.¹⁶⁰⁵

17.30 Varying conditions of funding. Most submissions agreed that the new legislation should contain a power to vary or add conditions of funding without the service's consent,¹⁶⁰⁶ otherwise there is no accountability for substandard services'.¹⁶⁰⁷ Several submissions argued that placing such a power in the

legislation would require a concurrent provision allowing services speedy access to appeal mechanisms.¹⁶⁰⁸ Submissions stated that the kinds of conditions which should be able to be varied or added are those which would benefit consumers,¹⁶⁰⁹ help the agency to comply with funding requirements¹⁶¹⁰ and were necessary because of breaches of existing conditions by services.¹⁶¹¹ Submissions disagreeing that the Minister should have power to vary or add conditions of funding without services' consent¹⁶¹² stated that the Minister should negotiate with services rather than impose conditions,¹⁶¹³ that it is impractical to impose conditions without attempting to align them with business practice¹⁶¹⁴ and that normal rules of contract should apply to funding agreements.¹⁶¹⁵

17.31 Submissions argued that the Commonwealth should be able to appoint an administrator. All submissions stated that the Commonwealth should be able to appoint an administrator to manage a service in certain circumstances.¹⁶¹⁶ The legislation should give the Minister the power in order to avoid hardship to clients¹⁶¹⁷ and provide continuity in the short term.¹⁶¹⁸ An administrator should be appointed where

- other available sanctions have been applied without success and the welfare of clients is threatened¹⁶¹⁹
- a service is in financial difficulty and is in serious danger of closing¹⁶²⁰
- there is clear evidence of financial mismanagement¹⁶²¹
- there is clear evidence of maladministration or illegality¹⁶²²
- there have been allegations of abuse resulting in the agency being investigated¹⁶²³
- the service provider has requested an administrator.¹⁶²⁴

Submissions were divided on the question of who should pay for the appointment of the administrator. The Commission was told that the Commonwealth,¹⁶²⁵ rather than the service provider¹⁶²⁶ should pay or that payment should depend on the reason for the appointment and negotiation with the administrator.¹⁶²⁷

17.32 Most submissions stated that the Minister should be able to name a service in breach of conditions. Most submissions agreed that the Minister should be able to name a service in breach of the terms and conditions and specify the nature of the breach in a public document.¹⁶²⁸ One submissions stated that this action should only be taken after all other avenues designed to help the service comply had been exhausted and after the service provider had the opportunity to submit its case to the Minister.¹⁶²⁹ One submissions stated that the Minister should only have this power if it is normal practice within other government funded programs.¹⁶³⁰ One submission disagreed with the proposal, stating that it would achieve nothing.¹⁶³¹

The Commission's views

17.33 A range of sanctions should be in the legislation. The Commission agrees that placing sanctions in the legislation will result in greater clarity for service providers. Since sanctions have the capacity to affect significantly the rights and responsibilities of service providers they should be included in the legislation. The sanctions should provide effective deterrence against non-compliance with the standards and the terms and conditions. In the Commission's view sanctions should be applied only after the Commonwealth has made every endeavour to assist services to improve and comply with the standards and the terms and conditions. Since the more severe sanctions such as suspending and removing funding may detrimentally affect the interests of clients, the legislation should contain a range of lesser sanctions, including varying or adding conditions, appointing an administrator or naming a service in a public document.

17.34 Sanctions should be well-known and applied fairly and consistently. Depending on their severity, sanctions may have a serious affect on services. Services providers should be entitled to know the bases on which decisions to apply sanctions are made. The legislation should set out the criteria against which a decision to impose a sanction is made. It should require the Secretary of the Department to notify the service provider in writing of

- the breach in respect of which a sanction may be imposed

- the intention to impose a sanction and the reasons why
- the decision to impose a sanction, the reasons why and the consequences of imposing the sanction
- the review rights of the service provider.

At each stage in the process the service should be given the opportunity to respond in writing to the Secretary.

17.35 *Imposition of sanctions should be reviewable.* In rec 99 the Commission recommends that the decision by the Department to impose sanctions on service providers be reviewable by the Administrative Appeals Tribunal.

Recommendation 96

The Commission recommends that the new legislation clearly set out the sanctions that the Minister or the Secretary can apply and the circumstances in which they can be applied. The new legislation should give the Minister or the Secretary the power to

- suspend all payments or a percentage (amount at the Minister's discretion) of each payment until the Minister is satisfied that the conditions have been complied with
- downgrade the status of the service
- terminate the funding agreement
- vary or add conditions of funding where a service has breached existing conditions
- appoint an administrator to manage a service where
 - other available sanctions have been applied without success and the welfare of clients is threatened or
 - a service is in financial difficulty and is in serious danger of closing or
 - there is clear evidence of financial mismanagement or
 - there is clear evidence of maladministration or illegality or
 - the service provider has requested an administrator
- issue a public declaration naming a service in breach of the terms and conditions and the nature of the breach.

18. Protecting the interests of service providers

Introduction

18.1 This chapter examines and makes recommendations about how service providers receiving funds from the Commonwealth can complain about decisions made by the Department of Health and Family Services (the Department) and how the Department should protect information it holds about service providers. This chapter is about the relationship between funded services and the Commonwealth and does not deal with the Commonwealth Rehabilitation Service (CRS).

Review of decisions made by the Commonwealth about the services it funds

Why is review important?

18.2 Transparent decision making helps to ensure that decisions are made fairly. There will be occasions, however, where service providers will seek review of decisions made by the Department that affect their interests. This section discusses the current review procedures, the decisions affecting services which should be reviewable and the appropriate review mechanisms.

Judicial review

18.3 Certain decisions made by a Commonwealth agency can be reviewed by a court under the principles of judicial review.¹⁶³² Only decisions made under a piece of legislation can be reviewed using this process. When a court reviews a decision, it can make orders to ensure that the decision is made as required by law. It cannot reconsider the decision or decide if the decision was correct (this is called merits review).

ARC recommendations

18.4 The Administrative Review Council (ARC) considered when decisions are appropriate for merits review and developed the basic principle that

a decision is suitable for merits review if the interests of a person will be, or are likely to be affected by that decision.¹⁶³³

Some decisions are not suitable for review. These can include government decisions to allocate funding to programs, to service providers and to cut or remove funding because of changed government priorities. The ARC considered that

- internal review mechanisms, that is, between the Department and the service provider, are often the most effective way of resolving disputes and preserving the relationship between the Department and the service provider
- criteria on which decisions to grant funding are based or to remove funding and the available review mechanisms should be clearly set out in legislation
- generally speaking, the Administrative Appeals Tribunal (AAT) is the appropriate external body to review the merits of a departmental decision.

Review of decisions by the Department

18.5 The Department currently does not have defined procedures for reviewing its decisions concerning service providers.¹⁶³⁴ In its discussion paper the Commission asked whether the legislation should set out which decisions should be reviewable and how they should be reviewed by the Department. It also asked how the Department should review its decisions concerning service providers. The Commission provisionally proposed that the Department develop an internal review procedure to review its decisions concerning service providers which should

- operate quickly, cheaply and effectively
- involve someone other than the original decision maker
- provide the service with reasons for the decision
- advise the service of available external review.

What submissions revealed

18.6 ***Legislation should set out reviewable decisions.*** Most submissions received on this point stated that the new legislation should set out which decisions should be reviewable and how they will be reviewed by the Department.¹⁶³⁵ Submissions stated that placing this information in the legislation would be fair to service providers and consumers,¹⁶³⁶ would reduce conflict between services and the Department¹⁶³⁷ and would lead to less wastage of resources.¹⁶³⁸ Another submission considered that all decisions taken by the Government involving the interests of service providers should be open to review.¹⁶³⁹ The Administrative Appeals Tribunal submitted that internal review should be refined and developed within the Department rather than set out in the legislation. It stated that setting out review details in the legislation leads to inflexibility and makes the process less effective and more expensive.¹⁶⁴⁰

18.7 ***Features of the Department's internal review.*** Submissions say that the Department's internal review mechanism should

- follow clear procedures¹⁶⁴¹
- operate quickly, cheaply and effectively¹⁶⁴²
- involve someone other than the original decision maker¹⁶⁴³
- provide the service with reasons for the decision¹⁶⁴⁴
- advise the service of available external review¹⁶⁴⁵
- operate as a peer review panel with an independent chair and representatives of the industry and the Department¹⁶⁴⁶
- have as its first step consultation with the parties, then mediation.¹⁶⁴⁷

One submission stated that the existing Disability Standards Review Panels should perform the Department's internal review function.¹⁶⁴⁸

The Commission's views

18.8 The Commission agrees with submissions that in the interests of fairness the Department should have well defined internal review procedures that should attempt to resolve disputes before they escalate. Services should be encouraged to use the Department's review mechanism before seeking review by an external body such as the AAT. Internal review should involve a Departmental officer other than the original decision maker reconsidering the decision within a specified period of time. The internal review mechanism should be quick, easy to access and be able to respond flexibly to individual situations. The Commission is of the view that the Department should be able to review any decisions it makes that affect the interests of service providers.

Recommendation 97

The Commission recommends that the new legislation require the Department to develop a procedure to review its decisions concerning service providers. The internal review procedure should

- follow clear procedures
- operate quickly, cheaply and effectively
- involve someone other than the original decision maker
- provide the service with reasons for the decision
- advise the service of available external review.

External review of decisions

Current provisions for external review

18.9 **No review of funding decisions in the Act.** The *Disability Services Act 1986* (Cth) does not set out which decisions the Department makes when granting or removing funding from service providers or how those decisions can be reviewed.

18.10 **Disability Standards Review Panels.** The Act states that the Minister must establish a Disability Standards Review Panel for each State and Territory.¹⁶⁴⁹ Under the Act, the Minister may make a declaration that a service is not meeting the appropriate standards and is in breach of its funding conditions.¹⁶⁵⁰ Before this declaration is made the Minister must notify the service of the intention to issue the declaration. When a service receives this notification, it may ask for a review of its performance against the standards to be undertaken by a Disability Standards Review Panel. The Panel reviews the service's performance. The Panel does not have to follow formal rules of evidence and is meant to act quickly and with as little formality as possible. The Panel reports its findings and recommendations, about whether it considers the service to have met the appropriate standards to the Minister. The Minister is not bound by the Panel's recommendation. The Minister may go on to issue a declaration and apply any further sanctions set out in the terms and conditions of funding.¹⁶⁵¹ The Minister's decision to issue a declaration or impose sanctions is not currently reviewable by the AAT. Services affected by these decisions may go to the Commonwealth Ombudsman or seek judicial review of the legality of the decision.

Decisions that should not be reviewable by an outside body

18.11 **Discussion paper.** In its discussion paper the Commission endorsed the recommendations made by the ARC and provisionally proposed that the following decisions should not be reviewable by the AAT

- planning decisions
- decisions to approve limited funding
- decisions about the amount of funding a service provider receives
- decisions to suspend funding approval.

The Commission asked whether submissions agreed that these decisions should not be reviewable by the AAT.

18.12 **What submissions stated.** Most submissions agreed with the Commission's proposal about the decisions which should not be reviewable by the AAT.¹⁶⁵² One submission argued that these were political decisions and hence the AAT was not an appropriate avenue of review.¹⁶⁵³ A few submissions qualified their support. Some submissions, whilst agreeing that the decisions should not be reviewable by the AAT, stated that they should be reviewable by some other body. One submission stated that the Commonwealth should consider establishing a specialist body to hear community service appeals concerning decisions about

planning, limited funding, the amount of funding a service provider receives and decisions to suspend funding approval.¹⁶⁵⁴

- **Decisions about the amount of recurrent funding.** Two submissions stated that the decision about how much recurrent funding each service provider receives should be reviewable by the AAT as this directly affects the interests of service providers.¹⁶⁵⁵
- **Decision to suspend funding approval.** One submission stated that the decision to suspend funding approval should be reviewable in order to ensure accountability and transparency across the disability field.¹⁶⁵⁶

Those submissions which supported the proposed decisions being reviewable¹⁶⁵⁷ stated

- service providers should be treated as fairly as clients¹⁶⁵⁸
- clients interests are also affected by these decisions¹⁶⁵⁹
- lack of review will stifle entrepreneurial expertise of service providers¹⁶⁶⁰
- objective fairness should be the overriding factor determining whether review is available, rather than criteria based on a particular kind of decision.¹⁶⁶¹

The Commission's views

18.13 The Commission is of the view that political decisions that do not directly affect the interests of individual service providers are not appropriate for merits review by an external body such as the AAT. Similarly, decisions made within a limited budget are not suitable for external review. The decision to grant approval for funding means that another competing organisation may not be approved because there is not enough funding. A body reviewing the decision would have to look at all the competing claims and decide for itself which one should have received the funding. This is not an appropriate function for an administrative review body. The Commission also considers that decisions which are not final, such as a decision to suspend funding for a limited time, are not suitable for merits review.

Recommendation 98

The Commission recommends that the legislation provide that the following decisions should not be reviewable by the AAT or any other merits review body

- planning decisions
- decisions to approve limited funding
- decisions about the amount of funding a service provider receives
- decisions to suspend funding approval.

Decisions that should be reviewed by an external body

18.14 **Discussion paper.** In its discussion paper the Commission provisionally proposed that the AAT should be able to review a decision

- to approve an organisation as suitable to provide a service
- to revoke funding
- to extend a suspension of funding
- to impose other sanctions
- to waive, vary or add conditions of funding

- about how a client's support needs are classified
- to reclassify a client's support needs.

The Commission also proposed that the legislation set out which decisions should be reviewable.

What submissions stated

18.15 ***Submissions generally supported review by the AAT.*** Most submissions supported the Commission's proposal identifying the decisions made by the Commonwealth about services which should be reviewable by the AAT.¹⁶⁶² Submissions stated that AAT review should be prompt¹⁶⁶³ and should occur only after all other avenues had been exhausted.¹⁶⁶⁴ Submissions agreed decisions should be reviewable because

- they directly affect service quality for consumers¹⁶⁶⁵
- they directly affect the interests of the service provider¹⁶⁶⁶
- they have a direct impact on the quality of the service delivery system¹⁶⁶⁷
- review is in the interests of fairness¹⁶⁶⁸
- bureaucrats make mistakes.¹⁶⁶⁹

One submission would prefer peer review rather than AAT review.¹⁶⁷⁰ All submissions received on this point stated that the legislation should set out the decisions which are reviewable and by whom and the decisions which are not reviewable.¹⁶⁷¹ Submissions stated that this is necessary in the interests of fairness¹⁶⁷² as 'everyone should know the ground rules beforehand.'¹⁶⁷³

18.16 ***Some submissions disagreed.*** A few submissions considered that certain of the decisions identified by the Commission should not be reviewable by the AAT.

- ***Decision to approve an organisation as eligible.*** Two submissions disagreed that the decision to approve an organisation as eligible should be reviewable by the AAT. They argued that judicial review by the Federal Court is available and sufficient.¹⁶⁷⁴
- ***Decision to impose sanctions for non-compliance with standards or with conditions of funding.*** One submission stated that this decision should not be reviewable if the service was given adequate time to comply with the standards.¹⁶⁷⁵ Another stated that review by the AAT was inappropriate for non-compliance with conditions of funding as it involves a legally enforceable agreement.¹⁶⁷⁶

The Commission's views

18.17 In the interests of fairness and natural justice, it is essential that service providers be able to seek independent review of decisions (other than the decisions discussed in para 18.13) made by the Commonwealth that directly affect their interests. The new legislation will provide for many decisions to be made by the Commonwealth which will affect the interests of service providers. It should also provide for those decisions to be reviewed by an external body. The Commission considers that the AAT is the most appropriate body to review the merits of decisions made by the Commonwealth.

Recommendation 99

The Commission recommends that the new legislation enable service providers to seek review by the AAT of a decision to

- approve an organisation as suitable to provide a service
- revoke funding
- extend a suspension of funding
- impose other sanctions
- waive, vary or add conditions of funding
- determine how a client's support needs are classified
- reclassify a client's support needs.

Review by Disability Standards Review Panels

18.18 *Discussion paper.* The Commission asked in the discussion paper whether the Disability Standards Review Panels were the appropriate bodies to review the decision to declare that a service is not complying with the appropriate standards. It also asked for suggestions for alternative review mechanisms to the panels.

18.19 *Opinion divided in submissions.* Submissions were divided on the issue of whether the existing review panels were appropriate to review a decision to declare that a service is not complying with the appropriate standards. Those which stated that the panels were inappropriate¹⁶⁷⁷ argued that

- members of the panels were inadequately trained and skilled to conduct independent and fair reviews¹⁶⁷⁸
- the panels were too closely connected to the Department to be independent¹⁶⁷⁹
- members of panels have an inadequate understanding of the standards upgrading process¹⁶⁸⁰
- the panels do not focus enough on consumers.¹⁶⁸¹

The submissions which argued that the panels are an appropriate body to review department decisions about compliance with the standards¹⁶⁸² stated that the panels worked well,¹⁶⁸³ incorporated the principles of peer review¹⁶⁸⁴ and were the most logical choice as they were already established.¹⁶⁸⁵

18.20 *Submissions suggested alternative review mechanisms.* Submissions offered various suggestions to improve the current operation of the panels or to develop alternatives to the panels for cases dealing with decisions made about standards. Submissions stated that panels could be improved by

- better training of panel members¹⁶⁸⁶
- clarifying the criteria considered by the panels¹⁶⁸⁷
- appointing departmental staff, members of peak bodies and an independent person to participate in panel reviews.¹⁶⁸⁸

Other submissions considered that other mechanisms should be used in place of the panels. Mechanisms suggested included

- a panel set up along the lines of the CHASP model¹⁶⁸⁹ (see para 11.22)
- the Community Services Appeals Tribunal which concentrates on the interests of consumers¹⁶⁹⁰
- a Disability Services Appeal Tribunal¹⁶⁹¹
- an independent organisation specialising in review to which cases could be contracted out¹⁶⁹²

- the Ombudsman¹⁶⁹³
- the AAT.¹⁶⁹⁴

The Commission's views

18.21 The standards review panels are newly established. The Commission is of the view that it is too early to assess the effectiveness of the panels. In the interests of improving the panels, however, the Department should concentrate on providing high quality training in fair review procedures to panel members. The Department should also review the operation of the panels in two years' time to assess their effectiveness.

Recommendation 100

Since the disability standards review panels have not been long enough in operation for a conclusive recommendation to be made, the Commission recommends that the workings of the panels be reviewed in two years' time.

Protecting information held by the Commonwealth about the services it funds

Information held by the Department

18.22 The Department holds information about services it funds and about the people who operate the services. Some of this information is on the public record. This information includes the names and addresses of services and information about service standards. Officers of the Department may also be aware of sensitive commercial information, such as information about a service's financial viability. Services must provide this information to the Department to satisfy the Department that

- the service is meeting the required standards of quality and
- the service has received the right amount of funding and spent it appropriately.

Information about service providers held by other bodies

18.23 Advocacy services may obtain information about other services from clients who use advocacy services to help them make complaints. Disability Standards Review Panels in reviewing decisions of the Minister to declare that a service provider is not conforming with the appropriate standards may hold information about those services which they are asked to review. The body or bodies undertaking the proposed independent assessment function may also hold information about service providers. Any protection the Commission proposes for personal and non-personal information about services held by the Department should apply also to all such agencies.

Personal information

18.24 The laws that protect personal information held by the Commonwealth about people who use disability services also protect personal information about individual service providers.¹⁶⁹⁵ The Commission's recommendations about protecting information about people with a disability should, generally speaking, also apply to personal information about operators and employees of services. However, because service providers receive Commonwealth funds and also have a duty to the people who use the services, the Commonwealth may be justified in collecting more information about service providers and in allowing greater disclosure in some situations.

Non-personal information

18.25 **Existing protections.** The *Disability Services Act 1986* (Cth) does not protect information about services receiving funding from the Department. With the exception of the *Privacy Act 1988* (Cth), which protects only personal information, the laws that protect personal information held by the Department also protect non-personal information.¹⁶⁹⁶ There are also other provisions.

- ***Duty of confidence.*** Information provided to the Commonwealth may be subject to an obligation of confidence if the information is not commonly or publicly known and if the information is provided in circumstances which imply that an obligation of confidence exists. For the duty of confidentiality to be breached, there must be an actual or threatened misuse of the information without the service's consent.
- ***Freedom of Information Act 1982 (Cth).*** The *Freedom of Information Act 1982* (Cth) provides a general right of access to information held by Ministers, departments and public authorities. Certain information may not be released under the Act because of the need to protect the public interest and safeguard private and business affairs, including
 - trade secrets
 - information having a commercial value which could reasonably be expected to be diminished if disclosed
 - information concerning a person or organisation which, if disclosed, could reasonably be expected to affect the person or organisation adversely with respect to its commercial affairs.¹⁶⁹⁷

Discussion paper

18.26 In its discussion paper the Commission asked what commercial or other non-personal information held by the Department should be protected from disclosure in the new legislation. It asked if and when disclosure of such information should be authorised and when release of the information should be prohibited by law. It also asked whether the legislation should contain an offence for the release of commercial or other non-personal information held by the Department and whether it should be an offence for anyone to solicit such information held by the Department about services.

What submissions revealed

18.27 ***The kinds of commercial information that should be protected.*** Submissions stated that the following types of commercial and non-personal information should be protected from disclosure

- information protected under commercial law and regulations¹⁶⁹⁸
- sensitive information, for example, regarding financial viability¹⁶⁹⁹
- information which would jeopardise the provider's business interests¹⁷⁰⁰
- information protected under FOI legislation.¹⁷⁰¹

18.28 ***When should disclosure be authorised?*** Submissions stated that disclosure of commercial and other non-personal information should be authorised when

- it is in the best interests of the consumer¹⁷⁰²
- existing legislation, for example, commercial law, allows it¹⁷⁰³
- it is in the public interest¹⁷⁰⁴
- it is not protected by FOI legislation¹⁷⁰⁵
- the service is misusing funds.¹⁷⁰⁶

18.29 ***When should release of information be prohibited?*** Submissions stated that release of commercial and other non-personal information should be prohibited where

- the service provider's business interests would be unjustly damaged¹⁷⁰⁷

- existing legislation prohibits it¹⁷⁰⁸
- information available under FOI legislation is adequate to answer questions¹⁷⁰⁹
- release of the information would cause damage to an individual client concerned¹⁷¹⁰
- release is not in the public interest.¹⁷¹¹

18.30 ***There should be an offence for release of certain information.*** Most submissions received on this point stated that there should be an offence in the new legislation for release of commercial or other non-personal information about services held by the department.¹⁷¹²

The Department should not be exempt from the law where protected commercial or other non-personal information is released by the Department.¹⁷¹³

Submissions which disagreed that there should be an offence stated that the existing legislation was adequate.¹⁷¹⁴

18.31 ***There should be an offence for soliciting certain information.*** Most submissions agreed that it should be an offence for anyone to solicit commercial or other non-personal information about services held by the Department.¹⁷¹⁵ One submission stated that such an offence should apply only if the information is used for personal gain.¹⁷¹⁶ Those submissions which disagreed¹⁷¹⁷ stated that existing legislation, such as FOI legislation was adequate to cover this problem.¹⁷¹⁸

Commission's views

18.32 ***There should not be a blanket prohibition on release of information.*** An individual or service provider who gives the Department information is entitled to expect that the Department will use the information in a responsible manner. Persons are entitled to expect that, generally speaking, the Department will use information it collects only for the purpose for which it was collected and that it will not use or disclose it in a way that will unjustifiably cause embarrassment or harm to the organisation that supplied the information. For these reasons the Commission takes the view that legislation should deter unauthorised use of information. However, the Commission is of the view that it is not appropriate that criminal law sanctions should apply to the unauthorised release of all kinds of information held by the Department.¹⁷¹⁹ This blanket approach to the release of information runs counter to the current trends in administrative policy towards more open government. It encourages undue caution on the part of Commonwealth officers and leads to the difficulties in obtaining information.

18.33 ***Non-personal information should have some protection.*** The Commission is of the view that non-personal information should be able to be disclosed in a wider range of circumstances than personal information. It is often less sensitive and there are more situations where it will be in the interests of the program or individuals participating in the program that it is available. The Commission recognises, however, that there should be some protection for non-personal information and that a service provider may suffer harm as a result of the disclosure of non-personal information. Despite this the Commission considers on balance that criminal sanctions are not appropriate for the unauthorised release of non-personal information.

Recommendation 101

In respect of disclosure of non-personal information relating to service providers the Commission recommends that the new legislation reflect the recommendations made by the Commission in *Open government* ALRC 77.

Appendix A: Participants

The Commission

The Division of the Commission constituted under the *Law Reform Commission Act 1973* for the purposes of this reference comprises the following:

President

Alan Rose AO

Deputy President

Sue Tongue (to October 1995)

David Edwards (from January 1996)

Members

Professor Peter Baume AO

Professor Bettina Cass AO

Michael Ryland

Chris Sidoti (to August 1995)

Dr Kathryn Cronin (from January 1996)

Officers

Project Manager

Pauline Kearney (to April 1995)

Team Leader

Donna Hayward (from April 1995)

Senior Law Reform Officer

Robin McKenzie (to June 1995)

Law Reform Officers

Donna Hayward (to April 1995)

Anne-Marie Farrugia (from June 1995)

Legal Specialist

Dr David Kinley (from January 1996)

Research Assistant

Toula Louvaris (from May 1995 to September 1995)

Legal Intern

Vicki Pepyat (from December 1995 to February 1996)

Consultation Officer

Gayna Green (to November 1995)

Project Assistant

Jenni Ballantyne (to May 1995)

Merredith Hart (from July 1995 to January 1996)

Library

Joanna Longley

Emma Joneshart

Information Technology

Oleg Ziskin

Typesetting

Anna Hayduk

Consultants*

Russell Agnew, People With Disabilities (NSW) Inc
Bruce Alcorn, Spastic Centre of NSW
Janet Braithwaite, ACROD
Kevin Byrne, Physical Disability Council of NSW
Amanda Calwell-Smith, Essential Personnel Association Inc
Bruce Davison, Commonwealth Rehabilitation Service
Alison Dell/Ray Kent, Aboriginal and Torres Strait Islander Commission
David Fisher, Carers' Association of Australia
Robert Fitzgerald, Australian Council of Social Service
Marion Gaynor, Australian Council of Trade Unions
Elizabeth Hastings, Disability Discrimination Commissioner
Alison Hughes, Villamanta Legal Service
Graeme Innes, Special Employment Placement Officer, QANTAS
Rod Irwin, Head Injury Council of Australia
Chris Livanos, Multicultural Disability Advocacy Service
Aileen McFadzean, National Federation of Blind Citizens of Australia
Di Manning, Deafness Forum of Australia
Frances Nelson, Australian Psychiatric Disability Coalition
Ian Spicer, Australian Chamber of Commerce and Industry
Michael Sumner, Amaroo Industries Ltd
Roger West, NSW Community Services Commissioner

* The recommendations in the report and statements of opinion and conclusion are those of the Commission. They are not necessarily shared by the consultants or the organisations with which they are associated.

Appendix B: Abbreviations

AAT	Administrative Appeals Tribunal
ARC	Administrative Review Council
CETP	Competitive Employment, Training and Placement Service
CAAS	Continence Aids Assistance Scheme
Commission	Australian Law Reform Commission
CRS	Commonwealth Rehabilitation Service
CSDA	Commonwealth/State Disability Agreement
Department	The Department of Health and Family Services
DSS	Department of Social Security
DEETYA	Department of Employment, Education, Training and Youth Affairs
DRP	Disability Reform Package
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ISJ	Individual Supported Job
PWIP	Partnership With Industry Project
SEPO	Special Employment Placement Officer
SWS	Supported Wage System

Appendix C: List of submissions

Ability Network SA	<i>Submission 153</i>
Activ Foundation Incorporated WA	<i>Submission 72</i>
Activ Foundation Incorporated WA	<i>Submission 163</i>
Activ Foundation C South West Regional Support Group WA	<i>Submission 179</i>
Administrative Appeals Tribunal NSW	<i>Submission 47</i>
Advisory Council for Disability Services WA	<i>Submission 78</i>
Advisory Council for Disability Services WA	<i>Submission 168</i>
Advocacy Development Project QLD	<i>Submission 6</i>
R Altimore ACT	<i>Submission 169</i>
Anonymous NSW	<i>Submission 24</i>
Anonymous QLD	<i>Submission 32</i>
Anonymous	<i>Submission 61</i>
Arthritic Association of Australia NSW	<i>Submission 122</i>
Association of Genetic Support of Australia NSW	<i>Submission 127</i>
Australian Disability Consultative Council ACT	<i>Submission 177</i>
Australian Nursing Federation VIC	<i>Submission 140</i>
Australian Parent Advocacy Incorporated QLD	<i>Submission 79</i>
Australian Physiotherapy Association VIC	<i>Submission 87</i>
Autistic Children's Association of Queensland Incorporated	<i>Submission 70</i>
Australian Veterans and Defence Services Council NSW	<i>Submission 42</i>
G Banks and L O'Keefe NT	<i>Submission 112</i>
J Bellchambers NSW	<i>Submission 53</i>
M Berry SA	<i>Submission 152</i>
Better Hearing Australia Brisbane Branch QLD	<i>Submission 109</i>
Brain Injury Association of NSW Incorporated	<i>Submission 27</i>
R Bruggemann SA	<i>Submission 35</i>
D Burnes WA	<i>Submission 164</i>
L Calvert QLD	<i>Submission 59</i>
Career Contact WA	<i>Submission 73</i>
Care Providers' Association of South Australia	<i>Submission 77</i>
Carers Association of South Australia Incorporated	<i>Submission 28</i>
Carers Association of South Australia Incorporated	<i>Submission 149</i>
CIPIAD Inc VIC	<i>Submission 37</i>
Citizen Advocacy Association NSW Incorporated	<i>Submission 82</i>
Citizen Advocacy Association NSW Incorporated	<i>Submission 131</i>
Citizen Advocacy South West Incorporated WA	<i>Submission 67</i>
Coalition of Rural People with Disabilities NSW	<i>Submission 94</i>
Community Services Australia (Uniting Church) ACT	<i>Submission 86</i>
Community Services Appeals Tribunal NSW	<i>Submission 95</i>
Community Services Commission NSW	<i>Submission 90</i>
Confidential NSW	<i>Submission 2</i>
Confidential VIC	<i>Submission 43</i>
Confidential QLD	<i>Submission 14</i>
Confidential QLD	<i>Submission 44</i>
Confidential WA	<i>Submission 49</i>
Confidential QLD	<i>Submission 51</i>
Confidential SA	<i>Submission 84</i>
Confidential VIC	<i>Submission 178</i>
Council of Intellectual Disability Agencies Incorporated VIC	<i>Submission 63</i>
C Crosse VIC	<i>Submission 138</i>
Ms Davey SA	<i>Submission 155</i>
DEAL Communication Centre VIC	<i>Submission 147</i>
Defence Special Needs Support Group SA	<i>Submission 150</i>
Delando Crescent Welfare Corporation Ltd NSW	<i>Submission 62</i>
D Denning QLD	<i>Submission 107</i>

Department of Health and Community Services VIC	<i>Submission 184</i>
Developing Buds Training and Transition Network Incorporated QLD	<i>Submission 21</i>
Developing Buds Training and Transition Network Incorporated QLD	<i>Submission 106</i>
Department of Ageing and Disability NSW	<i>Submission 46</i>
Disability Council of NSW	<i>Submission 85</i>
Disabled People's Council of Western Australia	<i>Submission 159</i>
Disability Services Commission WA	<i>Submission 60</i>
Disability Services Commission WA	<i>Submission 83</i>
Disability Services Office, South Australian Health Commission	<i>Submission 74</i>
J Ellis NSW	<i>Submission 132</i>
J Epstein OAM QLD	<i>Submission 10</i>
Federation of Ethnic Communities' Councils	<i>Submission 172</i>
H Felsman QLD	<i>Submission 110</i>
K Ferguson ACT	<i>Submission 175</i>
J Groth QLD	<i>Submission 13</i>
B Harris VIC	<i>Submission 139</i>
G Hasslacher WA	<i>Submission 160</i>
Headway Victoria	<i>Submission 71</i>
M Hewitt VIC	<i>Submission 39</i>
High Point Industries VIC	<i>Submission 50</i>
W Higham WA	<i>Submission 167</i>
Hunter Action Group Against Workcover NSW	<i>Submission 129</i>
IDEAS Incorporated NSW	<i>Submission 81</i>
Independent Living Centre QLD	<i>Submission 104</i>
Intellectual Disability Rights Service Incorporated NSW	<i>Submission 96</i>
Intellectual Disability Services Council SA	<i>Submission 156</i>
C Janssen QLD	<i>Submission 18</i>
The James Foundation Incorporated WA	<i>Submission 22</i>
G Jegasothy WA	<i>Submission 161</i>
Jobsupport Incorporated NSW	<i>Submission 186</i>
D Johnson NSW	<i>Submission 118</i>
Juvenile Diabetes Foundation Australia NSW	<i>Submission 52</i>
M Kenneally VIC	<i>Submission 146</i>
J Kinter NT	<i>Submission 113</i>
Kurrajong Early Intervention Service NSW	<i>Submission 45</i>
Lasercraft NSW	<i>Submission 38</i>
D Latham QLD	<i>Submission 4</i>
J Leddy NSW	<i>Submission 121</i>
A Lems QLD	<i>Submission 23</i>
J Liebman NSW	<i>Submission 123</i>
Link Magazine SA	<i>Submission 33</i>
M MacMin SA	<i>Submission 40</i>
J McNabb VIC	<i>Submission 136</i>
P Menere VIC	<i>Submission 144</i>
Meniere's Australia Incorporated TAS	<i>Submission 3</i>
G Moore VIC	<i>Submission 145</i>
Multicultural Disability Advocacy Association NSW	<i>Submission 173</i>
Multiple Sclerosis Society of Queensland QLD	<i>Submission 105</i>
MS Hand Group NT	<i>Submission 111</i>
G Murray NSW	<i>Submission 117</i>
National Aboriginal and Islander Legal Service Secretariat QLD	<i>Submission 108</i>
National Anglican Caring Organisations Network VIC	<i>Submission 58</i>
National Brain Injury Foundation NSW	<i>Submission 128</i>
National Brain Injury Foundation NSW	<i>Submission 130</i>
National Brain Injury Foundation ACT	<i>Submission 170</i>
National Council on Intellectual Disability ACT	<i>Submission 89</i>
National Ethnic Disability Alliance ACT	<i>Submission 171</i>

Network of Community Activities NSW	<i>Submission 88</i>
New South Wales Association of Occupational Therapists	<i>Submission 114</i>
New South Wales Association of Occupational Therapists	<i>Submission 183</i>
New South Wales Council for Intellectual Disability	<i>Submission 97</i>
New South Wales Council for Intellectual Disability	<i>Submission 125</i>
New South Wales RSI Support Group	<i>Submission 185</i>
ParaQuad NSW	<i>Submission 65</i>
Parent Advocacy ACT	<i>Submission 31</i>
Parents and Relatives of Sevenoaks Residents QLD	<i>Submission 9</i>
M Paxton VIC	<i>Submission 75</i>
D Pickering QLD	<i>Submission 11</i>
Privacy Commissioner (Human Rights and Equal Opportunity Commission)	<i>Submission 93</i>
Public Guardian's Office WA	<i>Submission 66</i>
The Public Policy Assessment Society Incorporated ACT	<i>Submission 41</i>
Queensland Advocacy Incorporated	<i>Submission 91</i>
Queensland Advocacy Incorporated	<i>Submission 98</i>
Queensland Advocacy Working Group	<i>Submission 8</i>
Queensland Disability Advisory Council	<i>Submission 180</i>
Queensland Mental Health Consumer Advisory Group	<i>Submission 56</i>
R Rana SA	<i>Submission 1</i>
R Rana SA	<i>Submission 20</i>
K Reiher ACT	<i>Submission 174</i>
K Rendell SA	<i>Submission 76</i>
Residential and Community Care Advocacy Service WA	<i>Submission 19</i>
Richmond Fellowship TAS	<i>Submission 133</i>
Royal Blind Society NSW	<i>Submission 15</i>
E Rushdon NSW	<i>Submission 120</i>
M Ryan VIC	<i>Submission 29</i>
M Ryan VIC	<i>Submission 54</i>
Salvation Army NSW	<i>Submission 25</i>
D Shields QLD	<i>Submission 99</i>
Schizophrenia Australia Foundation VIC	<i>Submission 57</i>
Schizophrenia Australia Foundation VIC	<i>Submission 137</i>
L Schloeffel NSW	<i>Submission 126</i>
GG Scott WA	<i>Submission 165</i>
M Sheehy TAS	<i>Submission 135</i>
C Sitka NSW	<i>Submission 115</i>
R Smith WA	<i>Submission 166</i>
S Smith SA	<i>Submission 154</i>
South Australian Health Commission	<i>Submission 36</i>
Spastic Society of Victoria	<i>Submission 142</i>
Spastic Society of Victoria	<i>Submission 176</i>
SPELD QLD Incorporated	<i>Submission 103</i>
D Stagg SA	<i>Submission 34</i>
D Stagg SA	<i>Submission 151</i>
Star Victoria Incorporated	<i>Submission 92</i>
K Starling QLD	<i>Submission 64</i>
J Stephens NSW	<i>Submission 124</i>
W Stern WA	<i>Submission 17</i>
W Stern WA	<i>Submission 158</i>
S Stowell WA	<i>Submission 157</i>
Tasmanian Association for Mental Health: Club House	<i>Submission 134</i>
M Toogood VIC	<i>Submission 148</i>
B Trappes TAS	<i>Submission 16</i>
E Tse WA	<i>Submission 182</i>
Unicare Work Solutions QLD	<i>Submission 30</i>
United Brain Injury Support Committee NSW	<i>Submission 26</i>

United Trades and Labour Council of SA	<i>Submission 68</i>
Uniting Church Disability Policy Working Group WA	<i>Submission 80</i>
T Vardaro WA	<i>Submission 162</i>
Various Queensland advocacy organisations	<i>Submission 7*</i>
VICOS VIC	<i>Submission 143</i>
Victorian Deaf Society	<i>Submission 55</i>
Victorian Network on Recreation and Disability & Attendant Care Coalition VIC	<i>Submission 141</i>
Villamanta Legal Service Incorporated VIC	<i>Submission 69</i>
M Walsh QLD	<i>Submission 101</i>
R and C Webster QLD	<i>Submission 12</i>
Westhaven NSW	<i>Submission 119</i>
Western Region Committee of Disabled Persons VIC	<i>Submission 181</i>
Western Sydney Employment Development Service NSW	<i>Submission 116</i>
J Williams NSW	<i>Submission 48</i>
P Zell QLD	<i>Submission 102</i>

* Independent Advocacy in the Tropics; Outright Independence; Queensland Advocacy Incorporated; Queensland Parents of People with a Disability Incorporated; Speak up for Yourself Incorporated.

Appendix D: List of recommendations

Chapter 1 - Introduction

1. The Commission recommends that the object of the new Disability Services legislation should be the provision of services to people with a disability rather than simply the provision of funds to service providers as is currently the case. The new legislation should be based on respect for the rights of people with a disability and its administration should aim to achieve high quality services to meet their needs.

Chapter 4 - Commonwealth disability law, policy and service delivery

2. The Commission recommends that all people with a disability using services under the new legislation should have the same rights and protections regardless of which service they use.

3. The Commission recommends that the new legislation should define the outcomes the CRS and the services provided by Commonwealth funded organisations are expected to achieve. The focus of these outcomes should be the enhancement of the capacity of people with a disability to gain access to the range of services and opportunities they need in order to promote independence as far as this is possible and desirable.

4. The Commission recommends that the new legislation authorise the Minister to issue guidelines which outline links and promote flexibility between the CRS and other services funded by the Commonwealth. Those guidelines should be developed at a regional level depending on the needs in each area.

5. Focus on people with a disability

The Commission recommends that the object of the new Disability Services legislation should be the effective provision of services to people with a disability. It should be based on a respect for the rights of people with a disability and its administration should aim to achieve high quality services to meet their needs. To this end, the legislation should also set out the binding principles and objectives which will become the fundamental conditions under which disability services must operate.

6. Principles of the new legislation

The Commission recommends that the new legislation contain principles for fair, effective and efficient service delivery and an explanation of how those principles are to be applied. The aim of these principles should be to assist

- people with a disability to give effect to their fundamental human rights and to achieve positive outcomes
- the Commonwealth to meet effectively its human rights and social justice goals in relation to people with a disability.

7. The Commission recommends that the principles of the new legislation should state that all people with a disability, regardless of the type, cause or severity of their disability, have the same opportunities as other Australians to

- access services to assist them to maximise their potential
- exercise choice and be consulted about and participate in decisions which affect their lives
- support so as to facilitate their independence
- have their privacy and human dignity respected at all times
- pursue grievances they may have concerning disability services.

8. *Objectives of the new legislation*

The Commission recommends that the primary objective of the new legislation should be to respect the right to fair process of people with a disability and to identify and meet the needs of people with a disability. It should achieve this by

- facilitating support through services, including rehabilitation and awareness raising, to assist people to give effect to their rights and to achieve positive outcomes
- guaranteeing equality of access to support and rehabilitation services
- regulating the quality of support and rehabilitation services
- establishing mechanisms to enable people to complain about support and rehabilitation services
- providing mechanisms by which people can enforce their rights
- recognising the role of advocates, guardians, carers and the general community in assisting people with a disability to achieve positive outcomes
- promoting awareness about the rights of people with a disability
- establishing general principles for disability policy development.

9. The Commission recommends that the new legislation make provision for flexible service delivery policies that meet the support needs of people with a disability. To this end, overly prescriptive rules should not be included in the legislation.

10. The Commission recommends that the new legislation require the Commonwealth, in consultation with the States and Territories, to develop a nationally co-ordinated framework for disability policy and service delivery. The legislation should make the Commonwealth responsible for implementing that framework.

11. The Commission recommends that the new legislation create a national Office on the Equal Status of People with a Disability to be established within the Office of Prime Minister and Cabinet. That office should

- develop disability services policy at a national level in consultation with relevant Commonwealth, State, Territory, local government and community organisations
- co-ordinate disability policy nationally with relevant Commonwealth, State, Territory, local government and community organisations
- be responsible for developing Commonwealth planning policy and assessing the impact of planning proposals on the community (see rec 19)
- monitor and report to Commonwealth Parliament on the implementation of the principles and objectives of the new legislation across Australia
- identify and report to Commonwealth Parliament on areas of duplication or gaps in service delivery across Australia
- receive, co-ordinate and disseminate to people with a disability and to the general community information on disability services, policy and law from each Commonwealth, State and Territory agency.

12. The Commission recommends that the new legislation should recognise carers of people with a disability when they perform the role of

- advocates promoting the rights and wishes of a person with a disability with that person's full support and consent, or
- service providers receiving funding from the Commonwealth to achieve certain outcomes for identified individuals with a disability (see rec 77).

13. The Commission recommends that any additional recognition of carers or changes to their current financial entitlements should be made under the relevant legislation such as the *Social Security Act 1991* (Cth) or the *National Health Act 1953* (Cth).

Chapter 5 - Defining disability

14. The Commission recommends that the new legislation contain a broad definition of disability based on the definition in the Disability Discrimination Act 1992 (Cth).

15. The Commission recommends that people included within this definition should also have to demonstrate that they have a need for the services being provided and meet the eligibility criteria.

Chapter 6 - Planning to meet needs

16. The Commission recommends that the new legislation should outline the broad criteria on which planning decisions are based and should allow regular review of the targets and outcomes the Commonwealth seeks to achieve. These outcomes should include

- a well advertised, open, transparent and flexible planning process fully co-ordinated with State and Territory and local government authorities
- identifying and meeting of community needs, including the needs of people with special needs
- providing adequate opportunities for the community in general and special needs groups in particular to participate in the planning process
- ensuring the community is informed about the planning process, related decisions and reasons for these decisions
- regular evaluation of the effectiveness of the planning process including
 - the range, appropriateness and accuracy of data necessary in the evaluation of disability needs
 - the planning formula and priorities in the light of new data.

17. The Commission recommends that the new legislation should require the Commonwealth, in consultation with people in regional areas of each State and Territory and with the Australian Bureau of Statistics, to develop appropriate indicators of aggregate need across Australia. Indicators of need for services should include, but not be limited by

- the number of people with a disability in Australia
- where those people live
- the support needs they have
- the level of support necessary to meet their needs
- the extent to which those needs are currently unmet.

The Commonwealth's planning targets should prioritise areas of need.

18. The Commission recommends that the new legislation require the Commonwealth to conduct effective consultation before any significant planning decisions are made. Effective consultation should include consultation with

- a range of individuals with a disability
- people from different racial and cultural backgrounds
- people from rural or remote areas
- people who may have particular planning needs, such as people with a psychiatric disability
- peak representative groups
- carers and relatives of people with a disability
- States and Territories to identify gaps or overlaps in service provision
- the Office on the Equal Status of People with a Disability (see rec 11).

19. The Commission recommends that, as part of the strategy to consult effectively, the legislation should require an impact statement to be prepared by the Office on the Equal Status of People with a Disability prior to any major disability policy initiative being implemented. The impact statement should include assessment of such things as the

- benefit to the disability population of the proposal
- detriment to the disability population of the proposal
- cost to government of implementing the proposal
- benefits to government of implementing the proposal
- impact on special needs groups of the proposal
- effect on the disability population if the proposal is not undertaken
- practicality of the proposal
- effect of the implementation of the proposal on sectors other than the disability sectors
- the infrastructure necessary to implement the proposal.

Chapter 7 - Eligibility for services funded or delivered by the Commonwealth

20. The Commission recommends that the new legislation broadly base eligibility for the CRS and for other services funded by the Commonwealth on need for the service rather than on whether the person has a particular type of disability or a disability attributable to a specified cause.

21. The Commission recommends that the new legislation enable the Commonwealth to issue guidelines setting out specific eligibility criteria for services funded under the legislation. Eligibility criteria should be developed following community consultation.

22. The Commission recommends that any specific eligibility criteria drafted by the Commonwealth be accompanied by a statement specifying the needs that the particular service is designed to meet.

23. The Commission recommends that the new legislation require the Commonwealth and the services it funds to publicise and provide information about the specific eligibility criteria, the needs the criteria are aimed at meeting and any guidelines relating to eligibility made under the legislation.

24. The Commission recommends that the new legislation should not contain an age limit restricting eligibility for CRS services.

25. The Commission recommends that the new legislation continue to require the CRS to provide independent living and vocational programs. Access to both types of programs should be determined on the basis of need.

26. The Commission recommends that the new legislation not set out the specific elements of decisions made on the basis of whether or not a client is likely to gain substantially from a CRS program as this would be too inflexible. Instead, the new legislation should

- clearly state the intention of the provision and specify that it is not to be used unduly or unfairly to limit access to CRS programs
- require reasons to be given for decisions to exclude a person from a CRS program based on the substantial gain factor
- provide an avenue of review of decisions made on the basis of substantial gain criteria (see recs 61 and 63).

Chapter 8 - Strategies for equitable access

27. The Commission recommends that the legislation require the Minister to establish a co-ordinated system of access to services, including access to the CRS. The system should include

- better co-ordination and links between services, regardless of whether the services are provided by Commonwealth or State and Territory agencies
- widely distributed information about how to access existing disability services.

28. The Commission recommends that the new legislation require the Minister to

- collect data and information which allows identification of people who may have particular access problems and
- develop specific and appropriate strategies to improve access to services for people with particular needs.

In developing such strategies, the Commonwealth should consult extensively with communities affected, with service providers, with regional offices of the Commonwealth Department and with State and Territory agencies.

29. The Commission recommends that the new legislation require that priority of access to services be given to people with a disability with the greatest need. The Department should formulate priority of access guidelines under the legislation based on need.

30. The Commission recommends that the new legislation should require the Commonwealth regularly to test its access and equity strategies by examining the client profile against the priorities of need.

31. The Commission recommends that the outcomes achieved by access and equity strategies be regularly monitored.

Chapter 9 - Assessing needs effectively

32. The Commission recommends that the new legislation set out the outcomes that any assessment process should achieve. The major outcome should be that people have their needs, abilities and aims in life properly and equitably identified and matched with appropriate and flexible support so that their goals become achievable.

33. The Commission recommends that any assessment process should be easily accessible, should operate equitably according to need, should consider the whole of the person's life circumstances and should respect his or her

- privacy and dignity
- right to be consulted about needs and goals and informed about all available service options
- right to be assessed by appropriately trained people who understand his or her disability and life circumstances
- cultural, racial or language background
- right to make informed choices about available support
- right to have assistance from or input into the assessment from relatives or carers
- right to seek review of decisions made by the assessor (see recs 61 and 63).

34. The Commission recommends that the Commonwealth reduce the number of assessments people with a disability have to undertake to get access to different services by improving the co-ordination of information held by assessment agencies and enabling better information referral between agencies. Information about assessments should be passed on only with the consent of the person to whom it relates (see rec 71).

35. The Commission recommends that the Commonwealth, either directly or through the States and Territories, continue to provide support options with some vocational element for people with a disability who are either unable to or who choose not to receive employment or employment preparation services.

Chapter 10 - Information

36. The Commission recommends that the new legislation require the Commonwealth to make arrangements

- with each State and Territory and all non-government service providers for the provision and updating of standard data sets of information about all services
- for the establishment of a national, accessible electronic data base containing comprehensive up to date information on all disability policies and services
- regularly to advertise the existence of the electronic data base and its access points.

37. The Commission recommends that the Commonwealth's information plan should ensure that information strategies are funded and implemented at a local level so that

- people know where to go to for information when they need it, for example, a toll free national phone service
- information is available through a number of local outlets, including the print and electronic media, advocacy organisations, doctors, local government agencies, local libraries and community organisations

- information is produced in a range of accessible formats and languages
- information is available and relevant to people with particular needs, including people from non-English speaking backgrounds and people from Aboriginal and Torres Strait Islander communities.

38. The Commission recommends that the legislation should require all services to provide information on specified matters to consumers and to their carers or relatives. The information should be provided when the person or carer contacts the service, generally before they begin to receive the service. The information should cover

- the nature and scope of the service
- rights and responsibilities of service users, including making clients and their carers aware of the principles and objectives of the Act and giving them a copy of the charter of rights
- opportunities clients have for consultation
- what costs, if any, are involved in using the service
- the quality standards the service must follow and how quality is monitored
- internal and external complaints mechanisms
- other support services in the area
- reasons for decisions made by services.

39. The Commission recommends that the new legislation provide for a charter of rights and expectations for people with a disability using services provided and funded under the new legislation. The charter should be in a schedule to the new legislation.

40. The Commission recommends that the charter be written in plain English and community languages and be available in alternative formats.

41. The Commission recommends that the new legislation require all government departments and all services, including the CRS, to provide every client and carer with a copy of the charter of rights and display the charter in a visible place on the service premises.

42. The Commission recommends that the charter complement and elaborate upon the Disability Service Standards and the Principles and Objectives as they apply to individuals. The charter should include

- the following rights created by the new legislation:
 - the right to be provided with information
 - the right to be consulted about decisions affecting service delivery and clients
 - the right to be given reasons for decisions made
 - the right to privacy
 - the right to make a complaint
 - the right to a quality service which complies with all the disability service standards
 - the right to receive available support appropriate to one's needs
 - the right to be involved in one's own assessment

- the right to have a decision reviewed
- relevant rights that exist because of other laws, for example the right to complain about discriminatory conduct and, in the case of employment services, the right to have access to the range of entitlements and memberships associated with employment
- goals that services should aspire to achieve for their clients, including
 - treating clients with respect
 - respecting a client's need for an advocate
 - offering culturally and linguistically appropriate services.

The charter should make it clear that these rights and expectations are not exhaustive.

43. The Commission recommends that the charter should also set out the steps that people can take when they feel their service has breached the charter. It should

- tell people that they can complain and to whom they can complain
- tell people how to get in touch with an advocate
- tell people how to get in touch with the relevant body who will handle complaints
- tell people about where to get other information which will help them
- include contact numbers and addresses for relevant agencies such as the
 - Office of the Privacy Commissioner
 - Office of the Disability Discrimination Commissioner
 - Office of the Equal Status for People with a Disability.

Chapter 11 - Promoting quality services

44. The Commission recommends that the new legislation require all services, including the CRS, to demonstrate that they meet quality standards. The legislation should spell out the standards expected of services. Standards for all services should be directed towards achieving positive outcomes for clients.

45. The Commission recommends that the Commonwealth develop and issue national indicators of good and bad service practice.

46. The Commission recommends that self assessment for funded services be improved by the provision of a national training package to all managers of services, giving information on adequate training for both staff and users of services. The package should make it clear that

- training in self assessment should be available from an independent provider
- the process and expectations of self assessment should be explained to staff and consumers in simple language
- consumer education in self assessment should take full account of the differing needs of service users.

47. The Commission recommends that CRS monitoring processes be improved by

- the provision of adequate training to CRS staff
- the provision of adequate training to CRS users participating in client satisfaction surveys.

48. The Commission recommends that the new legislation provide for independent quality monitoring and assessment for all services, including the CRS, by standards monitoring teams. Team members should

- have knowledge of a broad range of disability issues (and specialist knowledge where appropriate)
- be familiar with issues in the local area which may affect service quality
- be sensitive to the cultural and language needs of clients
- discuss issues relating to quality with service staff and clients
- provide support and advice to services and identify areas where training or other action may be appropriate
- report to the Commonwealth on the overall level of compliance by services.

Chapter 12 - Advocacy

49. The Commission recommends that the new legislation should specifically refer to advocacy support. It should refer to two broad categories of advocacy as

- individual advocacy
 - to help people with a disability and/or their families and carers exercise control over their lives and take independent action to exercise their rights and overcome barriers preventing their full and active participation in society
- systemic advocacy
 - to help establish policies, practices and structures in disability services, government agencies and the general community which enable people with a disability to exercise their right to live as equal citizens.

50. The Commission recommends that the Commonwealth recognise the importance of the independence of advocacy support. The Commission suggests that consideration be given to transferring funding responsibility for advocacy from the Department of Health and Family Services to a central agency.

51. The Commission recommends that the new legislation should require services, as a condition of funding, to permit advocates to enter service premises during business hours.

52. The Commission recommends that the new legislation require the Minister to develop guidelines specifying the circumstances in which advocates should be permitted to enter the premises of other services.

53. The Commission recommends that the new legislation require all advocacy programs to meet quality standards and demonstrate outcomes as a condition of funding.

54. The Commission recommends that the new legislation require appropriate standards for individual and systemic advocacy programs to be developed in consultation with people with a disability and their representatives, the disability industry, government agencies and community and consumer groups.

55. The Commission recommends that outcomes for advocacy programs not be set out in the legislation. Outcomes for each program should be determined by the Commonwealth in consultation with people with a disability and their representatives, the disability industry, government agencies and community and

consumer groups. Outcomes should be included in the funding agreement between the advocacy program and the Commonwealth and should be regularly monitored.

Chapter 13 - Employment issues affecting people with a disability

56. The Commission recommends that the Department, including the CRS, should, through its information strategies, identify and give prominence to examples of best practice in long term employment situations.

57. The Commission recommends that the new legislation reflect the concept of equal pay for equal work for workers with a disability. For those workers unable to work at award wage level, the legislation should refer to their right to a wage equivalent to their assessed productivity level.

58. The Commission recommends that the assessment of productivity should

- involve the person with a disability in decision making
- involve any other person, such as a relative carer or advocate, if the person with a disability chooses
- focus on the ability of the person to perform the job at hand and not on his or her disability generally.

59. The Commission recommends that the new legislation refer to the right of workers with a disability to join a union if they wish.

60. The Commission recommends that all disability employment related services provide clients with information about unions. All supported employment services and sheltered workshops should be required, as a condition of funding, to allow and encourage union representatives to visit the workplace.

Chapter 14 - Complaints

61. The Commission recommends that the new legislation require that funded services and the CRS establish that they have an effective procedure for dealing with complaints made about any aspect of the operation or management of the service by or on behalf of the people with a disability who receive the service. Complaints should not be limited to particular decisions made about clients or consumers but extend to cover any matter relating to services. The Department should issue guidelines setting out the essential features that complaints procedures must have. A satisfactory complaints procedure would

- be well known to all clients and their representatives
- be simple, cheap and easy to use
- protect privacy and confidentiality
- enable an independent viewpoint to focus on the dispute, that is, the person hearing the complaint within the service should not be one of the parties involved or affected by the complaint
- ensure complaints are dealt with within a set time frame
- ensure people are not disadvantaged by making known a grievance or complaint or by supporting complaints made by others
- encourage clients to use an advocacy service or seek other support if they choose
- provide reasons for any decisions made or action taken
- ensure clients are given information about the right to complain to someone outside the service
- not discriminate against people who are unable to read and write

- respect cultural differences
- provide an interpreter upon request.

The guidelines should outline a model mechanism that service providers can choose if they do not wish to develop their own.

62. The Commission recommends that the Department monitor the number and type of complaints made about each service and about the CRS as part of a continuous quality improvement strategy.

63. The Commission recommends that the legislation should provide for an independent, external body to deal with complaints made by people with a disability and their carers about Commonwealth disability services, including the CRS, and the Department.

64. The Commission recommends that the new legislation should give the independent body the powers necessary to deal with disputes quickly and effectively. The body should be able to make recommendations to services, the Department and the Minister. It should have an appropriate structure and appropriate procedures to ensure that it is able to meet the needs of consumers of disability services.

65. The Commission recommends that the external complaints body be obliged to notify a service of a complaint made about it within a set time frame, except in special circumstances such as where

- there is a risk of the loss of evidence through destruction
- there is a risk of harm to the client.

66. The Commission recommends that the existing rights of review available to CRS clients under the *Disability Services Act 1986* (Cth) should continue under the new legislation. Clients should also be able to seek review by the independent review body recommended by the Commission if they choose.

67. The Commission recommends that where a State or Territory has an appropriate independent complaints body able to deal with complaints made by people with a disability about a service provider, the Commonwealth should negotiate with, and where agreement is reached, authorise that body to deal with complaints about disability service funded under Commonwealth legislation. Where there is no State or Territory mechanism the Commonwealth should negotiate with that State or Territory to enable the Commonwealth body to handle complaints about disability services which might otherwise be outside its jurisdiction.

68. The Commission recommends that the new legislation should refer to the right of people with a disability to seek the assistance of an advocate when making a complaint about a service.

Chapter 15 - Protecting the privacy of people with a disability

69. The Commission recommends that the new legislation require all services, including the CRS, to protect the physical privacy of people with a disability.

70. The Commission recommends that the legislation should create offences to deter the unauthorised use and disclosure of personal information held by the Department or any bodies established under the legislation. The new legislation should provide that it is an offence

- to release or use, without authority, personal information held by the Department
- to attempt to obtain personal information the Department holds if release of that information is unauthorised and the person seeking it knows or should reasonably know its release is unauthorised

- to offer to supply or hold oneself out as being able to supply personal information the person is not authorised to supply if the person knows or should know that supply of that information is unauthorised.

71. The Commission recommends that the legislation should specify the circumstances in which the Department or any body established under the legislation can disclose information to someone other than the person to whom the information relates. Those circumstances are where:

- the person consents
- it is in the interests of the person with a disability for example
 - in an emergency where death or further disability is likely and the person with a disability would reasonably expect the information to be released
 - the information would help with providing appropriate services or support for the individual concerned
 - the information is necessary to deal with case management and cross program linkages
- it is in the public interest, for example
 - where the non-release of information may cause harm to the wider community
 - where a service is not acting in the best interests of its clients and all other avenues to protect the public have failed
 - where the information affects those who will be involved with the care of the person with a disability
- information is required for a reasonable investigation by authorised investigators.

72. The Commission recommends that the Department develop guidelines on when personal information can be released in circumstances where a person is not able to give informed consent. Those guidelines should specify that release should occur only when all of the following conditions have been met

- a person has a disability or is on medication relating to a disability that prevents him or her from freely consenting to the release of personal information and
- all information about the issue on which consent is sought has been given to the person and every effort has been made to obtain an informed consent and
- the person's best interests and well-being will be severely threatened if the information is not released.

The guidelines should also specify to whom the information should be released.

73. The Commission recommends that the legislation require, as a condition of funding, that funded service providers comply with the Information Privacy Principles of the *Privacy Act 1988* (Cth) modified to make them suitable for disability services. The amended principles should be developed by the Department and the Privacy Commissioner. They should be included in the legislation. The principles should cover the collection, storage, use and disclosure of personal information held by service providers including procedures for when a person leaves a service.

74. The Commission recommends that the legislation require the Department to issue guidelines setting out how services should collect, store, use and release personal information about their clients.

75. The Commission recommends that the new legislation require the Department to develop guidelines about the type of personal information about clients which the CRS and other employment placement

services should be able to disclose to employers and prospective employers and when that information could be disclosed. Those guidelines should specify that only information of which the client is aware is being released and is relevant to the job or necessary for workers' compensation insurance purposes should be revealed.

76. The Commission recommends that the new legislation provide that the CRS must

- inform clients whose program is to be financed by an insurer of the possible need to release information about the program to the insurer and the purpose for releasing that information
- inform clients that if they do not consent to the release of the information their rehabilitation program may have to be suspended or terminated
- not release to an insurer any information about the client apart from information relevant to the insurance claim
- keep the client informed about the detail of information which needs to be released.

Chapter 16 - Funding issues

77. The Commission recommends that the new legislation should be flexible enough to enable a relative, friend or carer to be approved to provide services for a person or people with a disability as long as that person can meet the funding conditions and demonstrate that he or she can achieve outcomes for people with a disability.

78. The Commission recommends that the new legislation should contain a set of broad criteria for the allocation of funding. The criteria should state that a service should have to demonstrate that it

- has as its paramount objective respecting the rights and meeting the needs of individuals with a disability
- is capable of providing appropriate support to meet identified needs
- complies with every one of the Disability Services Standards and eligibility and priority of access guidelines
- consults regularly and effectively with clients
- provides clients with information regularly, and in accessible ways
- has an established complaints system
- respects the privacy of clients
- has properly qualified staff.

79. The Commission recommends that the criteria be adapted as necessary where an individual rather than an organisation is being funded as a provider of disability services.

80. The Commission recommends that broad conditions of funding be set out in a schedule to the legislation. The legislation itself should specify that funding is conditional on achieving positive outcomes for people with a disability. Specific conditions should require services to

- observe the required standards and the principles and objectives of the Act
- comply with eligibility requirements, program priorities, priority of access guidelines and any special requirements attaching to the grant

- use the grant monies only for the purposes stated in the offer of grant
- use the grant monies only to provide services to a named person if the grant is made in respect of named individuals
- promptly inform the Department of any relevant matters that might affect the service's ability to meet its obligations under the legislation or the funding agreement or affect the welfare, opportunities or development of the service's clients.

81. The Commission recommends that the new legislation should give the Minister power to vary, waive and add conditions of funding approval with the consent of the service provider

- where it will promote client interests in line with the principles and objectives of the Act
- where it will lead to consistency and fairness
- where it will result in better outcomes for clients
- to tailor support to meet the particular needs of a region or a group of people
- where the nature of the service makes it difficult for it to comply with a particular condition.
- where it will avoid unfairly disadvantaging a service provider
- where it will assist a service to implement a strategic plan.

82. The Commission recommends that the legislation require the Commonwealth to issue guidelines setting out

- how funding is calculated
- what funding can be allocated
- how service providers apply for funding.

83. The Commission recommends that the new legislation should provide for funding to be allocated to services based on the cost of achieving positive outcomes for consumers. What constitutes an outcome should be determined for each allocation of funding and should be particular to the need in each situation.

84. The Commission recommends that, for services that deal directly with individual consumers, an agreement be entered into between the consumer and the service setting out

- what is meant by an outcome in that particular case
- how the parties will know when an outcome has been achieved
- how much funding will be given to meet particular support needs and the stages at which funding will be given
- the review rights the parties have if they are not happy with the progress towards meeting the agreement.

That agreement should be able to be changed at any time with the consent of all parties.

85. The Commission recommends that in allocating an amount of funding to achieve an outcome, regard should be had to the whole of a person's life, not just his or her employment needs. Factors to consider in

allocating funding should include any difficulties a person may experience in achieving his or her outcomes because of

- where he or she lives
- lack of access to available support
- his or her cultural or language background, race or sex
- lack of access to necessary carer support.

86. The Commission recommends that the new legislation require any funding agreement between the States and Territories and the Commonwealth to contain an adequate and enforceable accountability mechanism. The mechanism should require

- for each year, publicly available information on the separate funding contributions of the Commonwealth and the States and Territories
- the States and Territories to show how Commonwealth funding has been used to meet the principles and objectives set out under the new legislation
- the States and Territories to demonstrate the outcomes they have achieved for people with a disability
- the States and Territories to produce audit certificates to identify against their own appropriations and the appropriations from the Commonwealth how the money was actually spent on services for people with a disability.

The Commonwealth should be responsible for collecting information and monitoring compliance with the agreement.

Chapter 17 - Financial accountability

87. The Commission recommends that the recommendations made in its child care (ALRC 70) and aged care (ALRC 72) reports should apply to funding for land or buildings used by disability services.

- The legislation should provide a set of core provisions which apply to all services receiving capital funding from the Department. There should also be program and project specific conditions where appropriate.
- All parties with an interest in a service receiving funding for land or buildings should be subject to conditions and obligations. Conditions should apply to the owner of the land on which a service is being built and the operator of the service.
- The operator of the service should be subject to at least the following conditions
 - to make the service available for a period of at least 30 years, or less depending on the amount and circumstances of the grant
 - not to cease to operate the service without the approval of the Secretary of the Department
 - not to dispose of the operator's interest in the land, building or equipment, or encumber it, without the approval of the Secretary.
- The landowner should also be subject to specific obligations
 - to continue to make the land or buildings available to the operator, or whoever replaces the operator as operator, for at least 30 years, or less as determined by the Commonwealth

- not to charge or otherwise give security over the land or buildings or equipment to a person other than the Commonwealth without the approval of the Secretary.
- The legislation should require that as a general rule the Commonwealth should take security over the land on which a capital funded service is built in cases where grants are given for land or buildings. The landowner should not be permitted to sell or otherwise dispose of the land or to mortgage it or give some other form of security over it without the approval of the Secretary.
- The legislation should give the Secretary power to require repayment of a capital grant in full or in part. That decision should be reviewable by the Administrative Appeals Tribunal. The legislation should prescribe matters to be taken into account in making this decision including
 - whether the need for the service still exists
 - how long the service has been operating since the grant was made
 - the age and condition of the building and whether there is a need to upgrade it
 - the use to which the building will be put after it is sold, for example, whether it is to be used for another community service
 - the proportion of the Commonwealth's contribution to the value of the land or building.
- The legislation should provide that the amount of capital funding to be repaid should reduce in accordance with the length of time the service has operated. The whole of the grant should be repayable if the service closes within the first 10 years of the 30 year period. The obligation to repay will decrease more rapidly in the last 10 years of the 30 year period. The obligation to repay will end after the service has operated for 30 years, unless it has been extended by additional funding.

88. The Commission recommends that funding agreements should clearly specify the nature and extent of the Commonwealth's contribution to the capital expense, in particular, whether the grant is for land or buildings or for equipment.

89. The Commission recommends that the new legislation should require service providers to account for the recurrent funding they receive from the Commonwealth. The legislation should require services to submit annual audits in the form specified in the terms and conditions of funding. The audits should include details of

- the amount of funding received
- how that amount was spent
- how many clients received support
- the broad level of each client's support needs
- the outcomes achieved with the funding.

90. The Commission recommends that the regional offices of the Department regularly monitor the annual audits.

91. The Commission recommends that the new legislation should require services to keep records. The legislation should give the Secretary of the Department the power to specify what types or classes of records must be kept, those who must keep them, where they must be kept and the minimum time for which they must be kept (seven years for all services).

92. The Commission recommends that the legislation impose on services specific duties of co-operation with authorised Commonwealth officers, such as the duty

- to help and co-operate with departmental officers
- to allow departmental officers entry to premises during specified hours
- to answer questions of departmental officers
- to obey authorised directions
- to provide information relevant to funding
- on third parties, such as accountants or banks who may hold information necessary to establish whether a service has complied with the requirements imposed on it, to answer any reasonable questions and produce documents in their possession.

93. The Commission recommends that the legislation require service providers to notify the Department of any change in circumstances that may affect the service's entitlement to funding. Change in circumstances refers to change in financial circumstances and change in the service's ability to meet clients' needs and desired outcomes.

94. The Commission recommends that the new legislation give authorised Commonwealth officers whose duty it is to inspect or monitor the operation of disability services clear powers necessary to do so effectively. Officers should have the power to

- enter service premises during business hours or at any time with consent of the occupier or, if consent cannot be obtained, with a warrant
- enter service premises at any time in the event of an emergency or where the departmental officer reasonably suspects that the health or well-being of clients is at risk
- enter, with the Secretary's approval, premises where records are kept
- enter other premises where the officer reasonably believes records or information relevant to the monitoring exercise may be kept
- search for, direct production of, examine and copy documents
- ask questions
- direct third parties to answer any reasonable questions and produce any relevant documents or records.

95. The Commission recommends that the privacy of service providers and clients be respected during the exercise of powers of Commonwealth officers.

96. The Commission recommends that the new legislation clearly set out the sanctions that the Minister or the Secretary can apply and the circumstances in which they can be applied. The new legislation should give the Minister or the Secretary the power to

- suspend all payments or a percentage (amount at the Minister's discretion) of each payment until the Minister is satisfied that the conditions have been complied with
- downgrade the status of the service
- terminate the funding agreement
- vary or add conditions of funding where a service has breached existing conditions
- appoint an administrator to manage a service where

- other available sanctions have been applied without success and the welfare of clients is threatened or
- a service is in financial difficulty and is in serious danger of closing or
- there is clear evidence of financial mismanagement or
- there is clear evidence of maladministration or illegality or
- the service provider has requested an administrator
- issue a public declaration naming a service in breach of the terms and conditions and the nature of the breach.

Chapter 18 - Protecting the interests of service providers

97. The Commission recommends that the new legislation require the Department to develop a procedure to review its decisions concerning service providers. The internal review procedure should

- follow clear procedures
- operate quickly, cheaply and effectively
- involve someone other than the original decision maker
- provide the service with reasons for the decision
- advise the service of available external review.

98. The Commission recommends that the legislation provide that the following decisions should not be reviewable by the AAT or any other merits review body

- planning decisions
- decisions to approve limited funding
- decisions about the amount of funding a service provider receives
- decisions to suspend funding approval.

99. The Commission recommends that the new legislation enable service providers to seek review by the AAT of a decision to

- approve an organisation as suitable to provide a service
- revoke funding
- extend a suspension of funding
- impose other sanctions
- waive, vary or add conditions of funding
- determine how a client's support needs are classified
- reclassify a client's support needs.

100. Since the disability standards review panels have not been long enough in operation for a conclusive recommendation to be made, the Commission recommends that the workings of the panels be reviewed in two years' time.

101. In respect of disclosure of non-personal information relating to service providers the Commission recommends that the new legislation reflect the recommendations made by the Commission in *Open government* ALRC 77.

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 - 2 The coming of age ALRC 72.
 - 3 Issues paper 15.
 - 4 Discussion paper 60.
 - 5 Constitution s 81.
 - 6 Constitution s 96.
 - 7 Constitution s 122.
 - 8 Constitution s 51(xx).
 - 9 Constitution s 51(xxix).
 - 10 Constitution s 51(xxiii).
 - 11 Constitution s 51(xxiiiA).
 - 12 For privacy reasons the Commission did not ask for the names of people responding to the questionnaire.
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 - 19 Peter Baume & Kathleen Kay Working Solution Report of the Strategic Review of the Commonwealth Disability Services Program AGPS 1995.
 - 20 Evaluation of the Disability Reform Package Main Report May 1995.
 - 21 MGM Consultants in Human Services Advancing Advocacy Disability Advocacy Effectiveness Project September 1995.
 - 22 Australian Institute of Health and Welfare The demand for disability support services in Australia AGPS Canberra 1996.
 - 23 Anna Yeatman Getting Real The Interim Report of the Review of the CSDA AGPS January 1996. Executive summary of the final report released July 1996.
 - 24 The HACC program is funded under the Home and Community Care Act 1985 (Cth).
 - 25 AGPS Canberra 1994.
 - 26 Report of the Handicapped Programs Review New Directions AGPS Canberra 1985.
 - 27 Senator Don Grimes, Minister for Community Services Disability Services Bill 1986 Second reading speech.
 - 28 For a full description of eligible organisations and the services actually provided under the Act see ch 2.
 - 29 For a description of what the CRS provides in practice see para 2.24–2.27.
 - 30 Hon Michael Duffy, Attorney General Disability Discrimination Bill 1992 Second reading speech.
 - 31 Anti-Discrimination Act 1977 (NSW), Equal Opportunity Act 1984 (Vic); Equal Opportunity Act 1984 (WA); Equal Opportunity Act 1984 (SA); Anti-Discrimination Act 1991 (QLD); Discrimination Act 1991 (ACT); Anti-Discrimination Act 1992 (NT).
 - 32 See para 4.26–4.28.
 - 33 For a discussion of Australia's human rights, legal and social justice responsibilities and a clarification of what rights will be reflected in and created by the new legislation, see ch 3.
 - 34 See ch 4.
 - 35 See ch 4.
 - 36 See ch 5.
 - 37 See ch 6.
 - 38 See ch 7.
 - 39 See ch 8.
 - 40 See ch 8.
 - 41 See ch 9.
 - 42 See ch 6 (planning) and ch 16 (funding).
 - 43 See ch 14.
 - 44 See ch 4.
 - 45 See ch 16.
 - 46 Peter Baume & Kathleen Kay *Working Solution* Report of the Strategic Review of the Commonwealth Disability Services Program, 2-3; 44–45.
 - 47 Australian Institute of Health and Welfare *The demand for disability support services in Australia* AGPS Canberra 1996, 21.
 - 48 See para 2.31 and 2.22 for a discussion concerning the target groups for funded services and the CRS.
 - 49 Fuller discussion of appropriate definitions occurs in ch 5.
 - 50 Australian Bureau of Statistics *Carers of the Handicapped at Home* Canberra 1988.
 - 51 Australian Bureau of Statistics *Disability, Ageing and Carers Summary Findings* Canberra 1993.

52 Australian Bureau of Statistics *Focus on Families: Caring in Families - Support for persons who are older or who have disabilities* Canberra 1995. One of the report's major findings was that 92% of people with a disability who received informal care, received care for some activities from a family member.

53 Examples of national peak disability specific bodies include the National Council on Intellectual Disability, the Australian Psychiatric Disability Coalition, the Deafness Forum of Australia, the National Federation of Blind Citizens of Australia, the Head Injury Council of Australia and the Physical Disability Council of New South Wales.

54 For example, People with Disabilities (NSW) Inc.

55 For example, the Carers' Association of Australia Inc.

56 In April 1992, the National Mental Health Strategy was agreed to by the Commonwealth and all State and Territory Health Ministers. The Strategy emphasises co-ordinating mental health services and advancing the rights of people with mental disorders. The Commonwealth has committed \$269 million over a six year period from 1992-93 to 1997-98 to support the Strategy.

57 The Commonwealth provides Financial Assistance Grants to States and Territories to administer aids and appliance schemes for people with a disability.

58 The Commission discusses the HACC program at para 1.16.

59 Panel staff are Disability Support Officers from DSS and Disability Jobseeker Advisers from the Commonwealth Employment Service within DEETYA. CRS staff represent the Department of Health and Family Services on the panels.

60 *Evaluation of the Disability Reform Package* Main Report May 1995.

61 *Disability Services Act 1986* (Cth) s 20.

62 There are over 170 of these units nationally (1995).

63 The CRS employed 16 Aboriginal Rehabilitation Officers nationally in 1994.

64 Commonwealth Department of Human Services and Health (as it then was) *Annual Report 1994-95*, 160-161. No 1994-5 figures are available for the number of clients who completed independent living programs (1993-4 figure is 3 110).

65 *Disability Services Act 1986* (Cth) s 20(1)(a)(ii).

66 8.8% at July 1995.

67 The CRS provides services to Comcare and Workcover in South Australia, New South Wales, Victoria and Western Australia.

68 The Budget allocation for 1995-96 is \$125 million.

69 *Disability Services Act 1986* (Cth) s 22. The Act permits the Secretary to direct that specified persons or classes of persons may be exempt from paying all or part of the cost of a rehabilitation program. The Secretary has directed that people entirely dependent on their parents' or spouse's income and people receiving ABSTUDY or AUSTUDY are exempt from paying for rehabilitation programs.

70 *Disability Services Act 1986* (Cth) s 7.

71 *Disability Services Act 1986* (Cth) s 8.

72 Standard 9.

73 Commonwealth Department of Human Services and Health (as it then was) *1993 Service Consumer Profile Report* AGPS Canberra, 5, 9.

74 Commonwealth Department of Human Services and Health (as it then was) *1993 Service Consumer Profile Report* AGPS Canberra, 5.

75 Commonwealth Department of Human Services and Health (as it then was) *1993 Service Consumer Profile Report* AGPS Canberra, 5.

76 id, 8.

77 Four of these services are administered by the Commonwealth's Office of Disability. The Office is also responsible for policy development concerning all advocacy services. The remaining services are administered by the State offices of the Department.

78 *Disability Services Act 1986* (Cth) s 12.

79 Law Reform Commission Act 1973 (Cth) s 7.

80 House of Representatives Standing Committee on Legal and Constitutional Affairs Law reform - the challenge continues : a report of the inquiry into the role and function of the Law Reform Commission of Australia Canberra 1994, 52-4.

81 In 1994-95, the Department of Human Services and Health (as it then was) spent \$474 million on disability programs. This money enabled approximately 77 500 people with a disability to receive support.

82 See recommendation 16.

83 International Covenant on Civil and Political Rights; United Nations Universal Declaration of Human Rights; International Convention on the Elimination of all Forms of Racial Discrimination; Convention on the Elimination of all Forms of Discrimination Against Women; International Labour Organisation Convention No 111 Discrimination (Employment and Occupation) Convention.

84 See M Darrow International Human Rights Law and Disability - Time for an International Convention on the Human Rights of Persons with Disabilities?' (1996) 3 Australian Journal of Human Rights (forthcoming); T Degener & Y Koster-Dreese (eds), *Human Rights and Disabled Persons* (1995).

85 Article 2 of the ICESCR. See further, the United Nations Committee on Economic, Social and Cultural Rights, General Comment No 5 on Persons with Disabilities' (adopted, 25 November 1994); Article 26 of the ICCPR; the United Nations Committee on Human Rights, General Comment 18 on Non Discrimination' CCPR/C/21/Rev.1/Add.1 21 No 1989.

86 P Alston, 'Disability and the International Covenant on Economic, Social and Cultural Rights', in T Degener & Y Koster-Dreese (eds) *Human Rights and Disabled Persons* (1995), 95-6.

87 UN Doc E/CN.4/L610 of 2 April 1962.

88 Article 1 of the 1971 Declaration and Article 3 of the 1975 Declaration proclaim that the rights of people with a disability are fundamentally the same as those enjoyed by all other human beings; see also the UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care 1991.

89 There are precedents for this in other areas of international law. Principle 21 of the United Nations Stockholm Declaration on the Human Environment (1972) which places upon states the responsibility 'to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states' is generally recognised today as having become a rule of customary international law on account of its widespread adoption in state laws and other UN conventions, A Kiss & P Hassan, 'General Environmental Concerns' in P Sand (ed) *The Effectiveness of International Environmental Agreements* (1992), 30.

90 See Article 38 of the Statute of the International Court of Justice.

91 para 15 of the Introduction to the Standards Rules on the Equalisation of Opportunities for Persons with Disabilities 1993.

92 Article 23(1) Convention on the Rights of the Child.

93 See Recommendation 18(x) of the UN Committee on the Elimination of All Forms of Discrimination Against Women 1990.

94 Article 2(1).

95 Article 38 of the Statute of the International Court of Justice.

96 Speech by A Downer, Minister for Foreign Affairs, Reform of the Treaty-Making Process' 2 May 1996.

97 For example, the external affairs power s 51(29); corporations power s 51(1); power in respect of family law matters s 51(22) and the incidental power s 51(39).

98 Department of Foreign Affairs and Trade, Negotiation, Conclusion and Implementation of International Treaties and Arrangements' August 1994 para 56. Note, that this is, however, only a presumption. There can never be a guarantee that Australian law conforms with the relevant treaty in all respects. Nor can there be any guarantee that domestic law complies with customary international law.

99 Dietrich v R (1993) 177 CLR 292, at 348-9, (Dawson J). See also Teoh, at 362, (Mason CJ, Deane J).

100 Sir Anthony Mason 'The Influence of International and Transnational Law on Australian Municipal Law' (1996) 7 Public Law Review 20.

101 Minister for Immigration and Ethnic Affairs v Teoh (1995) 128 ALR 353.

102 Minister for Immigration and Ethnic Affairs v Teoh (1995) 128 ALR 353 at 365. Chief Justice Mason and Justice Deane stated that [t]hat positive statement (the ratification of the relevant international human rights treaty) is an adequate foundation for a legitimate expectation, absent statutory or executive indications to the contrary, that administrative decision-makers will act in conformity with the Convention'.

103 See, for example, Australia's ratification of the First Optional Protocol to the ICCPR which came into force on 25 December 1991. In Mabo (No.2) (1992) 175 CLR 1 at 42, Brennan J considered such action as bringing directly 'to bear on the common law the powerful influence of the Covenant [ICCPR] and the international standards it imports.'

104 It is a moot point whether the Joint Statement of the former Minister for Foreign Affairs, Senator Gareth Evans, and the former Attorney-General, Mr Michael Lavarch, International Treaties and the High Court Decision in Teoh' 10 May 1996 is sufficient to remove or qualify this expectation on the ground that it is an executive indication to the contrary' as provided by the High Court; see Sir Anthony Mason 'The Influence of International and Transnational Law on Australian Municipal Law' (1996) 7 Public Law Review 1 at 23-4; M Allars One Small Step for Legal Doctrine, One Giant Leap Towards Integrity in Government' (1995) 17 Sydney Law Review 204 at 239-41.

105 Justice Statement (1995), 165-178.

106 See also the Commonwealth Disability Strategy 1995. The Commission examined the question of equality rights in its report Equality Before the Law ALRC 69.

107 See, for example, Haoucher v Minister for Immigration and Ethnic Affairs (1990) 169 CLR 648 at 654 (Deane J).

108 Disability Discrimination Act 1992 (Cth) s 31.

109 The Justice Statement (1995), 169-70.

110 The ILO Convention No 111 Discrimination (Employment and Occupation) 1958; the ICCPR, and the ICESCR.

111 Act concerning Support and Service for Persons with Certain Functional Impairments, Jan 1994.

112 Malena Sjöberg New Rights for Persons with Functional Impairments' Swedish Institute Current Sweden No 402.

113 A key area in the strategy is the Framework for Local Area Agreements which identifies the areas of potential co-operation between open labour market services and the CRS. These areas of potential co-operation include job search and placement, post employment placement support, access to the CRS Work Training Scheme and the Australian Council of Trade Unions/CRS Agreement that allows training placement in industry and marketing.

114 In 1994-95, 45% of CRS clients had a physical disability and 23% had a psychiatric disability. In other Commonwealth funded disability services, 73% had an intellectual disability.

115 Disability Services Act 1986 (Cth) s 28 and s 26, respectively.

116 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Australian Physiotherapy Association VIC *Submission 87*; Coalition of Rural People with Disabilities NSW *Submission 94*.

117 Brain Injury Association of NSW Incorporated *Submission 27*; Headway Victoria *Submission 71*.

118 Adelaide, Broome, Launceston, Perth consultations.

119 Broome, Launceston consultations.

120 Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; J Williams NSW *Submission 48*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Coalition of Rural People with Disabilities NSW *Submission 94*.

121 Brain Injury Association of NSW Incorporated *Submission 27*; J Williams NSW *Submission 48*; ParaQuad NSW *Submission 65*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Coalition of Rural People with Disabilities NSW *Submission 94*.

122 Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*.

123 Headway Victoria *Submission 71*; Coalition of Rural People with Disabilities NSW *Submission 94*.

124 Brain Injury Association of NSW Incorporated *Submission 27*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Coalition of Rural People with Disabilities NSW *Submission 94*; Independent Living Centre QLD *Submission 104*; Adelaide, Melbourne, Perth, Sydney consultations.

125 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; J Williams NSW *Submission 48*; Victorian Deaf Society *Submission 55*; Queensland Mental Health Consumer Advisory Group *Submission 56*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of Rural People with Disabilities NSW *Submission 94*; Multiple Sclerosis Society of Queensland QLD *Submission 105*; D Johnson NSW *Submission 118*; S Stowell WA *Submission 157*; Adelaide, Brisbane, Broome, Cairns, Darwin, Hobart, Launceston, Melbourne, Perth, Sydney, Wagga consultations.

126 R Rana SA *Submission 1*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Independent Living Centre QLD *Submission 104*; T Vardaro WA *Submission 162*; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.

127 Confidential NSW *Submission 2*; R Rana SA *Submission 20*; Salvation Army NSW *Submission 25*; Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Career Contact WA *Submission 73*; K Rendell SA *Submission 76*; IDEAS Incorporated NSW *Submission 81*; Community Services Australia (Uniting Church) ACT *Submission 86*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*.

128 D Pickering QLD *Submission 11*; W Stern WA *Submission 17*; R Rana SA *Submission 20*; Link Magazine SA *Submission 33*; R Bruggemann QA *Submission 35*; J Bellchambers NSW *Submission 53*; Schizophrenia Australia Foundation VIC *Submission 57*; Disability Services Commission WA *Submission 60*; Villamanta Legal Service Incorporated VIC *Submission 69*; Career Contact WA *Submission 73*; IDEAS Incorporated NSW *Submission 81*; Australian Physiotherapy Association VIC *Submission 87*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Multiple Sclerosis Society of Queensland QLD *Submission 105*; New South Wales Council for Intellectual Disability *Submission 125*; Schizophrenia Australia Foundation VIC *Submission 137*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Intellectual Disability Services Council SA *Submission 156*; National Ethnic Disability Alliance ACT *Submission 171*; Federation of Ethnic Community Councils *Submission 172*; Adelaide, Brisbane, Broome, Cairns, Darwin, Hobart, Melbourne, Perth, Sydney, Wagga consultations.

129 M Ryan VIC *Submission 54*; United Trades and Labour Council of SA *Submission 68*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Career Contact WA *Submission 73*; Uniting Church Disability Policy Working Group WA *Submission 80*;

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- IDEAS Incorporated NSW *Submission 81*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; D Denning QLD *Submission 107*; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.
- 130 R Rana SA *Submission 1*; D Pickering QLD *Submission 11*; R and C Webster QLD *Submission 12*; Confidential QLD *Submission 14*; W Stern WA *Submission 17*; Brain Injury Association of NSW Incorporated *Submission 27*; D Stagg SA *Submission 34*; CIPIAD Inc. VIC *Submission 37*; J Williams NSW *Submission 48*; M Ryan VIC *Submission 54*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Schizophrenia Australia Foundation VIC *Submission 57*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Activ Foundation Incorporated WA *Submission 72*; Career Contact WA *Submission 73*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; Community Services Commission NSW *Submission 90*; Coalition of Rural People with Disabilities NSW *Submission 94*; D Shields QLD *Submission 99*; National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*; J Leddy NSW *Submission 121*; J Ellis NSW *Submission 132*; VICOS VIC *Submission 143*; R Smith WA *Submission 166*; Activ Foundation - South West Regional Support Group WA *Submission 179*; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.
- 131 See recommendation 1.
- 132 The principles and objectives are detailed at para 1.20.
- 133 D Latham QLD *Submission 4*; M Ryan VIC *Submission 29*; Unicare Work Solutions QLD *Submission 30*; R Bruggemann SA *Submission 35*; M Hewitt VIC *Submission 39*; Kurrajong Early Intervention Service NSW *Submission 45*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Disability Services Office, South Australian Health Commission *Submission 74*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Disability Services Commission WA *Submission 83*; Confidential SA *Submission 84*; Community Services Commission NSW *Submission 90*; Star Victoria Incorporated *Submission 92*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Spastic Society of Victoria *Submission 142*; VICOS VIC *Submission 143*; questionnaire responses to Q 1, 20; Adelaide, Launceston, Melbourne, Perth, Sydney, Wagga consultations.
- 134 New South Wales Council for Intellectual Disability *Submission 97*; Wagga consultations.
- 135 Unicare Work Solutions QLD *Submission 30*; R Bruggemann SA *Submission 35*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Disability Services Office, South Australian Health Commission *Submission 74*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Disability Services Commission WA *Submission 83*; Confidential SA *Submission 84*.
- 136 R Rana SA *Submission 20*; Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; Carers Association of South Australia Incorporated *Submission 28*; Unicare Work Solutions QLD *Submission 30*; J Bellchambers NSW *Submission 53*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Schizophrenia Australia Foundation VIC *Submission 57*; Anonymous *Submission 61*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Career Contact WA *Submission 73*; Disability Services Office, South Australian Health Commission *Submission 74*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Services Commission WA *Submission 83*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; National Council on Intellectual Disability ACT *Submission 89*; Community Services Commission NSW *Submission 90*; Star Victoria Incorporated *Submission 92*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Arthritic Association of Australia NSW *Submission 122*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Disabled People's Council of Western Australia *Submission 159*; Adelaide, Cairns, Darwin, Launceston, Melbourne, Perth, Sydney, Wagga consultations.
- 137 New South Wales Council for Intellectual Disability *Submission 97*.
- 138 IDEAS Incorporated NSW *Submission 81*; New South Wales Council for Intellectual Disability *Submission 97*.
- 139 High Point Industries VIC *Submission 50*.
- 140 Headway Victoria *Submission 71*.
- 141 Autistic Children's Association of Queensland Incorporated *Submission 70*.
- 142 R Rana SA *Submission 20*; M Hewitt VIC *Submission 39*; M MacMin SA *Submission 40*; Public Guardian's Office WA *Submission 66*; Headway Victoria *Submission 71*.
- 143 Citizen Advocacy Association NSW Incorporated *Submission 82*.
- 144 IDEAS Incorporated NSW *Submission 81*.
- 145 D Stagg SA *Submission 34*.
- 146 M Paxton VIC *Submission 75*.
- 147 W Stern WA *Submission 17*.
- 148 Anonymous NSW *Submission 24*; Carers Association of South Australia Incorporated *Submission 28*.
- 149 R Rana SA *Submission 20*; Anonymous NSW *Submission 24*.
- 150 Uniting Church Disability Policy Working Group WA *Submission 80*; Community Services Australia (Uniting Church) ACT *Submission 86*.
- 151 Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; R Bruggemann SA *Submission 35*; South Australian Health Commission *Submission 36*; The Public Policy Assessment Society Incorporated ACT *Submission 41*; Department of Ageing and Disability NSW *Submission 46*; High Point Industries VIC *Submission 50*; M Ryan VIC *Submission 54*; Anonymous *Submission 61*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Headway Victoria *Submission 71*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; Coalition of Rural People with Disabilities NSW *Submission 94*; Multiple Sclerosis Society of Queensland QLD *Submission 105*; MS Hand Group NT *Submission 111*; J Kinter NT *Submission 113*; New South Wales Association of Occupational Therapists *Submission 114*; Western Sydney Employment Development Service NSW *Submission 116*; Association of Genetic Support of Australia NSW *Submission 127*; J Ellis NSW *Submission 132*; Richmond Fellowship TAS *Submission 133*; Tasmanian Association for Mental Health: Club House *Submission 134*; J McNabb VIC *Submission 136*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Spastic Society of Victoria *Submission 142*; W Stern WA *Submission 158*; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.

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- 152 K Starling QLD *Submission 64*; Public Guardian's Office WA *Submission 66*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Multiple Sclerosis Society of Queensland QLD *Submission 105*; J Ellis NSW *Submission 132*; Tasmanian Association for Mental Health: Club House *Submission 134*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; W Stern WA *Submission 158*; Adelaide, Wagga consultations.
- 153 R Rana SA *Submission 20*; J Bellchambers NSW *Submission 53*; Schizophrenia Australia Foundation VIC *Submission 57*; Australian Parent Advocacy Incorporated QLD *Submission 79*; J McNabb VIC *Submission 136*.
- 154 R Bruggemann SA *Submission 35*.
- 155 D Latham QLD *Submission 4*; J Epstein OAM QLD *Submission 10*; W Stern WA *Submission 17*; M Ryan VIC *Submission 29*; Anonymous QLD *Submission 32*; M Hewitt VIC *Submission 39*; Kurrajong Early Intervention Service NSW *Submission 45*; High Point Industries VIC *Submission 50*; Schizophrenia Australia Foundation VIC *Submission 57*; Headway Victoria *Submission 71*; Activ Foundation Incorporated WA *Submission 72*; Wagga consultations.
- 156 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* December 1995, 43.
- 157 R Rana SA *Submission 1*; Meniere's Australia Incorporated TAS *Submission 3*; Royal Blind Society NSW *Submission 15*; Developing Buds Training and Transition Network Incorporated QLD *Submission 21*; Anonymous NSW *Submission 24*; Unicare Work Solutions QLD *Submission 30*; Anonymous QLD *Submission 32*; D Stagg SA *Submission 34*; The Public Policy Assessment Society Incorporated ACT *Submission 41*; Confidential QLD *Submission 44*; Kurrajong Early Intervention Service NSW *Submission 45*; J Williams NSW *Submission 48*; Confidential WA *Submission 49*; Juvenile Diabetes Foundation Australia NSW *Submission 52*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Activ Foundation Incorporated WA *Submission 72*; Care Providers' Association of South Australia *Submission 77*; Advisory Council for Disability Services WA *Submission 78*; IDEAS Incorporated NSW *Submission 81*; Network of Community Activities NSW *Submission 88*; Coalition of Rural People with Disabilities NSW *Submission 94*; Multiple Sclerosis Society of Queensland QLD *Submission 105*; D Denning QLD *Submission 107*; J Kinter NT *Submission 113*; C Sitka NSW *Submission 115*; Western Sydney Employment Development Service NSW *Submission 116*; G Murray NSW *Submission 117*; E Rushdon NSW *Submission 120*; New South Wales Council for Intellectual Disability *Submission 125*; Richmond Fellowship TAS *Submission 133*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; M Kenneally VIC *Submission 146*; DEAL Communication Centre VIC *Submission 147*; D Stagg SA *Submission 151*; Adelaide, Brisbane, Broome, Cairns, Darwin, Hobart, Launceston, Melbourne, Perth, Townsville, Sydney, Wagga consultations.
- 158 IDEAS Incorporated NSW *Submission 81*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Hobart, Melbourne, Wagga consultations.
- 159 Meniere's Australia Incorporated TAS *Submission 3*; Royal Blind Society NSW *Submission 15*; R Rana SA *Submission 20*; Anonymous NSW *Submission 24*; M Ryan VIC *Submission 29*; Unicare Work Solutions QLD *Submission 30*; D Stagg SA *Submission 34*; Kurrajong Early Intervention Service NSW *Submission 45*; J Williams NSW *Submission 48*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; IDEAS Incorporated NSW *Submission 81*; Perth, Wagga consultations.
- 160 Wagga consultations.
- 161 Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Wagga consultations.
- 162 Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; R Bruggemann SA *Submission 35*; J Bellchambers NSW *Submission 53*; National Anglican Caring Organisations Network VIC *Submission 58*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Villamanta Legal Service Incorporated VIC *Submission 69*; Autistic Children's Association of Queensland Incorporated *Submission 70*; K Rendell SA *Submission 76*; IDEAS Incorporated NSW *Submission 81*; Disability Council of NSW *Submission 85*; National Council on Intellectual Disability ACT *Submission 89*; Community Services Commission NSW *Submission 90*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Multiple Sclerosis Society of Queensland QLD *Submission 105*; National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*; New South Wales Association of Occupational Therapists *Submission 114*; National Brain Injury Foundation NSW *Submission 128*; Schizophrenia Australia Foundation VIC *Submission 137*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Defence Special Needs Support Group SA *Submission 150*; G Hasslacher WA *Submission 160*; R Altmore ACT *Submission 169*; National Brain Injury Foundation ACT *Submission 170*; National Ethnic Disability Alliance ACT *Submission 171*; New South Wales Association of Occupational Therapists *Submission 183*.
- 163 D Latham QLD *Submission 4*; Developing Buds Training and Transition Network Incorporated QLD *Submission 21*; Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; Carers Association of South Australia Incorporated *Submission 28*; Parent Advocacy ACT *Submission 31*; Anonymous QLD *Submission 32*; CIPIAD Inc. VIC *Submission 37*; Kurrajong Early Intervention Service NSW *Submission 45*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Activ Foundation Incorporated WA *Submission 72*; Uniting Church Disability Policy Working Group WA *Submission 80*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Community Services Australia (Uniting Church) ACT *Submission 86*; National Council on Intellectual Disability ACT *Submission 89*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*.
- 164 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* December 1995, 44.
- 165 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* December 1995, 27.
- 166 R Rana SA *Submission 1*; Parents and Relatives of Sevenoaks Residents QLD *Submission 9*; D Pickering QLD *Submission 11*; R and C Webster QLD *Submission 12*; Confidential QLD *Submission 14*; W Stern WA *Submission 17*; Developing Buds Training and Transition Network Incorporated QLD *Submission 21*; Anonymous NSW *Submission 24*; Brain Injury Association of NSW Incorporated *Submission 27*; D Stagg SA *Submission 34*; Confidential QLD *Submission 44*; Disability Services Commission WA *Submission 60*; Delando Crescent Welfare Corporation Ltd NSW *Submission 62*; Activ Foundation Incorporated WA *Submission 72*; M Paxton VIC *Submission 75*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Community Services Australia (Uniting Church) ACT *Submission 86*; Network of Community Activities NSW *Submission 88*; Coalition of Rural People with Disabilities NSW *Submission 94*; D Shields QLD *Submission 99*; G Banks and L O'Keefe NT *Submission 112*; J Leddy NSW *Submission 121*; J Stephens NSW *Submission 124*; L Schloeffel NSW *Submission 126*; J Ellis NSW *Submission 132*; Richmond Fellowship TAS *Submission 133*; Tasmanian Association for Mental Health: Club House *Submission 134*; Spastic Society of Victoria *Submission 142*; R Smith WA *Submission 166*; Advisory Council for Disability Services WA *Submission 168*; Darwin, Melbourne, Wagga consultations.
- 167 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* December 1995, 10.
- 168 Confidential NSW *Submission 2*; R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; South Australian Health Commission *Submission 36*; J Williams NSW *Submission 48*; K Starling QLD *Submission 64*; Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; Australian Physiotherapy

Association VIC *Submission 87*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*.

169 Villamanta Legal Service Incorporated VIC *Submission 69*; Disability Services Commission WA *Submission 83*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; J Ellis NSW *Submission 132*.

170 United Trades and Labour Council of SA *Submission 68*; Autistic Children's Association of Queensland Incorporated *Submission 70*; IDEAS Incorporated NSW *Submission 81*; Melbourne, Sydney, Wagga consultations.

171 Anonymous *Submission 61*; National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*.

172 W Stern WA *Submission 17*; R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Parent Advocacy ACT *Submission 31*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; Confidential VIC *Submission 43*; Confidential WA *Submission 49*; M Ryan VIC *Submission 54*; ParaQuad NSW *Submission 65*; Villamanta Legal Service Incorporated VIC *Submission 69*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Activ Foundation Incorporated WA *Submission 72*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; Confidential SA *Submission 84*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*; National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*; J Ellis NSW *Submission 132*; Australian Nursing Federation VIC *Submission 140*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Intellectual Disability Services Council SA *Submission 156*; questionnaire responses to Q 1; Adelaide, Brisbane, Cairns, Darwin, Hobart, Launceston, Melbourne, Perth, Sydney, Townsville, Wagga consultations.

173 W Stern WA *Submission 17*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Villamanta Legal Service Incorporated VIC *Submission 69*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Activ Foundation Incorporated WA *Submission 72*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Confidential SA *Submission 84*; Disability Council of NSW *Submission 85*; New South Wales Council for Intellectual Disability *Submission 97*; National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*; J Ellis NSW *Submission 132*; Australian Nursing Federation VIC *Submission 140*; VICOS VIC *Submission 143*; DEAL Communication Centre VIC *Submission 147*.

174 W Stern WA *Submission 17*; R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; Confidential WA *Submission 49*; M Ryan VIC *Submission 54*; Anonymous *Submission 61*; ParaQuad NSW *Submission 65*; Villamanta Legal Service Incorporated VIC *Submission 69*; Disability Services Office, South Australian Health Commission *Submission 74*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; New South Wales Council for Intellectual Disability *Submission 97*; Defence Special Needs Support Group SA *Submission 150*; Ability Network SA *Submission 153*; Ms Davey SA *Submission 155*; Adelaide, Brisbane, Darwin, Hobart, Melbourne, Perth, Sydney, Wagga consultations.

175 Questionnaire responses to Q 1; Adelaide, Brisbane, Canberra, Melbourne consultations.

176 Brain Injury Association of NSW Incorporated *Submission 27*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Advisory Council for Disability Services WA *Submission 78*.

177 Royal Blind Society NSW *Submission 15*; Unicare Work Solutions QLD *Submission 30*; CIPIAD Inc VIC *Submission 37*; Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Australian Nursing Federation VIC *Submission 140*.

178 R Rana SA *Submission 20*; Anonymous NSW *Submission 24*; Brain Injury Association of NSW Incorporated *Submission 27*; Parent Advocacy ACT *Submission 31*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; Department of Ageing and Disability NSW *Submission 46*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Activ Foundation Incorporated WA *Submission 72*; Disability Services Office, South Australian Health Commission *Submission 74*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Services Commission WA *Submission 83*; Confidential SA *Submission 84*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Spastic Society of Victoria *Submission 176*; Queensland Disability Advisory Council *Submission 180*; Adelaide, Canberra, Melbourne, Perth, Sydney, Wagga consultations.

179 Anonymous NSW *Submission 24*; Brain Injury Association of NSW Incorporated *Submission 27*; R Bruggemann SA *Submission 35*; South Australian Health Commission *Submission 36*; CIPIAD Inc VIC *Submission 37*; M MacMin SA *Submission 40*; Department of Ageing and Disability NSW *Submission 46*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Schizophrenia Australia Foundation VIC *Submission 57*; National Anglican Caring Organisations Network VIC *Submission 58*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; United Trades and Labour Council of SA *Submission 68*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Activ Foundation Incorporated WA *Submission 72*; Disability Services Office, South Australian Health Commission *Submission 74*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Confidential SA *Submission 84*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Queensland Advocacy Incorporated *Submission 91*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Spastic Society of Victoria *Submission 176*; questionnaire responses to Q 1; Canberra, Wagga consultations.

180 R Rana SA *Submission 20*; Confidential VIC *Submission 43*; J Ellis NSW *Submission 132*.

181 Disability Services Commission WA *Submission 83*; Hobart, Sydney, Townsville, Wagga consultations.

182 ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; National Council on Intellectual Disability ACT *Submission 89*.

183 ParaQuad NSW *Submission 65*; Confidential SA *Submission 84*; Disability Council of NSW *Submission 85*.

184 Autistic Children's Association of Queensland Incorporated *Submission 70*; Hobart, Launceston, Wagga consultations.

185 W Stern WA *Submission 17*; Activ Foundation Incorporated WA *Submission 72*.

186 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*.

187 Brain Injury Association of NSW Incorporated *Submission 27*.

188 Disability Services Commission WA *Submission 83*.

189 New South Wales Council for Intellectual Disability *Submission 97*.

190 The Public Policy Assessment Society Incorporated ACT *Submission 41*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Uniting Church Disability Policy Working Group WA *Submission 80*; IDEAS

Incorporated NSW *Submission 81*; Network of Community Activities NSW *Submission 88*; National Council on Intellectual Disability ACT *Submission 89*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Federation of Ethnic Community Councils *Submission 172*; Spastic Society of Victoria *Submission 176*; Australian Disability Consultative Council ACT *Submission 177*; Confidential VIC *Submission 178*; Queensland Disability Advisory Council *Submission 180*; questionnaires responses to Q 1, 20; Adelaide, Melbourne, Sydney, Wagga consultations.

191 Confidential VIC *Submission 178*.

192 R Rana SA *Submission 1*; Meniere's Australia Incorporated TAS *Submission 3*; Royal Blind Society NSW *Submission 15*; Anonymous NSW *Submission 24*; M Ryan VIC *Submission 29*; Unicare Work Solutions QLD *Submission 30*; Confidential QLD *Submission 44*; Kurrajong Early Intervention Service NSW *Submission 45*; J Williams NSW *Submission 48*; Headway Victoria *Submission 71*; Advisory Council for Disability Services WA *Submission 78*; IDEAS Incorporated NSW *Submission 81*; Disability Council of NSW *Submission 85*; Adelaide, Canberra, Melbourne, Perth, Sydney, Wagga consultations.

193 Questionnaire responses to Q 1.

194 Confidential NSW *Submission 2* Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Career Contact WA *Submission 73*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; questionnaire responses to Q 1; Adelaide, Melbourne, Wagga consultations.

195 Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Department of Ageing and Disability NSW *Submission 46*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; questionnaire responses to Q 1; Adelaide, Canberra, Melbourne, Wagga consultations.

196 Confidential NSW *Submission 2*; Salvation Army NSW *Submission 25*; Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Career Contact WA *Submission 73*; M Paxton VIC *Submission 75*; K Rendell SA *Submission 76*; IDEAS Incorporated NSW *Submission 81*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*.

197 Questionnaire responses to Q 1.

198 R Rana SA *Submission 20*; South Australian Health Commission *Submission 36*; New South Wales Council for Intellectual Disability *Submission 97*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; questionnaire responses to Q 1; Adelaide, Melbourne, Wagga consultations.

199 South Australian Health Commission *Submission 36*.

200 Questionnaire responses to Q 1; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.

201 Questionnaire responses to Q 1.

202 Questionnaire responses to Q 1.

203 R Rana SA *Submission 20*; South Australian Health Commission *Submission 36*; New South Wales Council for Intellectual Disability *Submission 97*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*.

204 Adelaide, Brisbane, Melbourne, Wagga consultations.

205 The James Foundation Incorporated WA *Submission 22*; K Starling QLD *Submission 64*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; New South Wales Council for Intellectual Disability *Submission 97*; National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Wagga consultations.

206 Wagga consultations.

207 Wagga consultations.

208 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* December 1995, 42.

209 Adelaide, Brisbane, Broome, Cairns, Darwin, Hobart, Launceston, Melbourne, Perth, Sydney, Townsville, Wagga consultations. The Commission discusses service quality in ch 11.

210 R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Department of Ageing and Disability NSW *Submission 46*; Victorian Deaf Society *Submission 55*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Schizophrenia Australia Foundation VIC *Submission 57*; Anonymous *Submission 61*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Disability Services Office, South Australian Health Commission *Submission 74*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; VICOS VIC *Submission 143*; Intellectual Disability Services Council SA *Submission 156*; Spastic Society of Victoria *Submission 176*; Australian Disability Consultative Council ACT *Submission 177*; Activ Foundation - South West Regional Support Group WA *Submission 179*; questionnaire responses to

211 Developing Buds Training and Transition Network Incorporated QLD *Submission 21*; Brain Injury Association of NSW Incorporated *Submission 27*; Parent Advocacy ACT *Submission 31*; CIPIAD Inc VIC *Submission 37*; ParaQuad NSW *Submission 65*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*; National Council on Intellectual Disability ACT *Submission 89*; questionnaire responses to Q 1.

212 Questionnaire responses to Q 1.

213 Questionnaire responses to Q 1.

214 Questionnaire responses to Q 1.

215 R Rana SA *Submission 20*; CIPIAD Inc. VIC *Submission 37*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; 63; ParaQuad NSW *Submission 65*; Career Contact WA *Submission 73*; Advisory Council for Disability Services WA *Submission 78*; Disability Services Commission WA *Submission 83*; Community Services Commission NSW *Submission 90*; Coalition of Rural People with Disabilities NSW *Submission 94*; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.

216 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; M Hewitt VIC *Submission 39*; Australian Veterans and Defence Services Council NSW *Submission 42*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Uniting Church Disability Policy Working Group WA *Submission 80*; IDEAS Incorporated NSW *Submission 81*; Community Services Australia

(Uniting Church) ACT *Submission 86*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; Activ Foundation - South West Regional Support Group WA *Submission 179*; questionnaire responses to Q 1, 11, 16, 17, 18.

217 National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*; Federation of Ethnic Community Councils *Submission 172*; questionnaire responses to Q 1, 8; Brisbane, Canberra, Sydney, Wagga consultations.

218 Adelaide, Melbourne, Perth, Sydney consultations.

219 Wagga consultations.

220 Disability Services Commission WA *Submission 83*; Brisbane, Canberra, Sydney, Wagga consultations.

221 Adelaide consultations.

222 Adelaide, Wagga consultations.

223 Confidential NSW *Submission 2*; R Rana SA *Submission 20*; Anonymous NSW *Submission 24*; Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; M Hewitt VIC *Submission 39*; Department of Ageing and Disability NSW *Submission 46*; J Bellchambers NSW *Submission 53*; M Ryan VIC *Submission 54*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Delando Crescent Welfare Corporation Ltd NSW *Submission 62*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Confidential SA *Submission 84*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 125*; J Ellis NSW *Submission 132*; Melbourne, Wagga consultations.

224 IDEAS Incorporated NSW *Submission 81*.

225 Anna Yeatman *Getting Real: the Interim Report of the Review of the Commonwealth/State Disability Agreement Executive Summary* AGPS Canberra July 1996.

226 See Peter Baume & Kathleen Kay *Working Solution: Strategic Review of the Commonwealth Disability Services Program* AGPS Canberra 1995, 48. The report estimates, based on Australian Bureau of Statistics data, that 38 800 people with a disability were looking for paid employment at the time of the survey and would benefit from the assistance of Commonwealth funded disability services. See also Anna Yeatman *Getting Real: The Interim Report of the Review of the Commonwealth / State Disability Agreement* AGPS 1996, 50. A demand study conducted as part of the evaluation estimates that there are approximately 20 700 people with a severe or profound handicap or employment limitation who are actively looking for work and are likely to need assistance from Commonwealth funded services.

227 The Commission discusses the accountability of States and Territories to the Commonwealth for the funds they receive under the CSDA in ch 16.

228 R Rana SA *Submission 20*; Anonymous NSW *Submission 24*; Brain Injury Association of NSW Incorporated *Submission 27*; Carers Association of South Australia Incorporated *Submission 28*; Unicare Work Solutions QLD *Submission 30*; M Hewitt VIC *Submission 39*; Australian Veterans and Defence Services Council NSW *Submission 42*; Department of Ageing and Disability NSW *Submission 46*; J Williams NSW *Submission 48*; J Bellchambers NSW *Submission 53*; National Anglican Caring Organisations Network VIC *Submission 58*; Anonymous *Submission 61*; Delando Crescent Welfare Corporation Ltd NSW *Submission 62*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Activ Foundation Incorporated WA *Submission 72*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Coalition of Rural People with Disabilities NSW *Submission 94*; Broome consultations.

229 Salvation Army NSW *Submission 25*; National Anglican Caring Organisations Network VIC *Submission 58*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Disability Services Office, South Australian Health Commission *Submission 74*; Advisory Council for Disability Services WA *Submission 78*.

230 Coalition of Rural People with Disabilities NSW *Submission 94*; Adelaide, Hobart, Launceston, Sydney consultations.

231 Carers Association of South Australia Incorporated *Submission 28*.

232 Broome consultations.

233 Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*.

234 Carers Association of South Australia Incorporated *Submission 28*; J Williams NSW *Submission 48*; Public Guardian's Office WA *Submission 66*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*.

235 Australian Parent Advocacy Incorporated QLD *Submission 79*.

236 R Rana SA *Submission 20*; Anonymous NSW *Submission 24*; Carers Association of South Australia Incorporated *Submission 28*; National Anglican Caring Organisations Network VIC *Submission 58*; Headway Victoria *Submission 71*; Advisory Council for Disability Services WA *Submission 78*; Uniting Church Disability Policy Working Group WA *Submission 80*; Launceston consultations.

237 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*.

238 New South Wales Council for Intellectual Disability *Submission 97*.

239 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Uniting Church Disability Policy Working Group WA *Submission 80*.

240 Community Services Australia (Uniting Church) ACT *Submission 86*; Adelaide, Broome consultations.

241 Disability Services Office, South Australian Health Commission *Submission 74*; New South Wales Council for Intellectual Disability *Submission 97*; Cairns, Darwin, Townsville consultations.

242 South Australian Health Commission *Submission 36*; M Ryan VIC *Submission 54*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Villamanta Legal Service Incorporated VIC *Submission 69*; IDEAS Incorporated NSW *Submission 81*; Melbourne, Wagga consultations.

243 South Australian Health Commission *Submission 36*.

244 Unicare Work Solutions QLD *Submission 30*; Cairns, Darwin consultations.

245 Villamanta Legal Service Incorporated VIC *Submission 69*.

246 IDEAS Incorporated NSW *Submission 81*.

247 Anna Yeatman *Getting Real: the Final Report of the review of the Commonwealth/State Disability Agreement - Executive Summary* AGPS Canberra July 1996, recommendation 38.

248 *Social Security Act 1991* (Cth) s 198(1)(a).

249 *Social Security Act 1991* (Cth) s 198(1)(b).

250 *Social Security Act 1991* (Cth) s 198(1)(c)(i).

251 *Social Security Act 1991* (Cth) s 198(1)(c)(ii).

252 *Social Security Act 1991* (Cth) s 198(1)(d)(i).

253 *National Health Act 1953* (Cth) s 58E.

254 In *The Coming of Age* (ALRC 72) the Commission recommended changes to the DNCB including

- an examination of the eligibility requirements to consider whether they should take into account broader tests of dependency
- shifting the focus to whether the care provided is adequate rather than where the carer lives or how many people for whom he or she may care
- setting out clearly the obligations attached to approval for DNCB and the circumstances in which approval can be revoked
- making a decision not to grant approval, to revoke approval, or to recover overpayments reviewable by the Administrative Appeals Tribunal.

255 Peter Baume & Kathleen Kay Working Solution: Report of the Strategic Review of the Commonwealth Disability Services Program AGPS 1995.

256 World Health Organisation International Classification of Impairments, Disabilities, and Handicaps Geneva 1980.

257 See Anti-Discrimination Act 1977 (NSW); Anti-Discrimination Act 1991 (Qld); Equal Opportunity Act 1984 (WA);. Equal Opportunity Act 1984 (SA); Equal Opportunity Act 1984 (Vic); Discrimination Act 1991 (ACT); Anti-Discrimination Act 1992 (NT).

258 Disability Services Act 1992 (Qld); Disability Services Act 1993 (WA); Disability Services Act 1993 (SA); Disability Services Act 1991 (Vic); Disability Services Act 1992 (Tas); Disability Services Act 1991 (ACT); Disability Services Act 1993 (NT). The Disability Services Act 1993 (NSW) refers to people with a significantly reduced capacity' and includes in the target group people who come within the Mental Health Act 1990 (NSW).

259 Disability Services Act 1986 (Cth) s 8.

260 Disability Services Act 1986 (Cth) s 18.

261 Confidential NSW Submission 2; C Janssen QLD Submission 18; R Rana SA Submission 20; Salvation Army NSW Submission 25; Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; M Hewitt VIC Submission 39; Australian Veterans and Defence Services Council NSW Submission 42; Department of Ageing and Disability NSW Submission 46; Confidential QLD Submission 51; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; ParaQuad NSW Submission 65; Public Guardian's Office WA Submission 66; Villamanta Legal Service Incorporated VIC Submission 69; Headway Victoria Submission 71; Activ Foundation Incorporated WA Submission 72; Advisory Council for Disability Services WA Submission 78; Australian Parent Advocacy Incorporated QLD Submission 79; Uniting Church Disability Policy Working Group WA Submission 80; Citizen Advocacy Association NSW Incorporated Submission 82; Confidential SA Submission 84; Community Services Australia (Uniting Church) ACT Submission 86; Australian Physiotherapy Association VIC Submission 87; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97; D Denning QLD Submission 107; National Aboriginal and Islander Legal Service Secretariat QLD Submission 108; C Sitka NSW Submission 115; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC Submission 141; Defence Special Needs Support Group SA Submission 150; Disabled People's Council of Western Australia Submission 159; G Jegasothy WA Submission 161; Australian Disability Consultative Council ACT Submission 177; Activ Foundation - South West Regional Support Group WA Submission 179; New South Wales RSI Support Group Submission 185.

262 Confidential NSW Submission 2.

263 C Janssen QLD Submission 18.

264 Citizen Advocacy Association NSW Incorporated Submission 82; Australian Physiotherapy Association VIC Submission 87.

265 R Rana SA Submission 20; South Australian Health Commission Submission 36; G Jegasothy WA Submission 161.

266 South Australian Health Commission Submission 36; Advisory Council for Disability Services WA Submission 78; Disability Council of NSW Submission 85.

267 Department of Ageing and Disability NSW Submission 46; ParaQuad NSW Submission 65; Community Services Australia (Uniting Church) ACT Submission 86; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC Submission 141.

268 Council of Intellectual Disability Agencies Incorporated VIC Submission 63; Intellectual Disability Rights Service Incorporated NSW Submission 96.

269 Villamanta Legal Service Incorporated VIC Submission 69.

270 New South Wales Council for Intellectual Disability Submission 97.

271 Headway Victoria Submission 71; C Sitka NSW Submission 115.

272 Disability Council of NSW Submission 85; New South Wales Council for Intellectual Disability Submission 125.

273 Coalition of Rural People with Disabilities NSW Submission 94; D Denning QLD Submission 107.

274 National Aboriginal and Islander Legal Service Secretariat QLD Submission 108; New South Wales RSI Support Group Submission 185.

275 South Australian Health Commission Submission 36; M Hewitt VIC Submission 39; Department of Ageing and Disability NSW Submission 46; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; Advisory Council for Disability Services WA Submission 78; Uniting Church Disability Policy Working Group WA Submission 80; Australian Physiotherapy Association VIC Submission 87; Disabled People's Council of Western Australia Submission 159; G Jegasothy WA Submission 161; Activ Foundation - South West Regional Support Group WA Submission 179.

276 Disability Council of NSW Submission 85; Coalition of Rural People with Disabilities NSW Submission 94; New South Wales Council for Intellectual Disability Submission 97; Defence Special Needs Support Group SA Submission 150; Australian Disability Consultative Council ACT Submission 177.

277 Melbourne consultations.

278 Brain Injury Association of NSW Incorporated Submission 27; Queensland Mental Health Consumer Advisory Group Submission 56; ParaQuad NSW Submission 65.

279 R Rana SA Submission 20.

280 Salvation Army NSW Submission 25.

281 Victorian Deaf Society Submission 55.

282 Community Services Australia (Uniting Church) ACT Submission 86.

283 New South Wales Council for Intellectual Disability Submission 125.

284 The Commission discusses eligibility for Commonwealth services in ch 7.

285 Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; Uniting Church Disability Policy Working Group WA Submission 80; Australian Physiotherapy Association VIC Submission 87.

286 R Rana SA Submission 20; Anonymous NSW Submission 24; Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; R Bruggemann SA Submission 35; CIPIAD Inc. VIC Submission 37; Department of Ageing and Disability NSW Submission 46; J Williams NSW Submission 48; Queensland Mental Health Consumer Advisory Group Submission 56; Schizophrenia Australia Foundation VIC Submission 57; National Anglican Caring Organisations Network VIC Submission 58; Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; ParaQuad NSW Submission 65; United Trades and Labour Council of SA Submission 68; Autistic Children's Association of Queensland Incorporated Submission 70; Headway Victoria Submission 71;

Activ Foundation Incorporated WA *Submission 72*; Disability Services Office, South Australian Health Commission *Submission 74*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Services Commission WA *Submission 83*; Confidential SA *Submission 84*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; Queensland Advocacy Incorporated *Submission 91*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Arthritic Association of Australia NSW *Submission 122*; Hunter Action Group Against Workcover NSW *Submission 129*; J Ellis NSW *Submission 132*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Intellectual Disability Services Council SA *Submission 156*; W Stern WA *Submission 158*; Federation of Ethnic Community Councils *Submission 172*; Spastic Society of Victoria *Submission 176*; Activ Foundation - South West Regional Support Group WA *Submission 179*; Queensland Disability Advisory Council *Submission 180*; Adelaide, Darwin, Melbourne, Perth, Sydney, Wagga consultations; questionnaire responses to Q 1, 3, 7, 20.

287 Anonymous NSW *Submission 24*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
 288 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*; Disability Services Office, South Australian Health Commission *Submission 74*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Intellectual Disability Services Council SA *Submission 156*; Federation of Ethnic Community Councils *Submission 172*; Queensland Disability Advisory Council *Submission 180*.
 289 Brain Injury Association of NSW Incorporated *Submission 27*; Headway Victoria *Submission 71*.
 290 ParaQuad NSW *Submission 65*.
 291 Autistic Children's Association of Queensland Incorporated *Submission 70*; Arthritic Association of Australia NSW *Submission 122*.
 292 R Rana SA *Submission 20*; Queensland Mental Health Consumer Advisory Group *Submission 56*; National Anglican Caring Organisations Network VIC *Submission 58*; Advisory Council for Disability Services WA *Submission 78*; Uniting Church Disability Policy Working Group WA *Submission 80*; Coalition of Rural People with Disabilities NSW *Submission 94*.
 293 CIPIAD Inc. VIC *Submission 37*; Disability Services Commission WA *Submission 83*; Community Services Australia (Uniting Church) ACT *Submission 86*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*.
 294 J Williams NSW *Submission 48*.
 295 R Bruggemann SA *Submission 35*.
 296 Department of Ageing and Disability NSW *Submission 46*; Disability Services Commission WA *Submission 83*; Community Services Australia (Uniting Church) ACT *Submission 86*; W Stern WA *Submission 158*.
 297 Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Headway Victoria *Submission 71*; New South Wales Council for Intellectual Disability *Submission 97*; Spastic Society of Victoria *Submission 176*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
 298 ParaQuad NSW *Submission 65*; Community Services Australia (Uniting Church) ACT *Submission 86*; J Ellis NSW *Submission 132*.
 299 Activ Foundation Incorporated WA *Submission 72*; New South Wales Council for Intellectual Disability *Submission 97*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Queensland Disability Advisory Council *Submission 180*.
 300 Queensland Advocacy Incorporated *Submission 91*.
 301 Public Guardian's Office WA *Submission 66*; Disability Council of NSW *Submission 85*; Queensland Disability Advisory Council *Submission 180*.
 302 Headway Victoria *Submission 71*.
 303 Headway Victoria *Submission 71*; Melbourne consultations.
 304 Queensland Mental Health Consumer Advisory Group *Submission 56*.
 305 Tasmanian Association for Mental Health: Club House *Submission 134*.
 306 Brain Injury Association of NSW Incorporated *Submission 27*.
 307 R Rana SA *Submission 20*; Anonymous NSW *Submission 24*; K Starling QLD *Submission 64*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; National Council on Intellectual Disability ACT *Submission 89*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*.
 308 Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of Rural People with Disabilities NSW *Submission 94*.
 309 R Rana SA *Submission 20*.
 310 Anonymous NSW *Submission 24*; Autistic Children's Association of Queensland Incorporated *Submission 70*.
 311 K Starling QLD *Submission 64*; Headway Victoria *Submission 71*.
 312 Uniting Church Disability Policy Working Group WA *Submission 80*; Coalition of Rural People with Disabilities NSW *Submission 94*.
 313 National Council on Intellectual Disability ACT *Submission 89*.
 314 Citizen Advocacy Association NSW Incorporated *Submission 82*.
 315 Community Services Australia (Uniting Church) ACT *Submission 86*.
 316 Coalition of Rural People with Disabilities NSW *Submission 94*.
 317 New South Wales Council for Intellectual Disability *Submission 97*.
 318 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Spastic Society of Victoria *Submission 176*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
 319 Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
 320 IDEAS Incorporated NSW *Submission 81*.
 321 Spastic Society of Victoria *Submission 176*.
 322 Australian Institute of Health and Welfare *The demand for disability support services in Australia* AGPS 1996.
 323 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Coalition of Rural People with Disabilities NSW *Submission 94*; Hunter Action Group Against Workcover NSW *Submission 129*; Queensland Disability Advisory Council *Submission 180*.

324 Canberra, Perth, Townsville, Wagga consultations.
 325 Brain Injury Association of NSW Incorporated *Submission 27*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Citizen Advocacy Association NSW Incorporated *Submission 82*; New South Wales Council for Intellectual Disability *Submission 97*; Intellectual Disability Services Council SA *Submission 156*; Federation of Ethnic Community Councils *Submission 172*.
 326 Queensland Mental Health Consumer Advisory Group *Submission 56*.
 327 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*.
 328 Headway Victoria *Submission 71*.
 329 Citizen Advocacy Association NSW Incorporated *Submission 82*.
 330 Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Services Commission WA *Submission 83*.
 331 New South Wales Council for Intellectual Disability *Submission 97*.
 332 New South Wales Council for Intellectual Disability *Submission 97*.
 333 Intellectual Disability Services Council SA *Submission 156*; Federation of Ethnic Community Councils *Submission 172*.
 334 Confidential NSW *Submission 2*; Unicare Work Solutions QLD *Submission 30*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Uniting Church Disability Policy Working Group WA *Submission 80*; Perth consultations.
 335 K Starling QLD *Submission 64*; Headway Victoria *Submission 71*; Queensland Disability Advisory Council *Submission 180*.
 336 Headway Victoria *Submission 71*.
 337 ParaQuad NSW *Submission 65*.
 338 Queensland Disability Advisory Council *Submission 180*.
 339 Commonwealth/State Disability Agreement cl 12(3).
 340 Commonwealth/State Disability Agreement cl 6(1) & 6 (2).
 341 Brain Injury Association of NSW Incorporated *Submission 27*; Queensland Mental Health Consumer Advisory Group *Submission 56*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Australian Physiotherapy Association VIC *Submission 87*; Coalition of Rural People with Disabilities NSW *Submission 94*; Australian Disability Consultative Council ACT *Submission 177*.
 342 Coalition of Rural People with Disabilities NSW *Submission 94*.
 343 ParaQuad NSW *Submission 65*; Cairns, Townsville consultations.
 344 Brain Injury Association of NSW Incorporated *Submission 27*.
 345 W Stern WA *Submission 17*; R Rana SA *Submission 20*; Anonymous NSW *Submission 24*; Brain Injury Association of NSW Incorporated *Submission 27*; The Public Policy Assessment Society Incorporated ACT *Submission 41*; Confidential QLD *Submission 44*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; United Trades and Labour Council of SA *Submission 68*; Activ Foundation Incorporated WA *Submission 72*; Advisory Council for Disability Services WA *Submission 78*; Uniting Church Disability Policy Working Group WA *Submission 80*; IDEAS Incorporated NSW *Submission 81*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Services Commission WA *Submission 83*; Confidential SA *Submission 84*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Spastic Society of Victoria *Submission 176*; Activ Foundation - South West Regional Support Group WA *Submission 179*; Queensland Disability Advisory Council *Submission 180*.
 346 Anonymous NSW *Submission 24*; K Starling QLD *Submission 64*; Advisory Council for Disability Services WA *Submission 78*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Services Commission WA *Submission 83*; Disability Council of NSW *Submission 85*; Australian Physiotherapy Association VIC *Submission 87*; New South Wales Council for Intellectual Disability *Submission 97*; Queensland Disability Advisory Council *Submission 180*.
 347 R Rana SA *Submission 20*; Cairns, Darwin consultations.
 348 R Rana SA *Submission 20*.
 349 CIPIAD Inc. VIC *Submission 37*; The Public Policy Assessment Society Incorporated ACT *Submission 41*; K Starling QLD *Submission 64*; United Trades and Labour Council of SA *Submission 68*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Services Commission WA *Submission 83*; Disability Council of NSW *Submission 85*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*; Queensland Disability Advisory Council *Submission 180*.
 350 Anonymous NSW *Submission 24*; CIPIAD Inc. VIC *Submission 37*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; United Trades and Labour Council of SA *Submission 68*; Activ Foundation Incorporated WA *Submission 72*; Advisory Council for Disability Services WA *Submission 78*; Uniting Church Disability Policy Working Group WA *Submission 80*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Services Commission WA *Submission 83*; Coalition of Rural People with Disabilities NSW *Submission 94*; Activ Foundation - South West Regional Support Group WA *Submission 179*; Queensland Disability Advisory Council *Submission 180*.
 351 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Community Services Australia (Uniting Church) ACT *Submission 86*.
 352 Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*.
 353 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Activ Foundation Incorporated WA *Submission 72*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Community Services Australia (Uniting Church) ACT *Submission 86*; Queensland Disability Advisory Council *Submission 180*.
 354 Brain Injury Association of NSW Incorporated *Submission 27*; Parent Advocacy ACT *Submission 31*; Department of Ageing and Disability NSW *Submission 46*; Anonymous *Submission 61*; Headway Victoria *Submission 71*; Australian Physiotherapy Association VIC *Submission 87*; New South Wales Council for Intellectual Disability *Submission 97*.
 355 Anonymous NSW *Submission 24*; Brain Injury Association of NSW Incorporated *Submission 27*; Parent Advocacy ACT *Submission 31*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; Department of Ageing and Disability NSW *Submission 46*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Activ Foundation Incorporated WA *Submission 72*; Disability Services Office, South Australian Health Commission *Submission 74*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Services Commission WA *Submission 83*; Confidential SA *Submission 84*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Spastic Society of Victoria *Submission 176*.
 356 W Stern WA *Submission 17*.
 357 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*.

358 R Rana SA *Submission 20*.
 359 Anonymous NSW *Submission 24*; Coalition of Rural People with Disabilities NSW *Submission 94*.
 360 South Australian Health Commission *Submission 36*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
 361 CIPIAD Inc. VIC *Submission 37*.
 362 Queensland Mental Health Consumer Advisory Group *Submission 56*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
 363 Headway Victoria *Submission 71*.
 364 Advisory Council for Disability Services WA *Submission 78*.
 365 Advisory Council for Disability Services WA *Submission 78*.
 366 Citizen Advocacy Association NSW Incorporated *Submission 82*.
 367 Confidential SA *Submission 84*.
 368 Community Services Australia (Uniting Church) ACT *Submission 86*.
 369 Australian Physiotherapy Association VIC *Submission 87*.
 370 Unicare Work Solutions QLD *Submission 30*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
 371 Unicare Work Solutions QLD *Submission 30*.
 372 Adelaide, Canberra, Melbourne, Perth consultations.
 373 Unicare Work Solutions QLD *Submission 30*.
 374 Adelaide, Darwin, Melbourne, Sydney, Wagga consultations.
 375 Australian Disability Consultative Council ACT *Submission 177*.
 376 R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; Department of Ageing and Disability NSW *Submission 46*; Victorian Deaf Society *Submission 55*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Schizophrenia Australia Foundation VIC *Submission 57*; Anonymous *Submission 61*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Disability Services Office, South Australian Health Commission *Submission 74*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*.
 377 Brain Injury Association of NSW Incorporated *Submission 27*; Coalition of Rural People with Disabilities NSW *Submission 94*.
 378 Anonymous *Submission 61*; Schizophrenia Australia Foundation VIC *Submission 57*; Citizen Advocacy Association NSW Incorporated *Submission 82*; New South Wales Council for Intellectual Disability *Submission 97*.
 379 Unicare Work Solutions QLD *Submission 30*.
 380 Citizen Advocacy Association NSW Incorporated *Submission 82*.
 381 Australian Physiotherapy Association VIC *Submission 87*.
 382 Broome, Cairns, Darwin consultations.
 383 Uniting Church Disability Policy Working Group WA *Submission 80*.
 384 Community Services Australia (Uniting Church) ACT *Submission 86*.
 385 Citizen Advocacy Association NSW Incorporated *Submission 82*.
 386 Intellectual Disability Rights Service Incorporated NSW *Submission 96*.
 387 Juliet London Research and Consultancy Commonwealth Disability Services Legislation Review 1995, 11.
 388 VICOS VIC *Submission 143*.
 389 Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*.
 390 *Social Security Act 1991* (Cth) s 94(1)(b).
 391 Statement by Carmen Lawrence MP, former Minister for Human Services and Health in response to the Strategic Review of the Commonwealth Disability Services Program July 1995.
 392 R Rana SA *Submission 20*; Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; Department of Ageing and Disability NSW *Submission 46*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Advisory Council for Disability Services WA *Submission 78*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Confidential SA *Submission 84*; New South Wales Council for Intellectual Disability *Submission 97*.
 393 R Rana SA *Submission 20*; New South Wales Council for Intellectual Disability *Submission 97*.
 394 Salvation Army NSW *Submission 25*.
 395 Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Career Contact WA *Submission 73*; Disability Services Commission WA *Submission 83*; Community Services Australia (Uniting Church) ACT *Submission 86*; Queensland Advocacy Incorporated *Submission 91*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; Activ Foundation - South West Regional Support Group WA *Submission 179*; Spastic Society of Victoria *Submission 176*.
 396 Queensland Mental Health Consumer Advisory Group *Submission 56*.
 397 Department of Ageing and Disability NSW *Submission 46*; Headway Victoria *Submission 71*; Queensland Advocacy Incorporated *Submission 91*.
 398 Anonymous *Submission 61*.
 399 Autistic Children's Association of Queensland Incorporated *Submission 70*.
 400 Community Services Australia (Uniting Church) ACT *Submission 86*.
 401 Coalition of Rural People with Disabilities NSW *Submission 94*.
 402 Activ Foundation - South West Regional Support Group WA *Submission 179*.
 403 Sydney consultations.
 404 Launceston, Townsville consultations.
 405 Department of Ageing and Disability NSW *Submission 46*; Headway Victoria *Submission 71*; Queensland Advocacy Incorporated *Submission 91*.
 406 Advisory Council for Disability Services WA *Submission 78*.
 407 Brain Injury Association of NSW Incorporated *Submission 27*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; Department of Ageing and Disability NSW *Submission 46*; ParaQuad NSW *Submission 65*; Advisory Council for Disability

Services WA *Submission 78*; Disability Services Commission WA *Submission 83*; Confidential SA *Submission 84*; Activ Foundation - South West Regional Support Group WA *Submission 179*.

408 Brain Injury Association of NSW Incorporated *Submission 27*; Department of Ageing and Disability NSW *Submission 46*; ParaQuad NSW *Submission 65*; Disability Services Commission WA *Submission 83*.

409 South Australian Health Commission *Submission 36*; Department of Ageing and Disability NSW *Submission 46*; Advisory Council for Disability Services WA *Submission 78*.

410 Confidential SA *Submission 84*.

411 CIPIAD Inc. VIC *Submission 37*.

412 Community Services Australia (Uniting Church) ACT *Submission 86*.

413 R Rana SA *Submission 20*; Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Public Guardian's Office WA *Submission 66*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*.

414 R Rana SA *Submission 20*; Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Public Guardian's Office WA *Submission 66*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*.

415 Australian Parent Advocacy Incorporated QLD *Submission 79*.

416 Brain Injury Association of NSW Incorporated *Submission 27*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of Rural People with Disabilities NSW *Submission 94*; Multiple Sclerosis Society of Queensland QLD *Submission 105*; G Hasslacher WA *Submission 160*; Australian Disability Consultative Council ACT *Submission 177*; Cairns, Hobart, Melbourne, Perth, Sydney, Townsville consultations.

417 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of Rural People with Disabilities NSW *Submission 94*; Australian Disability Consultative Council ACT *Submission 177*.

418 Coalition of Rural People with Disabilities NSW *Submission 94*; G Hasslacher WA *Submission 160*; Perth consultations.

419 Coalition of Rural People with Disabilities NSW *Submission 94*; Melbourne consultations.

420 Multiple Sclerosis Society of Queensland QLD *Submission 105*; Cairns, Melbourne, Sydney consultations.

421 G Hasslacher WA *Submission 160*.

422 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*; Adelaide, Melbourne, Sydney, Wagga consultations.

423 Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of Rural People with Disabilities NSW *Submission 94*; Sydney, Wagga consultations.

424 Headway Victoria *Submission 71*.

425 *Anti Discrimination Act 1977* (NSW); *Equal Opportunity Act 1984* (SA); *Equal Opportunity Act 1984* (WA); *Anti Discrimination Act 1991* (Qld); *Discrimination Act 1991* (ACT); *Anti Discrimination Act 1992* (NT).

426 Approximately 8% of CRS clients receive only independent living programs.

427 Adelaide, Melbourne, Perth, Sydney, Wagga consultations.

428 Brain Injury Association of NSW Incorporated *Submission 27*; Department of Ageing and Disability NSW *Submission 46*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Coalition of Rural People with Disabilities NSW *Submission 94*; Queensland Disability Advisory Council *Submission 180*; Melbourne, Sydney, Wagga consultations.

429 Cairns, Melbourne, Sydney consultations.

430 Brain Injury Association of NSW Incorporated *Submission 27*; Department of Ageing and Disability NSW *Submission 46*; Queensland Disability Advisory Council *Submission 180*.

431 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*.

432 Headway Victoria *Submission 71*.

433 Australian Parent Advocacy Incorporated QLD *Submission 79*.

434 K Starling QLD *Submission 64*.

435 Headway Victoria *Submission 71*.

436 Queensland Disability Advisory Council *Submission 180*.

437 Brain Injury Association of NSW Incorporated *Submission 27*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; IDEAS Incorporated NSW *Submission 81*; Coalition of Rural People with Disabilities NSW *Submission 94*; Queensland Disability Advisory Council *Submission 180*.

438 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Adelaide, Melbourne, Perth, Sydney consultations.

439 R Rana SA *Submission 1*; Brain Injury Association of NSW Incorporated *Submission 27*; Department of Ageing and Disability NSW *Submission 46*; New South Wales Council for Intellectual Disability *Submission 97*; G Banks and L O'Keefe NT *Submission 112*; Tasmanian Association for Mental Health: Club House *Submission 134*; J McNabb VIC *Submission 136*; P Menere VIC *Submission 144*; Ms Davey SA *Submission 155*; S Stowell WA *Submission 157*.

440 R Rana SA *Submission 1*; Tasmanian Association for Mental Health: Club House *Submission 134*.

441 New South Wales Council for Intellectual Disability *Submission 97*; G Banks and L O'Keefe NT *Submission 112*.

442 Brain Injury Association of NSW Incorporated *Submission 27*; J McNabb VIC *Submission 136*; S Stowell WA *Submission 157*; Melbourne consultations.

443 P Menere VIC *Submission 144*.

444 Department of Ageing and Disability NSW *Submission 46*.

445 Ms Davey SA *Submission 155*.

446 Brain Injury Association of NSW Incorporated *Submission 27*; Schizophrenia Australia Foundation VIC *Submission 57*; ParaQuad NSW *Submission 65*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; IDEAS Incorporated NSW *Submission 81*; L Schloeffel NSW *Submission 126*; J McNabb VIC *Submission 136*; Adelaide, Melbourne, Sydney consultations; questionnaire responses to Q 1, 8, 20.

447 Rights to seek review and to complain are discussed further in ch 14.

448 See para 2.19 for an explanation of the panels.

449 Panel staff are Disability Support Officers from DSS and Disability Jobseeker Advisers from the Commonwealth Employment Service within DEETYA. CRS staff represent the Department of Health and Family Services on the panels.

450 The Baume report does not apply to the CRS.
 451 Questionnaire responses to Q 5, 7.
 452 Adelaide, Melbourne consultations; questionnaire responses to Q 6.
 453 Adelaide, Canberra, Melbourne, Perth consultations.
 454 Adelaide, Launceston, Melbourne, Perth consultations.
 455 Adelaide, Perth consultations.
 456 Cairns, Canberra, Launceston consultations.
 457 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* 1995, 26.
 458 *ibid.*
 459 *ibid.*
 460 Cairns, Melbourne, Sydney consultations.
 461 Coalition of Rural People with Disabilities NSW *Submission 94*.
 462 Various Queensland advocacy organisations *Submission 7*; W Stern WA *Submission 17*; R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Parent Advocacy ACT *Submission 31*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; Confidential VIC *Submission 43*; Confidential WA *Submission 49*; M Ryan VIC *Submission 54*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Villamanta Legal Service Incorporated VIC *Submission 69*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Activ Foundation Incorporated WA *Submission 72*; Disability Services Office, South Australian Health Commission *Submission 74*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; Confidential SA *Submission 84*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*; National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*; New South Wales Association of Occupational Therapists *Submission 114*; J Ellis NSW *Submission 132*; Australian Nursing Federation VIC *Submission 140*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; VICOS VIC *Submission 143*; DEAL Communication Centre VIC *Submission 147*; Carers Association of South Australia Incorporated *Submission 149*; Defence Special Needs Support Group SA *Submission 150*; Ability Network SA *Submission 153*; Ms Davey SA *Submission 155*; Intellectual Disability Services Council SA *Submission 156*; W Stern WA *Submission 158*; Australian Disability Consultative Council ACT *Submission 177*; Activ Foundation - South West Regional Support Group WA *Submission 179*; Queensland Disability Advisory Council *Submission 180*.
 463 Questionnaire responses to Q 1, 20.
 464 R Rana SA *Submission 20*; Activ Foundation Incorporated WA *Submission 72*; IDEAS Incorporated NSW *Submission 81*; New South Wales Council for Intellectual Disability *Submission 97*; Defence Special Needs Support Group SA *Submission 150*; Ability Network SA *Submission 153*; Ms Davey SA *Submission 155*.
 465 W Stern WA *Submission 17*; Activ Foundation Incorporated WA *Submission 72*.
 466 Various Queensland advocacy organisations *Submission 7*; Unicare Work Solutions QLD *Submission 30*; CIPIAD Inc. VIC *Submission 37*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; IDEAS Incorporated NSW *Submission 81*; Confidential SA *Submission 84*; Disability Council of NSW *Submission 85*; Australian Nursing Federation VIC *Submission 140*; VICOS VIC *Submission 143*; W Stern WA *Submission 158*; Australian Disability Consultative Council ACT *Submission 177*; questionnaire responses to Q 1, 20.
 467 Confidential WA *Submission 49*; M Ryan VIC *Submission 54*; ParaQuad NSW *Submission 65*; Villamanta Legal Service Incorporated VIC *Submission 69*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; New South Wales Council for Intellectual Disability *Submission 97*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Intellectual Disability Services Council SA *Submission 156*; Adelaide, Brisbane, Melbourne, Perth, Sydney, Wagga consultations.
 468 Various Queensland advocacy organisations *Submission 7*; Unicare Work Solutions QLD *Submission 30*; M Ryan VIC *Submission 54*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Activ Foundation Incorporated WA *Submission 72*; Advisory Council for Disability Services WA *Submission 78*; Uniting Church Disability Policy Working Group WA *Submission 80*; Disability Services Commission WA *Submission 83*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*; National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*; New South Wales Association of Occupational Therapists *Submission 114*; Defence Special Needs Support Group SA *Submission 150*; Ability Network SA *Submission 153*; W Stern WA *Submission 158*.
 469 Various Queensland advocacy organisations *Submission 7*; Unicare Work Solutions QLD *Submission 30*; M Ryan VIC *Submission 54*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Activ Foundation Incorporated WA *Submission 72*; Advisory Council for Disability Services WA *Submission 78*; Uniting Church Disability Policy Working Group WA *Submission 80*; Disability Services Commission WA *Submission 83*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*; National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*; New South Wales Association of Occupational Therapists *Submission 114*; Defence Special Needs Support Group SA *Submission 150*; Ability Network SA *Submission 153*; W Stern WA *Submission 158*.
 470 Australian Parent Advocacy Incorporated QLD *Submission 79*.
 471 Coalition of Rural People with Disabilities NSW *Submission 94*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* 1995, 32; questionnaire responses to Q 1, 3, 30.
 472 Tasmanian Association for Mental Health: Club House *Submission 134*; Adelaide, Melbourne, Perth, Sydney consultations.
 473 Tasmanian Association for Mental Health: Club House *Submission 134*; Melbourne consultations.
 474 The Commission discusses Commonwealth/State co-ordination at para 4.32-4.34; 4.40-4.43.
 475 The Commission discusses at para 10.12 the importance of information which is accessible, relevant and co-ordinated.
 476 The current funding priorities are discussed at para 6.2.
 477 Meniere's Australia Incorporated TAS *Submission 3*; W Stern WA *Submission 17*; R Rana SA *Submission 20*; Developing Buds Training and Transition Network Incorporated QLD *Submission 21*; Anonymous NSW *Submission 24*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Parent Advocacy ACT *Submission 31*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; The Public Policy Assessment Society Incorporated ACT *Submission 41*; Department of Ageing and Disability NSW *Submission 46*; J Williams NSW *Submission 48*; Victorian Deaf Society *Submission 55*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Villamanta Legal Service Incorporated VIC *Submission 69*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Activ Foundation Incorporated WA *Submission 72*; Disability Services Office, South Australian Health Commission *Submission 74*; Care Providers' Association of South Australia *Submission 77*;

Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Services Commission WA *Submission 83*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Star Victoria Incorporated *Submission 92*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; New South Wales Association of Occupational Therapists *Submission 114*; Arthritic Association of Australia NSW *Submission 122*; Tasmanian Association for Mental Health: Club House *Submission 134*; J McNabb VIC *Submission 136*; Schizophrenia Australia Foundation VIC *Submission 137*; C Crosse VIC *Submission 138*; Australian Nursing Federation VIC *Submission 140*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Spastic Society of Victoria *Submission 142*; VICOS VIC *Submission 143*; Ms Davey SA *Submission 155*; S Stowell WA *Submission 157*; W Stern WA *Submission 158*; National Brain Injury Foundation ACT *Submission 170*; Multicultural Disability Advocacy Association NSW *Submission 173*; Spastic Society of Victoria *Submission 176*; Activ Foundation - South West Regional Support Group WA *Submission 179*. Adelaide, Broome, Cairns, Canberra, Darwin, Melbourne, Perth, Wagga consultations; questionnaire responses to Q 1, 3, 10, 11, 20; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 11, 12, 13, 16, 27, 28, 29, 30, 34, 41.

478 South Australian Health Commission *Submission 36*. See para 6.2 for details of the funding priorities.

479 IDEAS Incorporated NSW *Submission 81*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Activ Foundation - South West Regional Support Group WA *Submission 179*.

480 Meniere's Australia Incorporated TAS *Submission 3*.

481 Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of Rural People with Disabilities NSW *Submission 94*; Activ Foundation - South West Regional Support Group WA *Submission 179*.

482 South Australian Health Commission *Submission 36*.

483 Victorian Deaf Society *Submission 55*; Anonymous *Submission 61*.

484 Headway Victoria *Submission 71*.

485 Brain Injury Association of NSW Incorporated *Submission 27*; Headway Victoria *Submission 71*.

486 IDEAS Incorporated NSW *Submission 81*; Community Services Australia (Uniting Church) ACT *Submission 86*; Multicultural Disability Advocacy Association NSW *Submission 173*.

487 The CRS employed 16 Aboriginal Rehabilitation Officers nationally in 1994.

488 Broome, Cairns, Darwin consultations.

489 Citizen Advocacy Association NSW Incorporated *Submission 82*; Melbourne consultations.

490 Cairns, Darwin consultations.

491 Cairns consultations.

492 Cairns, Darwin consultations.

493 Questionnaire response to Q 20.

494 Anonymous NSW *Submission 24*; South Australian Health Commission *Submission 36*; Anonymous *Submission 61*; Public Guardian's Office WA *Submission 66*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Multicultural Disability Advocacy Association NSW *Submission 173*.

495 Brisbane, Canberra, Melbourne, Sydney consultations.

496 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 16, 30, 31.

497 Questionnaire responses to Q 3, 7, 8, 13, 20. 5% of respondents to the questionnaire were from non-English speaking backgrounds.

498 Multicultural Disability Advocacy Association NSW *Submission 173*; questionnaire responses to Q 8, 20.

499 Melbourne consultations.

500 Questionnaire responses to Q 8.

501 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 30.

502 South Australian Health Commission *Submission 36*; Anonymous *Submission 61*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Multicultural Disability Advocacy Association NSW *Submission 173*; Canberra, Sydney consultations; questionnaire responses to Q 3, 8, 13; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 16, 30.

503 Multicultural Disability Advocacy Association NSW *Submission 173*; questionnaire responses to Q 8.

504 South Australian Health Commission *Submission 36*; National Ethnic Disability Alliance ACT *Submission 171*; Federation of Ethnic Community Councils *Submission 172*; Multicultural Disability Advocacy Association NSW *Submission 173*; Brisbane, Canberra, Melbourne, Sydney consultations; questionnaire response to Q 13; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 16, 30.

505 Federation of Ethnic Communities' Councils *Submission 172*; Perth consultations.

506 Anonymous NSW *Submission 24*; Victorian Deaf Society *Submission 55*; Anonymous *Submission 61*; Public Guardian's Office WA *Submission 66*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; Coalition of Rural People with Disabilities NSW *Submission 94*.

507 19% of respondents to the questionnaire were from a rural area; 3% were from a remote area.

508 Anonymous NSW *Submission 24*; Victorian Deaf Society *Submission 55*; Anonymous *Submission 61*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; Coalition of Rural People with Disabilities NSW *Submission 94*; questionnaire responses to Q 1, 3, 7, 11, 20; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 32.

509 IDEAS Incorporated NSW *Submission 81*; Coalition of Rural People with Disabilities NSW *Submission 94*; Canberra, Darwin, Wagga consultations; questionnaire response to Q 1, 3, 7.

510 Coalition of Rural People with Disabilities NSW *Submission 94*; Cairns, Darwin, consultations; questionnaire responses to Q 1, 3.

511 Canberra, Wagga consultations.

512 Darwin, Melbourne, Perth consultations.

513 Broome, Darwin consultations.

514 Broome, Cairns, Darwin consultations.

515 Cairns, Darwin, Melbourne, Perth, Townsville consultations.

516 Darwin consultations.

517 Cairns, Darwin, Townsville consultations.

518 Broome, Darwin consultations.

519 The Department advises that the most recent data indicates that over 14% of consumers of employment services funded by the Department have a psychiatric disability. This is above the 8% target set by the Department for 1995-1997.

520 Dr J Graffam & Lucio Naccarella *National Evaluation of Employment Services for People with Psychiatric Disabilities: An Ecological Framework Analysis*. A working group was established in 1995 to respond to the recommendations in the report.

521 J Bellchambers NSW *Submission 53*; Schizophrenia Australia Foundation VIC *Submission 57*; Public Guardian's Office WA *Submission 66*; Tasmanian Association for Mental Health: Club House *Submission 134*; C Crosse VIC *Submission 138*; Melbourne, Sydney, Wagga consultations; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 11, 12, 20, 29, 30, 32, 34, 35, 43.

522 Schizophrenia Australia Foundation VIC *Submission 137*; C Crosse VIC *Submission 138*; Melbourne, Sydney, Wagga consultations; questionnaire responses to Q 1.

523 C Crosse VIC *Submission 138*; Melbourne, Sydney consultations; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 29.

524 C Crosse VIC *Submission 138*; Melbourne, Sydney consultations.

525 R Rana SA *Submission 20*; CIPIAD Inc. VIC *Submission 37*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 12, 20.

526 Schizophrenia Australia Foundation VIC *Submission 137*; C Crosse VIC *Submission 138*.

527 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 12.

528 J Bellchambers NSW *Submission 53*; questionnaire responses to Q 1.

529 C Crosse VIC *Submission 138*; Melbourne consultations; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 11, 27.

530 Schizophrenia Australia Foundation VIC *Submission 137*; C Crosse VIC *Submission 138*; Melbourne, Sydney, Wagga consultations; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 28, 29; questionnaire responses to Q 20.

531 Adelaide, Melbourne, Sydney consultations.

532 Brain Injury Association of NSW Incorporated *Submission 27*; Department of Ageing and Disability NSW *Submission 46*; Headway Victoria *Submission 71*; Community Services Australia (Uniting Church) ACT *Submission 86*; J McNabb VIC *Submission 136*.

533 Adelaide, Canberra, Melbourne, Perth, Sydney consultations.

534 Headway Victoria *Submission 71*.

535 Headway Victoria *Submission 71*; questionnaire responses to Q 20.

536 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 32.

537 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 19.

538 Brain Injury Association of NSW Incorporated *Submission 27*; Department of Ageing and Disability NSW *Submission 46*; Headway Victoria *Submission 71*; Melbourne, Perth consultations.

539 Community Services Australia (Uniting Church) ACT *Submission 86*; Melbourne consultations.

540 Headway Victoria *Submission 71*; Melbourne consultations; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 36; questionnaire responses to Q 7, 20.

541 Headway Victoria *Submission 71*; J McNabb VIC *Submission 136*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 30; questionnaire responses to Q 1, 11.

542 This statistic is problematic given that the Disability Support Pension is income tested and a large number of women with a disability are ineligible for income support because of their husband's income.

543 Melbourne consultations.

544 Tasmanian Association for Mental Health: Club House *Submission 134*; Melbourne consultations. The CRS has a child care policy which allows financial assistance for child care in some cases.

545 Melbourne consultations.

546 New South Wales Council for Intellectual Disability *Submission 97*; Independent Living Centre QLD *Submission 104*.

547 Adelaide, Brisbane, Cairns, Melbourne, Sydney, Perth, Townsville, Wagga consultations.

548 Community Services Australia (Uniting Church) ACT *Submission 86*; Spastic Society of Victoria *Submission 142*; Adelaide, Brisbane, Cairns, Melbourne, Perth, Sydney, Townsville, Wagga consultations.

549 ParaQuad NSW *Submission 65*; Disability Services Office, South Australian Health Commission *Submission 74*; Community Services Australia (Uniting Church) ACT *Submission 86*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Ms Davey SA *Submission 155*; Spastic Society of Victoria *Submission 176*.

550 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 24.

551 Brisbane, Perth consultations.

552 Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Disability Services Commission WA *Submission 83*; Australian Physiotherapy Association VIC *Submission 87*; Star Victoria Incorporated *Submission 92*; Sydney, Perth, Wagga consultations; questionnaire response to Q 3.

553 Melbourne, Perth, Sydney, Wagga consultations.

554 Adelaide, Brisbane, Sydney, Wagga consultations.

555 Canberra consultations.

556 Canberra consultations.

557 Questionnaire response to Q 20.

558 Questionnaire responses to Q 1, 5, 10.

559 Sydney consultations.

560 Brisbane, Wagga consultations.

561 Brisbane, Wagga consultations; questionnaire response to Q 1, 11.

562 Canberra, Sydney consultations.

563 Wagga consultations.

564 Western Australia, South Australia, New South Wales, Queensland and the Australian Capital Territory have post-school options programs. For a discussion of the programs, see The Moreland Group Training Technologies and Jo Stanton Consultancy *An Examination of Post School Options Programs for Young People with a Disability* Report to Disability Services Sub-Committee (DSSC) of the Standing Committee of Community Services and Income Security Administrators, November 1994.

565 Adelaide, Perth, Sydney consultations.

566 Jobsupport Incorporated NSW *Submission 186*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 31; questionnaire response to Q 11.

567 Figures from *The Enclave Manual* Jobsupport 1994 and 1995 survey of Sydney school leavers with a moderate intellectual disability.

568 Perth consultations.

569 Adelaide, Brisbane consultations.

570 Canberra consultations; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 31; questionnaire responses to Q 1.

571 Perth, Wagga consultations.

572 W Stern WA *Submission 17*; Developing Buds Training and Transition Network Incorporated QLD *Submission 21*; Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; National Council on Intellectual Disability ACT *Submission 89*; Tasmanian Association for Mental Health: Club House *Submission 134*.

573 Developing Buds Training and Transition Network Incorporated QLD *Submission 21*; CIPIAD Inc. VIC *Submission 37*; ParaQuad NSW *Submission 65*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; Australian Physiotherapy Association VIC *Submission 87*; National Council on Intellectual Disability ACT *Submission 89*.

574 W Stern WA *Submission 17*; Unicare Work Solutions QLD *Submission 30*; Australian Parent Advocacy Incorporated QLD *Submission 79*; National Council on Intellectual Disability ACT *Submission 89*.

575 ParaQuad NSW *Submission 65*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Community Services Australia (Uniting Church) ACT *Submission 86*.

576 R Rana SA *Submission 20*; Coalition of Rural People with Disabilities NSW *Submission 94*; Multicultural Disability Advocacy Association NSW *Submission 173*.

577 Schizophrenia Australia Foundation VIC *Submission 57*; New South Wales Council for Intellectual Disability *Submission 97*; C Crosse VIC *Submission 138*; Multicultural Disability Advocacy Association NSW *Submission 173*.

578 Department of Ageing and Disability NSW *Submission 46*; Coalition of Rural People with Disabilities NSW *Submission 94*.

579 Department of Ageing and Disability NSW *Submission 46*.

580 New South Wales Council for Intellectual Disability *Submission 97*.

581 New South Wales Council for Intellectual Disability *Submission 97*.

582 New South Wales Council for Intellectual Disability *Submission 97*.

583 Care Providers' Association of South Australia *Submission 77*; New South Wales Council for Intellectual Disability *Submission 97*.

584 Headway Victoria *Submission 71*; Activ Foundation Incorporated WA *Submission 72*; Activ Foundation - South West Regional Support Group WA *Submission 179*.

585 Unicare Work Solutions QLD *Submission 30*; Headway Victoria *Submission 71*.

586 Brain Injury Association of NSW Incorporated *Submission 27*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Citizen Advocacy Association NSW Incorporated *Submission 82*; S Stowell WA *Submission 157*.

587 J Williams NSW *Submission 48*; ParaQuad NSW *Submission 65*; J McNabb VIC *Submission 136*; National Brain Injury Foundation ACT *Submission 170*.

588 Citizen Advocacy Association NSW Incorporated *Submission 82*.

589 Disability Services Commission WA *Submission 83*; Coalition of Rural People with Disabilities NSW *Submission 94*.

590 Department of Ageing and Disability NSW *Submission 46*.

591 Queensland Mental Health Consumer Advisory Group *Submission 56*; Coalition of Rural People with Disabilities NSW *Submission 94*.

592 Australian Parent Advocacy Incorporated QLD *Submission 79*.

593 Unicare Work Solutions QLD *Submission 30*.

594 Brain Injury Association of NSW Incorporated *Submission 27*; L Schloeffel NSW *Submission 126*.

595 Brain Injury Association of NSW Incorporated *Submission 27*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Australian Physiotherapy Association VIC *Submission 87*; New South Wales Council for Intellectual Disability *Submission 97*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995, 11, 12, 28*; questionnaire responses to Q 1, 20.

596 Brain Injury Association of NSW Incorporated *Submission 27*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Australian Physiotherapy Association VIC *Submission 87*; New South Wales Council for Intellectual Disability *Submission 97*.

597 Brain Injury Association of NSW Incorporated *Submission 27*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Australian Physiotherapy Association VIC *Submission 87*; New South Wales Council for Intellectual Disability *Submission 97*; L Schloeffel NSW *Submission 126*.

598 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Disability Services Commission WA *Submission 83*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Queensland Disability Advisory Council *Submission 180*.

599 J Williams NSW *Submission 48*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Coalition of Rural People with Disabilities NSW *Submission 94*.

600 R Rana SA *Submission 20*.

601 Activ Foundation - South West Regional Support Group WA *Submission 179*.

602 South Australian Health Commission *Submission 36*.

603 Adelaide, Melbourne, Perth consultations.

604 R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Australian Physiotherapy Association VIC *Submission 87*; New South Wales Council for Intellectual Disability *Submission 97*.

605 R Rana SA *Submission 20*.

606 Brain Injury Association of NSW Incorporated *Submission 27*; Adelaide, Melbourne, Perth consultations.

607 Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; Activ Foundation - South West Regional Support Group WA *Submission 179*.

608 Unicare Work Solutions QLD *Submission 30*; Coalition of Rural People with Disabilities NSW *Submission 94*; Activ Foundation - South West Regional Support Group WA *Submission 179*.

609 South Australian Health Commission *Submission 36*.

610 Queensland Mental Health Consumer Advisory Group *Submission 56*.

611 Advocacy issues are dealt with more fully in chapter 12.

612 R Rana SA *Submission 20*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Anonymous *Submission 61*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Services Commission WA *Submission 83*; Activ Foundation - South West Regional Support Group WA *Submission 179*; Perth consultations.

613 R Rana SA *Submission 20*.

614 Unicare Work Solutions QLD *Submission 30*.

615 South Australian Health Commission *Submission 36*; Perth consultations.

616 Citizen Advocacy Association NSW Incorporated *Submission 82*.
 617 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; CIPIAD Inc. VIC *Submission 37*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; Advisory Council for Disability Services WA *Submission 78*; Community Services Commission NSW *Submission 90*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*.
 618 Brain Injury Association of NSW Incorporated *Submission 27*; CIPIAD Inc. VIC *Submission 37*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; Advisory Council for Disability Services WA *Submission 78*.
 619 Community Services Commission NSW *Submission 90*.
 620 Unicare Work Solutions QLD *Submission 30*.
 621 Coalition of Rural People with Disabilities NSW *Submission 94*.
 622 Intellectual Disability Rights Service Incorporated NSW *Submission 96*.
 623 New South Wales Council for Intellectual Disability *Submission 97*.
 624 R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*.
 625 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; ParaQuad NSW *Submission 65*.
 626 South Australian Health Commission *Submission 36*.
 627 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; New South Wales Council for Intellectual Disability *Submission 97*.
 628 Headway Victoria *Submission 71*.
 629 Queensland Mental Health Consumer Advisory Group *Submission 56*; Coalition of Rural People with Disabilities NSW *Submission 94*.
 630 CIPIAD Inc. VIC *Submission 37*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
 631 CIPIAD Inc. VIC *Submission 37*.
 632 Queensland Mental Health Consumer Advisory Group *Submission 56*.
 633 Sydney, Wagga consultations.
 634 Darwin, Launceston, Melbourne, Sydney, Townsville, Wagga consultations; questionnaire responses to Q 8, 11, 20.
 635 R Rana SA *Submission 20*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995, 30*; Cairns, Darwin, Launceston, Melbourne, Sydney, Townsville consultations; questionnaire responses to Q 8.
 636 *ibid.*
 637 Questionnaire response to Q 8.
 638 *ibid.*
 639 *ibid.*
 640 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995, 30*.
 641 *ibid.*
 642 *id, 29*.
 643 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995, 30*; Adelaide, Darwin, Perth, Townsville, Wagga consultations.
 644 Brain Injury Association of NSW Incorporated *Submission 27*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Schizophrenia Australia Foundation VIC *Submission 57*; Headway Victoria *Submission 71*; Juliet London Research and Consultancy Pty Ltd. *Commonwealth Disability Services Legislation Review 1995, 29*; Darwin; Townsville consultations.
 645 Schizophrenia Australia Foundation VIC *Submission 57*; L Schloeffel NSW *Submission 126*; questionnaire responses to Q 8.
 646 Perth, Sydney, Townsville consultations.
 647 Adelaide, Broome, Cairns, Hobart, Townsville consultations.
 648 Headway Victoria *Submission 71*; Adelaide, Melbourne, Perth, Sydney consultations.
 649 CIPIAD Inc. VIC *Submission 37*; Headway Victoria *Submission 71*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995, 27, 30, 37*; Adelaide, Melbourne, Perth consultations; questionnaire responses to Q 1, 20.
 650 Headway Victoria *Submission 71*; Darwin, Melbourne, Sydney consultations.
 651 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995, 27*.
 652 *ibid.*
 653 Questionnaire response to Q 8.
 654 *ibid.*
 655 *ibid.*
 656 *ibid.*
 657 *ibid.*
 658 Various Queensland advocacy organisations *Submission 7*; W Stern WA *Submission 17*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; CIPIAD Inc. VIC *Submission 37*; Confidential WA *Submission 49*; M Ryan VIC *Submission 54*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Villamanta Legal Service Incorporated VIC *Submission 69*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Activ Foundation Incorporated WA *Submission 72*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*; National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*; Australian Nursing Federation VIC *Submission 140*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Defence Special Needs Support Group SA *Submission 150*; Ability Network SA *Submission 153*; Intellectual Disability Services Council SA *Submission 156*; Adelaide, Canberra, Melbourne, Perth, Sydney, Wagga consultations.
 659 Brain Injury Association of NSW Incorporated *Submission 27*; South Australian Health Commission *Submission 36*; Anonymous *Submission 61*; ParaQuad NSW *Submission 65*; Independent Living Centre QLD *Submission 104*; T Vardaro WA *Submission 162*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995, 29*; Melbourne, Sydney consultations.
 660 Questionnaire responses to Q 1; Adelaide, Brisbane, Cairns, Darwin, Melbourne, Perth, Sydney, Wagga consultations.
 661 Darwin, Launceston, Melbourne, Sydney, Townsville consultations.
 662 Adelaide, Darwin, Launceston, Melbourne, Sydney, Townsville, Wagga consultations.

663 Various Queensland advocacy organisations *Submission 7*; W Stern WA *Submission 17*; R Rana SA *Submission 20*; Unicare Work Solutions QLD *Submission 30*; CIPIAD Inc. VIC *Submission 37*; Confidential WA *Submission 49*; M Ryan VIC *Submission 54*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Villamanta Legal Service Incorporated VIC *Submission 69*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Disability Services Commission WA *Submission 83*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*; National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*; Australian Nursing Federation VIC *Submission 140*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Defence Special Needs Support Group SA *Submission 150*; Ability Network SA *Submission 153*; Intellectual Disability Services Council SA *Submission 156*; Hobart, Townsville, Wagga consultations.

664 Adelaide, Hobart, Launceston, Townsville, Wagga consultations.

665 R Bruggemann SA *Submission 35*; Adelaide, Hobart, Townsville, Wagga consultations; questionnaire responses to Q 1.

666 Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; J McNabb VIC *Submission 136*; Darwin, Hobart, Melbourne, Sydney consultations; questionnaire responses to Q 1, 8, 11, 20.

667 Brain Injury Association of NSW Incorporated *Submission 27*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Headway Victoria *Submission 71*; J McNabb VIC *Submission 136*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 30; Melbourne consultation.

668 R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; J Williams NSW *Submission 48*; Anonymous *Submission 61*; Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Confidential SA *Submission 84*; New South Wales Council for Intellectual Disability *Submission 97*; P Zell QLD *Submission 102*; Independent Living Centre QLD *Submission 104*; D Johnson NSW *Submission 118*; L Schloeffel NSW *Submission 126*; Hunter Action Group Against Workcover NSW *Submission 129*; J McNabb VIC *Submission 136*; S Stowell WA *Submission 157*; T Vardaro WA *Submission 162*; Activ Foundation - South West Regional Support Group WA *Submission 179*; Queensland Disability Advisory Council *Submission 180*; Adelaide, Brisbane, Darwin, Hobart, Melbourne, Perth, Sydney, Wagga consultations; questionnaire responses to Q 1.

669 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*; Independent Living Centre QLD *Submission 104*.

670 ParaQuad NSW *Submission 65*; Independent Living Centre QLD *Submission 104*.

671 J Williams NSW *Submission 48*; Adelaide, Melbourne, Sydney consultations.

672 R Rana SA *Submission 20*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Disability Services Commission WA *Submission 83*; Community Services Commission NSW *Submission 90*; Coalition of Rural People with Disabilities NSW *Submission 94*; Adelaide, Melbourne, Perth, Sydney, Wagga consultations; questionnaire responses to Q 1, 8, 11, 20.

673 R Rana SA *Submission 20*; Adelaide, Melbourne, Sydney, Wagga consultations.

674 CIPIAD Inc. VIC *Submission 37*; Adelaide consultations.

675 CIPIAD Inc. VIC *Submission 37*.

676 Queensland Mental Health Consumer Advisory Group *Submission 56*; Canberra consultations.

677 Queensland Mental Health Consumer Advisory Group *Submission 56*.

678 Career Contact WA *Submission 73*; Advisory Council for Disability Services WA *Submission 78*.

679 Community Services Commission NSW *Submission 90*; Adelaide, Canberra, Melbourne, Perth, Sydney, Wagga consultations; questionnaire responses to Q 8.

680 Disability Services Commission WA *Submission 83*; Sydney, Wagga consultations.

681 Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 26; Adelaide, Canberra, Melbourne, Perth, Sydney consultations.

682 Brain Injury Association of NSW Incorporated *Submission 27*; CIPIAD Inc. VIC *Submission 37*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Perth consultations.

683 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Advisory Council for Disability Services WA *Submission 78*; Confidential SA *Submission 84*; New South Wales Council for Intellectual Disability *Submission 97*; C Crosse VIC *Submission 138*; Adelaide, Melbourne, Sydney consultations; questionnaire responses to Q 1, 8.

684 Confidential SA *Submission 84*; New South Wales Council for Intellectual Disability *Submission 97*; C Crosse VIC *Submission 138*; Melbourne workshop.

685 South Australian Health Commission *Submission 36*; Career Contact WA *Submission 73*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Confidential SA *Submission 84*; Adelaide, Brisbane, Canberra, Darwin, Hobart, Melbourne, Perth, Sydney consultations.

686 Headway Victoria *Submission 71*; Community Services Commission NSW *Submission 90*; New South Wales Council for Intellectual Disability *Submission 97*; Adelaide, Melbourne, Sydney consultations.

687 Adelaide consultations.

688 Brain Injury Association of NSW Incorporated *Submission 27*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Career Contact WA *Submission 73*; Disability Services Commission WA *Submission 83*.

689 South Australian Health Commission *Submission 36*; Career Contact WA *Submission 73*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Adelaide, Brisbane, Darwin, Melbourne, Perth, Sydney, Wagga consultations.

690 Queensland Mental Health Consumer Advisory Group *Submission 56*; Schizophrenia Australia Foundation VIC *Submission 57*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 29; Melbourne, Sydney, Wagga consultations; questionnaire responses to Q 8.

691 Queensland Mental Health Consumer Advisory Group *Submission 56*.

692 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; J Williams NSW *Submission 48*; Confidential WA *Submission 49*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Villamanta Legal Service Incorporated VIC *Submission 69*; Career Contact WA *Submission 73*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Disability Council of NSW *Submission 85*; Australian Physiotherapy Association VIC *Submission 87*; Community Services Commission NSW *Submission 90*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Australian Disability Consultative Council ACT

Submission 177; Activ Foundation - South West Regional Support Group WA Submission 179; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.

693 Brain Injury Association of NSW Incorporated Submission 27; ParaQuad NSW Submission 65; Adelaide, Perth, Sydney, Wagga consultations.

694 Anonymous NSW Submission 24; Brain Injury Association of NSW Incorporated Submission 27; Department of Ageing and Disability NSW Submission 46; Confidential WA Submission 49; J Bellchambers NSW Submission 53; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; ParaQuad NSW Submission 65; Villamanta Legal Service Incorporated VIC Submission 69; Headway Victoria Submission 71; Community Services Australia (Uniting Church) ACT Submission 86; ; Coalition of Rural People with Disabilities NSW Submission 94; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC Submission 141; Advisory Council for Disability Services WA Submission 168; Melbourne, Wagga consultations.

695 Council of Intellectual Disability Agencies Incorporated VIC Submission 63.

696 Career Contact WA Submission 73.

697 Confidential WA Submission 49; Anonymous Submission 61; Villamanta Legal Service Incorporated VIC Submission 69; Uniting Church Disability Policy Working Group WA Submission 80; Adelaide, Melbourne, Sydney, Wagga consultations.

698 Disability Services Office, South Australian Health Commission Submission 74.

699 Department of Ageing and Disability NSW Submission 46.

700 Australian Parent Advocacy Incorporated QLD Submission 79; Adelaide, Brisbane, Canberra, Melbourne, Perth, Sydney, Wagga consultations.

701 Adelaide, Brisbane, Canberra, Melbourne, Perth, Sydney, Wagga consultations.

702 Coalition of Rural People with Disabilities NSW Submission 94; Canberra, Wagga consultations.

703 New South Wales Council for Intellectual Disability Submission 97; National Aboriginal and Islander Legal Service Secretariat QLD Submission 108; National Ethnic Disability Alliance ACT Submission 171; Federation of Ethnic Community Councils Submission 172; Multicultural Disability Advocacy Association NSW Submission 173; Brisbane, Canberra, Sydney consultations.

704 Adelaide, Melbourne, Sydney consultations.

705 National Anglican Caring Organisations Network VIC Submission 58; Advisory Council for Disability Services WA Submission 78; Australian Parent Advocacy Incorporated QLD Submission 79; Community Services Australia (Uniting Church) ACT Submission 86; Coalition of Rural People with Disabilities NSW Submission 94.

706 South Australian Health Commission Submission 36.

707 South Australian Health Commission Submission 36.

708 South Australian Health Commission Submission 36; Coalition of Rural People with Disabilities NSW Submission 94.

709 South Australian Health Commission Submission 36; Adelaide, Canberra consultations.

710 IDEAS Incorporated NSW Submission 81; Community Services Australia (Uniting Church) ACT Submission 86; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC Submission 141; Adelaide, Perth, Sydney, Wagga consultations.

711 Coalition of Rural People with Disabilities NSW Submission 94; Adelaide, Melbourne consultations.

712 R Rana SA Submission 20; Anonymous NSW Submission 24; Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; CIPIAD Inc. VIC Submission 37; Department of Ageing and Disability NSW Submission 46; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; ParaQuad NSW Submission 65; Headway Victoria Submission 71; Career Contact WA Submission 73; Uniting Church Disability Policy Working Group WA Submission 80; Disability Services Commission WA Submission 83; Coalition of Rural People with Disabilities NSW Submission 94; New South Wales Council for Intellectual Disability Submission 97; Activ Foundation - South West Regional Support Group WA Submission 179.

713 Lasercraft NSW Submission 38; Career Contact WA Submission 73.

714 Community Services Commission NSW Submission 90.

715 IDEAS Incorporated NSW Submission 81; New South Wales Council for Intellectual Disability Submission 97; Adelaide consultations.

716 Community Services Australia (Uniting Church) ACT Submission 86; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC Submission 141; Adelaide, Canberra consultations.

717 Adelaide consultations.

718 Adelaide consultations.

719 R Rana SA Submission 20; Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; CIPIAD Inc. VIC Submission 37; National Anglican Caring Organisations Network VIC Submission 58; Anonymous Submission 61; ParaQuad NSW Submission 65; Advisory Council for Disability Services WA Submission 78; Uniting Church Disability Policy Working Group WA Submission 80; Coalition of Rural People with Disabilities NSW Submission 94; New South Wales Council for Intellectual Disability Submission 97; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.

720 R Rana SA Submission 20; Adelaide, Wagga consultations.

721 Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; Advisory Council for Disability Services WA Submission 78; Coalition of Rural People with Disabilities NSW Submission 94.

722 Unicare Work Solutions QLD Submission 30; Canberra, Perth consultations; Questionnaire responses to Q 1.

723 Adelaide consultations; Questionnaire responses to Q 8.

724 Anonymous Submission 61; New South Wales Council for Intellectual Disability Submission 97; Adelaide consultations.

725 Queensland Mental Health Consumer Advisory Group Submission 56; Disability Services Commission WA Submission 83; Intellectual Disability Rights Service Incorporated NSW Submission 96; Activ Foundation - South West Regional Support Group WA Submission 179.

726 South Australian Health Commission Submission 36; Australian Parent Advocacy Incorporated QLD Submission 79.

727 Disability Services Commission WA Submission 83.

728 Queensland Mental Health Consumer Advisory Group Submission 56.

729 Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; Coalition of Rural People with Disabilities NSW Submission 94; Queensland Mental Health Consumer Advisory Group Submission 56; ParaQuad NSW Submission 65; Australian Parent Advocacy Incorporated QLD Submission 79.

730 Brain Injury Association of NSW Incorporated Submission 27.

731 Unicare Work Solutions QLD Submission 30; ParaQuad NSW Submission 65; Adelaide consultations.

732 Brain Injury Association of NSW Incorporated Submission 27; Queensland Mental Health Consumer Advisory Group Submission 56; Australian Parent Advocacy Incorporated QLD Submission 79.

733 Perth consultations.

734 Coalition of Rural People with Disabilities NSW Submission 94; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.

735 W Stern WA Submission 17; C Janssen QLD Submission 18; R Rana SA Submission 20; Anonymous NSW Submission 24; Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; CIPIAD Inc. VIC Submission 37; Lasercraft NSW Submission 38; Department of Ageing and Disability NSW Submission 46; Disability Services Commission WA Submission 60; Anonymous Submission 61; Delando Crescent Welfare Corporation Ltd NSW

Submission 62; K Starling QLD Submission 64; ParaQuad NSW Submission 65; Autistic Children's Association of Queensland Incorporated Submission 70; Headway Victoria Submission 71; Career Contact WA Submission 73; Disability Services Office, South Australian Health Commission Submission 74; Advisory Council for Disability Services WA Submission 78; Australian Parent Advocacy Incorporated QLD Submission 79; Disability Services Commission WA Submission 83; Confidential SA Submission 84; Community Services Australia (Uniting Church) ACT Submission 86; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97; J Leddy NSW Submission 121; B Harris VIC Submission 139; Activ Foundation - South West Regional Support Group WA Submission 179; Juliet London Research and Consultancy Commonwealth Disability Services Legislation Review 1995, 24, 25; Brisbane, Melbourne, Perth, Sydney consultations; questionnaire responses to Q 1, 20.

736 C Janssen QLD Submission 18; Unicare Work Solutions QLD Submission 30; Lasercraft NSW Submission 38; Anonymous Submission 61; J Leddy NSW Submission 121; B Harris VIC Submission 139.

737 Lasercraft NSW Submission 38; Melbourne consultations.

738 Anonymous Submission 61; Perth consultations.

739 Unicare Work Solutions QLD Submission 30; Perth consultations.

740 B Harris VIC Submission 139; Brisbane, Melbourne consultations.

741 Brisbane, Melbourne, Perth consultations.

742 Brain Injury Association of NSW Incorporated Submission 27; ParaQuad NSW Submission 65; Autistic Children's Association of Queensland Incorporated Submission 70; New South Wales Council for Intellectual Disability Submission 97; Melbourne, Perth consultations.

743 Brain Injury Association of NSW Incorporated Submission 27; ParaQuad NSW Submission 65.

744 Autistic Children's Association of Queensland Incorporated Submission 70.

745 Autistic Children's Association of Queensland Incorporated Submission 70.

746 Melbourne, Perth, Wagga consultations.

747 Adelaide, Perth consultations.

748 Melbourne consultations.

749 Melbourne, Perth, Sydney consultations.

750 W Stern WA Submission 17; Department of Ageing and Disability NSW Submission 46; Disability Services Commission WA Submission 60; Delando Crescent Welfare Corporation Ltd NSW Submission 62; Headway Victoria Submission 71; Advisory Council for Disability Services WA Submission 78; Australian Parent Advocacy Incorporated QLD Submission 79; Community Services Australia (Uniting Church) ACT Submission 86; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97.

751 W Stern WA Submission 17; Delando Crescent Welfare Corporation Ltd NSW Submission 62.

752 R Rana SA Submission 20; South Australian Health Commission Submission 36; K Starling QLD Submission 64; Community Services Australia (Uniting Church) ACT Submission 86.

753 Department of Ageing and Disability NSW Submission 46.

754 Disability Services Commission WA Submission 60.

755 Advisory Council for Disability Services WA Submission 78; Community Services Australia (Uniting Church) ACT Submission 86; New South Wales Council for Intellectual Disability Submission 97.

756 New South Wales Council for Intellectual Disability Submission 97.

757 Australian Parent Advocacy Incorporated QLD Submission 79; Melbourne, Perth, Sydney consultations.

758 Canberra, Melbourne, Sydney consultations.

759 Brain Injury Association of NSW Incorporated Submission 27; Headway Victoria Submission 71; Canberra, Melbourne Sydney consultations.

760 Adelaide, Sydney consultations; questionnaire responses to Q 1.

761 Adelaide, Sydney consultations; questionnaire responses to Q 1, 11, 20.

762 R Bruggemann SA Submission 35; Adelaide, Brisbane, Sydney consultations.

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764 R Bruggemann SA Submission 35.

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766 R Bruggemann SA Submission 35.

767 Rights for All, Redfern Legal Centre Intellectual Disability Rights Service.

768 Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; M Hewitt VIC Submission 39; J Williams NSW Submission 48; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; ParaQuad NSW Submission 65; Australian Parent Advocacy Incorporated QLD Submission 79; Australian Physiotherapy Association VIC Submission 87; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97; Activ Foundation - South West Regional Support Group WA Submission 179; questionnaire responses to Q 3, 4, 5, 7, 13, 14.

769 South Australian Health Commission Submission 36; M Hewitt VIC Submission 39; J Williams NSW Submission 48; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; Australian Parent Advocacy Incorporated QLD Submission 79; Australian Physiotherapy Association VIC Submission 87; Activ Foundation - South West Regional Support Group WA Submission 179; questionnaire responses to Q 5.

770 R Rana SA Submission 20; M Hewitt VIC Submission 39; J Williams NSW Submission 48; Queensland Mental Health Consumer Advisory Group Submission 56; ParaQuad NSW Submission 65; Coalition of Rural People with Disabilities NSW Submission 94; New South Wales Council for Intellectual Disability Submission 97; questionnaire responses to Q 5.

771 M Hewitt VIC Submission 39; J Williams NSW Submission 48; Queensland Mental Health Consumer Advisory Group Submission 56; Community Services Australia (Uniting Church) ACT Submission 86; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; questionnaire responses to Q 14.

772 Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; M Hewitt VIC Submission 39; J Williams NSW Submission 48; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; ParaQuad NSW Submission 65; Villamanta Legal Service Incorporated VIC Submission 69; Australian Parent Advocacy Incorporated QLD Submission 79; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97; Ability Network SA Submission 153; Activ Foundation - South West Regional Support Group WA Submission 179; New South Wales Association of Occupational Therapists Submission 183.

773 CIPIAD Inc. VIC Submission 37.

774 Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; Queensland Mental Health Consumer Advisory Group Submission 56; ParaQuad NSW Submission 65; Coalition of Rural People with Disabilities NSW Submission 94.

775 Unicare Work Solutions QLD *Submission 30*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group
776 *Submission 56*; K Starling QLD *Submission 64*; Coalition of Rural People with Disabilities NSW *Submission 94*.
777 Darwin consultations; questionnaire responses to Q 5.
778 Sydney consultations.
779 J Williams NSW *Submission 48*; Anonymous *Submission 61*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of
Rural People with Disabilities NSW *Submission 94*; ParaQuad NSW *Submission 65*; Darwin consultations; Juliet London Research and
780 Consultancy *Commonwealth Disability Services Legislation Review 1995*, 18, 19; questionnaire responses to Q 1, 5, 14, 20.
781 Australian Parent Advocacy Incorporated QLD *Submission 79*; New South Wales Association of Occupational Therapists *Submission 183*;
782 Sydney; Wagga workshops; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 36;
questionnaire responses to Q 1, 5.
783 J Williams NSW *Submission 48*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Brain Injury Association of NSW
784 Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Queensland
Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*;
785 ParaQuad NSW *Submission 65*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual
Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*; questionnaire responses to Q 5.
786 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 15.
787 Unicare Work Solutions QLD *Submission 30*; Victorian Deaf Society *Submission 55*; Queensland Mental Health Consumer Advisory Group
Submission 56; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Villamanta Legal Service Incorporated VIC
788 *Submission 69*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; questionnaire responses to Q 5.
789 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 15.
790 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 16.
791 Brain Injury Association of NSW Incorporated *Submission 27*; South Australian Health Commission *Submission 36*; M Hewitt VIC
Submission 39; Queensland Mental Health Consumer Advisory Group *Submission 56*; Department of Ageing and Disability NSW
792 *Submission 46*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Villamanta
Legal Service Incorporated VIC *Submission 69*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Intellectual
793 Disability Rights Service Incorporated NSW *Submission 96*.
794 Adelaide, Melbourne consultations.
795 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; M Hewitt VIC *Submission 39*;
796 Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC
Submission 63; Villamanta Legal Service Incorporated VIC *Submission 69*; Autistic Children's Association of Queensland Incorporated
Submission 70; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW
797 *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; questionnaire responses to Q 5.
798 Adelaide, Melbourne consultations; questionnaire responses to Q 5.
799 Adelaide, Wagga consultations.
800 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health
Commission *Submission 36*; J Williams NSW *Submission 48*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*;
801 ParaQuad NSW *Submission 65*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with
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802 Intellectual Disability *Submission 97*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*,
36.
803 South Australian Health Commission *Submission 36*.
804 Department of Ageing and Disability NSW *Submission 46*; Wagga consultations.
805 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*; Activ Foundation - South West Regional
Support Group WA *Submission 179*; Brisbane, Sydney consultations.
806 Adelaide, Sydney consultations.
807 South Australian Health Commission *Submission 36*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales
Council for Intellectual Disability *Submission 97*; questionnaire responses to Q 5; 13.
808 Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health
Consumer Advisory Group *Submission 56*; Coalition of Rural People with Disabilities NSW *Submission 94*; Juliet London Research and
809 Consultancy *Commonwealth Disability Services Legislation Review 1995*, 36; questionnaire responses to Q 5.
810 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; ParaQuad NSW *Submission*
65; New South Wales Association of Occupational Therapists *Submission 183*.
811 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Anonymous *Submission 61*;
812 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; questionnaire responses to Q 5.
813 ParaQuad NSW *Submission 65*; Adelaide consultations. See para 9.10.
814 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Coalition of Rural People with Disabilities NSW *Submission*
94; Ability Network SA *Submission 153*.
815 New South Wales Council for Intellectual Disability *Submission 97*.
816 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 15.
817 Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; J Williams NSW *Submission 48*; IDEAS
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818 Intellectual Disability *Submission 97*; National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108* Adelaide, Darwin,
Melbourne, Sydney, Wagga consultations.
819 South Australian Health Commission *Submission 36*; Department of Ageing and Disability NSW *Submission 46*; J Williams NSW
Submission 48; Adelaide, Wagga consultations.
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821 Adelaide consultations.
822 Brisbane consultations; questionnaire responses to Q 1, 5, 13.
823 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 16.
824 Queensland Mental Health Consumer Advisory Group *Submission 56*; Coalition of Rural People with Disabilities NSW *Submission 94*.
825 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*; IDEAS Incorporated NSW *Submission 81*;
questionnaire responses to Q 5, 20.
826 Adelaide consultations.
827 Coalition of Rural People with Disabilities NSW *Submission 94*; Brisbane, Wagga consultations; questionnaire responses to Q 5.

813 M Hewitt VIC *Submission 39*; Adelaide, Wagga consultations; questionnaire responses to Q 5, 13.
814 Wagga consultations.
815 Wagga consultations; questionnaire responses to Q 13.
816 Anonymous *Submission 61*; Wagga consultations.
817 Adelaide, Perth, Sydney consultations; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995,14*; questionnaire responses to Q 5.
818 Adelaide, Perth, Sydney, Wagga consultations.
819 Brisbane, Perth, Sydney, Wagga consultations; questionnaire responses to Q 1, 11.
820 Coalition of Rural People with Disabilities NSW *Submission 94*; Adelaide, Perth, Sydney, Wagga consultations.
821 Perth consultations.
822 Adelaide, Brisbane, Wagga consultations; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995,14*; questionnaire responses to Q 5, 20.
823 Adelaide, Brisbane, Wagga consultations.
824 Adelaide, Wagga consultations; questionnaire responses to Q 1, 5, 7, 20.
825 Brisbane, Sydney consultations.
826 National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*; National Ethnic Disability Alliance ACT *Submission 171*; Federation of Ethnic Community Councils *Submission 172*; New South Wales Association of Occupational Therapists *Submission 183*; Brisbane, Cairns, Canberra, Darwin, Sydney consultations.
827 New South Wales Council for Intellectual Disability *Submission 97*; National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*; Brisbane, Darwin, Melbourne, Perth consultations; questionnaire responses to Q 5.
828 Unicare Work Solutions QLD *Submission 30*; ParaQuad NSW *Submission 65*; Melbourne consultations.
829 Questionnaire responses to Q.5.
830 Multicultural Disability Advocacy Association NSW *Submission 173*; Canberra, Sydney consultations.
831 National Ethnic Disability Alliance ACT *Submission 171*.
832 New South Wales Council for Intellectual Disability *Submission 97*; Multicultural Disability Advocacy Association NSW *Submission 173*; Brisbane, Sydney consultations.
833 National Ethnic Disability Alliance ACT *Submission 171*.
834 Multicultural Disability Advocacy Association NSW *Submission 173*.
835 National Ethnic Disability Alliance ACT *Submission 171*; Multicultural Disability Advocacy Association NSW *Submission 173*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995, 30*.
836 Darwin consultations.
837 Darwin consultations; questionnaire responses to Q 20.
838 Telephone submission Northern Territory.
839 Telephone submission Northern Territory.
840 National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*.
841 Perth consultations.
842 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; M Hewitt VIC *Submission 39*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*; questionnaire responses to Q 5.
843 Brain Injury Association of NSW Incorporated *Submission 27*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; New South Wales Council for Intellectual Disability *Submission 97*.
844 South Australian Health Commission *Submission 36*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
845 M Hewitt VIC *Submission 39*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
846 Queensland Mental Health Consumer Advisory Group *Submission 56*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*.
847 Community Services Australia (Uniting Church) ACT *Submission 86*.
848 Coalition of Rural People with Disabilities NSW *Submission 94*; questionnaire responses to Q 5.
849 Anonymous *Submission 61*.
850 Australian Parent Advocacy Incorporated QLD *Submission 79*.
851 Brain Injury Association of NSW Incorporated *Submission 27*; M Hewitt VIC *Submission 39*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; K Starling QLD *Submission 64*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
852 South Australian Health Commission *Submission 36*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*.
853 Unicare Work Solutions QLD *Submission 30*.
854 Residential and Community Care Advocacy Service WA *Submission 19*; R Rana SA *Submission 20*; Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; M Ryan VIC *Submission 29*; Unicare Work Solutions QLD *Submission 30*; Australian Veterans and Defence Services Council NSW *Submission 42*; Department of Ageing and Disability NSW *Submission 46*; High Point Industries VIC *Submission 50*; Victorian Deaf Society *Submission 55*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Villamanta Legal Service Incorporated VIC *Submission 69*; Activ Foundation Incorporated WA *Submission 72*; Career Contact WA *Submission 73*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; IDEAS Incorporated NSW *Submission 81*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Confidential SA *Submission 84*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Community Services Commission NSW *Submission 90*; Star Victoria Incorporated *Submission 92*; Privacy Commissioner, (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Adelaide, Cairns, Melbourne, Perth, Sydney, Townsville, Wagga consultations.
855 Residential and Community Care Advocacy Service WA *Submission 19*; Victorian Deaf Society *Submission 55*.
856 Residential and Community Care Advocacy Service WA *Submission 19*; Australian Veterans and Defence Services Council NSW *Submission 42*.

857 R Rana SA *Submission 20*; Villamanta Legal Service Incorporated VIC *Submission 69*; Career Contact WA *Submission 73*; Australian
Physiotherapy Association VIC *Submission 87*; Community Services Commission NSW *Submission 90*; Coalition of Rural People with
Disabilities NSW *Submission 94*.

858 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*; Career Contact WA *Submission 73*;
Australian Physiotherapy Association VIC *Submission 87*; Community Services Commission NSW *Submission 90*.

859 High Point Industries VIC *Submission 50*; Activ Foundation Incorporated WA *Submission 72*; Citizen Advocacy Association NSW
Incorporated *Submission 82*; New South Wales Council for Intellectual Disability *Submission 97*.

860 Citizen Advocacy Association NSW Incorporated *Submission 82*; Community Services Commission NSW *Submission 90*.

861 Community Services Commission NSW *Submission 90*.

862 Salvation Army NSW *Submission 25*.

863 Privacy Commissioner, Human Rights and Equal Opportunity Commission *Submission 93*.

864 Community Services Commission NSW *Submission 90*.

865 Activ Foundation Incorporated WA *Submission 72*.

866 Uniting Church Disability Policy Working Group WA *Submission 80*; Community Services Australia (Uniting Church) ACT *Submission 86*.

867 Citizen Advocacy Association NSW Incorporated *Submission 82*.

868 Community Services Australia (Uniting Church) ACT *Submission 86*.

869 Darwin, Sydney consultations.

870 New South Wales Council for Intellectual Disability *Submission 97*.

871 South Australian Health Commission *Submission 36*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*.

872 Sydney, Wagga consultations.

873 South Australian Health Commission *Submission 36*; Adelaide consultations.

874 South Australian Health Commission *Submission 36*.

875 Headway Victoria *Submission 71*; Disability Services Office, South Australian Health Commission *Submission 74*; Advisory Council for
Disability Services WA *Submission 78*; Disability Services Commission WA *Submission 83*; Victorian Network on Recreation and
Disability & Attendant Care Coalition VIC *Submission 141*.

876 Disability Services Commission WA *Submission 83*.

877 Disability Services Office, South Australian Health Commission *Submission 74*.

878 Headway Victoria *Submission 71*.

879 Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 14*.

880 Disability Services Commission WA *Submission 83*.

881 Disability Services Office, South Australian Health Commission *Submission 74*; Melbourne consultations.

882 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; New South Wales Council for Intellectual Disability
Submission 125; see also Sub Uniting Church Disability Policy Working Group WA *Submission 80*.

883 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.

884 Uniting Church Disability Policy Working Group WA *Submission 80*.

885 *Health and Disability Commissioner Act 1994 (NZ) s 20*.

886 *Health and Disability Commissioner Act 1994 (NZ) s 21*.

887 Republic Act No 7277.

888 In *The coming of age* ALRC 72 the Commission recommended that one charter for residents of all aged care facilities be developed and
included in a schedule to the new aged care legislation.

889 Uniting Church Disability Policy Working Group WA *Submission 80*; Community Services Australia (Uniting Church) ACT *Submission 86*;
Australian Physiotherapy Association VIC *Submission 87*; Community Services Commission NSW *Submission 90*; Coalition of Rural People
with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; New South Wales Council for
Intellectual Disability *Submission 125*.

890 Uniting Church Disability Policy Working Group WA *Submission 80*; Australian Physiotherapy Association VIC *Submission 87*; Coalition
of Rural People with Disabilities NSW *Submission 94*.

891 Uniting Church Disability Policy Working Group WA *Submission 80*; Coalition of Rural People with Disabilities NSW *Submission 94*; New
South Wales Council for Intellectual Disability *Submission 125*.

892 Uniting Church Disability Policy Working Group WA *Submission 80*; Coalition of Rural People with Disabilities NSW *Submission 94*.

893 Uniting Church Disability Policy Working Group WA *Submission 80*.

894 Uniting Church Disability Policy Working Group WA *Submission 80*.

895 Uniting Church Disability Policy Working Group WA *Submission 80*.

896 Uniting Church Disability Policy Working Group WA *Submission 80*; Coalition of Rural People with Disabilities NSW *Submission 94*.

897 Uniting Church Disability Policy Working Group WA *Submission 80*.

898 Coalition of Rural People with Disabilities NSW *Submission 94*.

899 High Point Industries VIC *Submission 50*.

900 Community Services Commission NSW *Submission 90*.

901 Community Services Commission NSW *Submission 90*.

902 Community Services Commission NSW *Submission 90*.

903 New South Wales Council for Intellectual Disability *Submission 125*.

904 Residential and Community Care Advocacy Service WA *Submission 19*; Unicare Work Solutions QLD *Submission 30*; South Australian
Health Commission *Submission 36*; Australian Veterans and Defence Services Council NSW *Submission 42*; Anonymous *Submission 61*;
Villamanta Legal Service Incorporated VIC *Submission 69*; IDEAS Incorporated NSW *Submission 81*; Intellectual Disability Rights Service
Incorporated NSW *Submission 96*.

905 Residential and Community Care Advocacy Service WA *Submission 19*; Sydney consultations.

906 R Rana SA *Submission 20*.

907 Villamanta Legal Service Incorporated VIC *Submission 69*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; Sydney
consultations.

908 CIPIAD Inc. VIC *Submission 37*; Australian Physiotherapy Association VIC *Submission 87*; Perth consultations.

909 CIPIAD Inc. VIC *Submission 37*.

910 Villamanta Legal Service Incorporated VIC *Submission 69*.

911 Australian Physiotherapy Association VIC *Submission 87*.

912 Villamanta Legal Service Incorporated VIC *Submission 69*; IDEAS Incorporated NSW *Submission 81*.

913 Sydney, Melbourne consultations.

914 Residential and Community Care Advocacy Service WA *Submission 19*; R Rana SA *Submission 20*; Salvation Army NSW *Submission 25*;
Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health

Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; Career Contact WA *Submission 73*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*.

915 Career Contact WA *Submission 73*.

916 Perth consultations.

917 Brain Injury Association of NSW Incorporated *Submission 27*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; Career Contact WA *Submission 73*.

918 Residential and Community Care Advocacy Service WA *Submission 19*; Activ Foundation Incorporated WA *Submission 72*; Australian Physiotherapy Association VIC *Submission 87*.

919 Australian Physiotherapy Association VIC *Submission 87*.

920 Activ Foundation Incorporated WA *Submission 72*.

921 Activ Foundation Incorporated WA *Submission 72*.

922 Community Services Commission NSW *Submission 90*.

923 Public Guardian's Office WA *Submission 66*; Melbourne consultations.

924 R Rana SA *Submission 20*; South Australian Health Commission *Submission 36*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*.

925 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Department of Ageing and Disability NSW *Submission 46*; ParaQuad NSW *Submission 65*; Villamanta Legal Service Incorporated VIC *Submission 69*; Career Contact WA *Submission 73*; Uniting Church Disability Policy Working Group WA *Submission 80*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Australian Parent Advocacy Incorporated QLD *Submission 79*.

926 R Rana SA *Submission 20*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*.

927 New South Wales Council for Intellectual Disability *Submission 97*.

928 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; ParaQuad NSW *Submission 65*; Citizen Advocacy Association NSW Incorporated *Submission 82*.

929 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; Villamanta Legal Service Incorporated VIC *Submission 69*; Career Contact WA *Submission 73*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Citizen Advocacy Association NSW Incorporated *Submission 82*.

930 Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*.

931 Community Services Commission NSW *Submission 90*.

932 Public Guardian's Office WA *Submission 66*; New South Wales Council for Intellectual Disability *Submission 125*.

933 See recs 61 and 63.

934 The principles and objectives are discussed in full at para 1.20.

935 Questionnaire responses to Q 11.

936 Questionnaire responses to Q 11.

937 Questionnaire responses to Q 11.

938 Questionnaire responses to Q 11.

939 Questionnaire responses to Q 11.

940 Questionnaire responses to Q 11.

941 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995, 27*.

942 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995, 23*.

943 Royal Blind Society NSW *Submission 15*; B Trappes TAS *Submission 16*; R Rana SA *Submission 20*; Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; South Australian Health Commission *Submission 36*; M Hewitt VIC *Submission 39*; Australian Veterans and Defence Services Council NSW *Submission 42*; Department of Ageing and Disability NSW *Submission 46*; J Williams NSW *Submission 48*; M Ryan VIC *Submission 54*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Headway Victoria *Submission 71*; Activ Foundation Incorporated WA *Submission 72*; Career Contact WA *Submission 73*; Disability Services Office, South Australian Health Commission *Submission 74*; Uniting Church Disability Policy Working Group WA *Submission 80*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Developing Buds Training and Transition Network Incorporated QLD *Submission 106*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*; Disabled People's Council of Western Australia *Submission 159*; Spastic Society of Victoria *Submission 176*; Activ Foundation - South West Regional Support Group WA *Submission 179*.

944 Unicare Work Solutions QLD *Submission 30*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Melbourne, Sydney consultations.

945 CIPIAD Inc. VIC *Submission 37*.

946 Intellectual Disability Rights Service Incorporated NSW *Submission 96*.

947 R Rana SA *Submission 20*; Anonymous *Submission 61*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; Sydney, Melbourne, Wagga consultations.

948 Citizen Advocacy Association NSW Incorporated *Submission 82*. The Commission discusses advocacy in ch 12.

949 Canberra, Darwin, Sydney consultations.

950 National Ethnic Disability Alliance ACT *Submission 171*.

951 Cairns consultations.

952 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; Coalition of Rural People with Disabilities NSW *Submission 94*.

953 Jobsupport Incorporated NSW *Submission 186*.

954 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.

955 New South Wales Council for Intellectual Disability *Submission 97*; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC *Submission 141*.

956 Career Contact WA *Submission 73*.
957 Coalition of Rural People with Disabilities NSW *Submission 94*.
958 Developing Buds Training and Transition Network Incorporated QLD *Submission 106*.
959 Parent Advocacy ACT *Submission 31*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Activ Foundation Incorporated WA *Submission 72*; Career Contact WA *Submission 73*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Australian Physiotherapy Association VIC *Submission 87*; Coalition of Rural People with Disabilities NSW *Submission 94*.
960 Australian Veterans and Defence Services Council NSW *Submission 42*.
961 CIPIAD Inc. VIC *Submission 37*.
962 Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Department of Ageing and Disability NSW *Submission 46*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; New South Wales Council for Intellectual Disability *Submission 97*.
963 R Rana SA *Submission 1*.
964 Unicare Work Solutions QLD *Submission 30*; Australian Parent Advocacy Incorporated QLD *Submission 79*.
965 Brain Injury Association of NSW Incorporated *Submission 27*; Autistic Children's Association of Queensland Incorporated *Submission 70*.
966 Queensland Mental Health Consumer Advisory Group *Submission 56*; Hunter Action Group Against Workcover NSW *Submission 129*.
967 ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Adelaide, Brisbane, Melbourne consultations.
968 Coalition of Rural People with Disabilities NSW *Submission 94*.
969 The *Disability Services Act 1986* (Cth) s 14K.
970 Brain Injury Association of NSW Incorporated *Submission 27*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; Department of Ageing and Disability NSW *Submission 46*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Disability Services Office, South Australian Health Commission *Submission 74*; IDEAS Incorporated NSW *Submission 81*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Australian Physiotherapy Association VIC *Submission 87*; Adelaide, Canberra, Hobart, Melbourne, Perth, Sydney, Wagga consultations.
971 Brain Injury Association of NSW Incorporated *Submission 27*; CIPIAD Inc. VIC *Submission 37*; Disability Services Office, South Australian Health Commission *Submission 74*; Citizen Advocacy Association NSW Incorporated *Submission 82*.
972 Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.
973 Brain Injury Association of NSW Incorporated *Submission 27*; Brisbane, Canberra, Melbourne, Sydney, Wagga consultations.
974 South Australian Health Commission *Submission 36*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Disability Services Office, South Australian Health Commission *Submission 74*; Advisory Council for Disability Services WA *Submission 78*.
975 Launceston, Wagga consultations.
976 Intellectual Disability Rights Service Incorporated NSW *Submission 96*.
977 Launceston, Wagga consultations.
978 R Rana SA *Submission 20*; Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
979 South Australian Health Commission *Submission 36*.
980 Australian Parent Advocacy Incorporated QLD *Submission 79*.
981 CIPIAD Inc. VIC *Submission 37*.
982 Citizen Advocacy Association NSW Incorporated *Submission 82*.
983 Queensland Mental Health Consumer Advisory Group *Submission 56*.
984 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
985 Unicare Work Solutions QLD *Submission 30*; Australian Parent Advocacy Incorporated QLD *Submission 79*.
986 R Rana SA *Submission 20*.
987 Brain Injury Association of NSW Incorporated *Submission 27*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Community Services Australia (Uniting Church) ACT *Submission 86*.
988 Activ Foundation - South West Regional Support Group WA *Submission 179*.
989 Citizen Advocacy Association NSW Incorporated *Submission 82*.
990 South Australian Health Commission *Submission 36*.
991 Unicare Work Solutions QLD *Submission 30*.
992 Unicare Work Solutions QLD *Submission 30*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Citizen Advocacy Association NSW Incorporated *Submission 82*.
993 R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; J Williams NSW *Submission 48*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Confidential SA *Submission 84*; Community Services Australia (Uniting Church) ACT *Submission 86*; Community Services Commission NSW *Submission 90*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*.
994 South Australian Health Commission *Submission 36*.
995 South Australian Health Commission *Submission 36*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
996 CIPIAD Inc. VIC *Submission 37*.
997 J Williams NSW *Submission 48*.
998 Intellectual Disability Rights Service Incorporated NSW *Submission 96*.
999 Intellectual Disability Rights Service Incorporated NSW *Submission 96*.
1000 Community Services Commission NSW *Submission 90*.
1001 CIPIAD Inc. VIC *Submission 37*; Community Services Australia (Uniting Church) ACT *Submission 86*.
1002 Community Services Commission NSW *Submission 90*.
1003 Adelaide, Perth consultations.
1004 R Rana SA *Submission 20*.

1005 Brain Injury Association of NSW Incorporated *Submission 27*; South Australian Health Commission *Submission 36*; Department of Ageing and Disability NSW *Submission 46*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Australian Physiotherapy Association VIC *Submission 87*.

1006 Perth consultations.

1007 Confidential SA *Submission 84*; Community Services Commission NSW *Submission 90*.

1008 Community Services Commission NSW *Submission 90*. CHASP is a model developed by the Australian Community Health Association with funding from the Department. It is a method for improving and assuring the quality of community based health services. It consists of a set of standards and a review process that can assess the extent to which community health services are meeting standards. The developers of CHASP say that it is possible to modify their manual in order to use it to assess quality in disability services.

1009 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; J Williams NSW *Submission 48*; ParaQuad NSW *Submission 65*; Multiple Sclerosis Society of Queensland QLD *Submission 105*; Queensland Disability Advisory Council *Submission 180*; Brisbane, Melbourne, Sydney consultations.

1010 Brain Injury Association of NSW Incorporated *Submission 27*; J Williams NSW *Submission 48*; ParaQuad NSW *Submission 65*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Headway Victoria *Submission 71*; Independent Living Centre QLD *Submission 104*; Hunter Action Group Against Workcover NSW *Submission 129*; J McNabb VIC *Submission 136*; National Brain Injury Foundation ACT *Submission 170*; Adelaide, Melbourne, Perth, Sydney, Wagga consultations, questionnaire responses to Q 11.

1011 Sydney, Perth, Wagga consultations.

1012 Questionnaire responses to Q 1.

1013 Adelaide, Brisbane consultations.

1014 Adelaide, Melbourne, Sydney consultations.

1015 Brain Injury Association of NSW Incorporated *Submission 27*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; Coalition of Rural People with Disabilities NSW *Submission 94*.

1016 Australian Veterans and Defence Services Council NSW *Submission 42*; ParaQuad NSW *Submission 65*.

1017 J Williams NSW *Submission 48*.

1018 Coalition of Rural People with Disabilities NSW *Submission 94*.

1019 Unicare Work Solutions QLD *Submission 30*.

1020 Disability Services Act 1986 (Cth) s 7.

1021 Four of these services are administered by the Commonwealth's Office of Disability. The Office is also responsible for policy development concerning all advocacy services. The remaining services are administered by the State offices of the Department.

1022 MGM Consultants in Human Services Advancing Advocacy: Disability Advocacy Effectiveness Project September 1995.

1023 Brain Injury Association of NSW Incorporated *Submission 27*; Australian Veterans and Defence Services Council NSW *Submission 42*; M Ryan VIC *Submission 54*; Villamanta Legal Service Incorporated VIC *Submission 69*; Uniting Church Disability Policy Working Group WA *Submission 80*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; Queensland Disability Advisory Council *Submission 180*; Cairns consultations.

1024 Juliet London Research and Consultancy Commonwealth Disability Services Legislation Review 1995, 25.

1025 Queensland Mental Health Consumer Advisory Group *Submission 56*; Activ Foundation Incorporated WA *Submission 72*.

1026 Questionnaire responses to Q 14.

1027 Residential and Community Care Advocacy Service WA *Submission 19*; Adelaide, Melbourne, Perth, Sydney consultations.

1028 R Rana SA *Submission 20*; Anonymous NSW *Submission 24*; Brain Injury Association of NSW Incorporated *Submission 27*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Activ Foundation Incorporated WA *Submission 72*; Disability Services Office, South Australian Health Commission *Submission 74*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Services Commission WA *Submission 83*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; Queensland Advocacy Incorporated *Submission 98*; Adelaide, Melbourne, Perth, Wagga consultations; questionnaire responses to Q 11.

1029 Perth, Wagga consultations.

1030 Perth, Wagga consultations.

1031 Residential and Community Care Advocacy Service WA *Submission 19*; Anonymous NSW *Submission 24*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Perth consultations.

1032 Autistic Children's Association of Queensland Incorporated *Submission 70*; Disability Services Office, South Australian Health Commission *Submission 74*.

1033 Wagga consultations.

1034 Disability Services Office, South Australian Health Commission *Submission 74*.

1035 Perth consultations.

1036 Cairns, Canberra consultations.

1037 Anonymous NSW *Submission 24*; CIPIAD Inc. VIC *Submission 37*; Anonymous *Submission 61*; Citizen Advocacy South West Incorporated WA *Submission 67*; Melbourne consultations.

1038 Advocacy Development Project QLD *Submission 6*; Various Queensland advocacy organisations *Submission 7*; Residential and Community Care Advocacy Service WA *Submission 19*; R Rana SA *Submission 20*; Unicare Work Solutions QLD *Submission 30*; Parent Advocacy ACT *Submission 31*; South Australian Health Commission *Submission 36*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Public Guardian's Office WA *Submission 66*; Citizen Advocacy South West Incorporated WA *Submission 67*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Disability Services Office, South Australian Health Commission *Submission 74*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Community Services Commission NSW *Submission 90*; Queensland Advocacy Incorporated *Submission 91*; Star Victoria Incorporated *Submission 92*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Advisory Council for Disability Services WA *Submission 168*.

1039 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.

1040 J Williams NSW *Submission 48*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of Rural People with Disabilities NSW *Submission 94*.

1041 Citizen Advocacy Association NSW Incorporated *Submission 82*; Queensland Advocacy Incorporated *Submission 91*.

1042 Queensland Advocacy Incorporated *Submission 91*.

1043 Perth, Sydney consultations.

1044 Public Guardian's Office WA *Submission 66*; Perth, Sydney consultations.

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- 1045 M Hewitt VIC Submission 39; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; ParaQuad NSW Submission 65; Public Guardian's Office WA Submission 66; Disabled People's Council of Western Australia Submission 159; Brisbane, Perth, Sydney, Townsville consultations.
- 1046 Melbourne, Sydney consultations.
- 1047 Anonymous NSW Submission 24; Advisory Council for Disability Services WA Submission 78; Citizen Advocacy Association NSW Incorporated Submission 82; Victorian Network on Recreation and Disability & Attendant Care Coalition VIC Submission 141.
- 1048 Villamanta Legal Service Incorporated VIC Submission 69; IDEAS Incorporated NSW Submission 81; Disability Services Commission WA Submission 83; Community Services Commission NSW Submission 90; Sydney, Wagga consultations.
- 1049 Advisory Council for Disability Services WA Submission 78; Citizen Advocacy Association NSW Incorporated Submission 82; Queensland Advocacy Incorporated Submission 91.
- 1050 Brisbane, Cairns consultations.
- 1051 Townsville consultations.
- 1052 Advisory Council for Disability Services WA Submission 78; Uniting Church Disability Policy Working Group WA Submission 80; New South Wales Council for Intellectual Disability Submission 97; Queensland Advocacy Incorporated Submission 98; J Ellis NSW Submission 132; Brisbane, Melbourne consultations.
- 1053 Canberra, Melbourne, Perth consultations.
- 1054 South Australian Health Commission Submission 36; Brisbane, Cairns, Melbourne, Sydney, Townsville consultations.
- 1055 Brisbane consultations.
- 1056 Melbourne consultations.
- 1057 Headway Victoria Submission 71.
- 1058 Melbourne consultations.
- 1059 Melbourne consultations.
- 1060 Headway Victoria Submission 71; Advisory Council for Disability Services WA Submission 78; Queensland Advocacy Incorporated Submission 91; Intellectual Disability Rights Service Incorporated NSW Submission 96.
- 1061 Confidential NSW Submission 2.
- 1062 Queensland Advocacy Working Group Submission 8.
- 1063 Residential and Community Care Advocacy Service WA Submission 19; Citizen Advocacy Association NSW Incorporated Submission 82.
- 1064 Unicare Work Solutions QLD Submission 30.
- 1065 Unicare Work Solutions QLD Submission 30.
- 1066 South Australian Health Commission Submission 36; Uniting Church Disability Policy Working Group WA Submission 80; Australian Physiotherapy Association VIC Submission 87.
- 1067 Community Services Australia (Uniting Church) ACT Submission 86; Activ Foundation - South West Regional Support Group WA Submission 179.
- 1068 Anonymous NSW Submission 24; Brain Injury Association of NSW Incorporated Submission 27; Anonymous Submission 61; ParaQuad NSW Submission 65; Australian Parent Advocacy Incorporated QLD Submission 79; Coalition of Rural People with Disabilities NSW Submission 94; New South Wales Council for Intellectual Disability Submission 97.
- 1069 New South Wales Council for Intellectual Disability Submission 97.
- 1070 Residential and Community Care Advocacy Service WA Submission 19; Unicare Work Solutions QLD Submission 30; ParaQuad NSW Submission 65; Citizen Advocacy South West Incorporated WA Submission 67; United Trades and Labour Council of SA Submission 68; Uniting Church Disability Policy Working Group WA Submission 80; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; Activ Foundation - South West Regional Support Group WA Submission 179; Melbourne, Sydney consultations.
- 1071 Citizen Advocacy Association NSW Incorporated Submission 82; Queensland Advocacy Incorporated Submission 91; Brisbane, Cairns, Hobart consultations.
- 1072 J Ellis NSW Submission 132; Brisbane, Cairns, Hobart, Melbourne consultations.
- 1073 Brisbane, Melbourne consultations.
- 1074 Autistic Children's Association of Queensland Incorporated Submission 70; Australian Parent Advocacy Incorporated QLD Submission 79; Uniting Church Disability Policy Working Group WA Submission 80; IDEAS Incorporated NSW Submission 81; Queensland Advocacy Incorporated Submission 91; Adelaide, Cairns, Melbourne, Perth, Sydney consultations.
- 1075 Adelaide, Melbourne, Perth, Sydney, Wagga consultations.
- 1076 Cairns, Melbourne consultations.
- 1077 Cairns, Melbourne consultations.
- 1078 Melbourne consultations.
- 1079 Melbourne consultations.
- 1080 CIPIAD Inc. VIC Submission 37; Australian Parent Advocacy Incorporated QLD Submission 79.
- 1081 Autistic Children's Association of Queensland Incorporated Submission 70.
- 1082 IDEAS Incorporated NSW Submission 81.
- 1083 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* December 1995, 20.
- 1084 Confidential NSW Submission 2; R Rana SA Submission 20; Salvation Army NSW Submission 25; Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; Department of Ageing and Disability NSW Submission 46; Queensland Mental Health Consumer Advisory Group Submission 56; Autistic Children's Association of Queensland Incorporated Submission 70; Career Contact WA Submission 73; M Paxton VIC Submission 75; K Rendell SA Submission 76; IDEAS Incorporated NSW Submission 81; Confidential SA Submission 84; Community Services Australia (Uniting Church) ACT Submission 86; Australian Physiotherapy Association VIC Submission 87; Coalition of Rural People with Disabilities NSW Submission 94; New South Wales Council for Intellectual Disability Submission 97.
- 1085 Coalition of Rural People with Disabilities NSW Submission 94.
- 1086 K Rendell SA Submission 76; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* December 1995, 20, 21.
- 1087 Australian Parent Advocacy Incorporated QLD Submission 79.
- 1088 Autistic Children's Association of Queensland Incorporated Submission 70.
- 1089 Career Contact WA Submission 73.
- 1090 Salvation Army NSW Submission 25.
- 1091 Unicare Work Solutions QLD Submission 30; Council of Intellectual Disability Agencies Incorporated VIC Submission 63.
- 1092 Department of Ageing and Disability NSW Submission 46.
- 1093 Career Contact WA Submission 73.
- 1094 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* December 1995, 20.

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- 1095 *ibid.*
1096 *id.*, 21.
1097 *ibid.*
1098 R Rana SA *Submission 20*; Unicare Work Solutions QLD *Submission 30*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Australian Physiotherapy Association VIC *Submission 87*.
1099 Unicare Work Solutions QLD *Submission 30*.
1100 Headway Victoria *Submission 71*.
1101 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
1102 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* December 1995, 21.
1103 ParaQuad NSW *Submission 65*.
1104 Australian Physiotherapy Association VIC *Submission 87*.
1105 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Australian Physiotherapy Association VIC *Submission 87*.
1106 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
1107 K Starling QLD *Submission 64*; Disability Services Commission WA *Submission 83*.
1108 Australian Physiotherapy Association VIC *Submission 87*.
1109 South Australian Health Commission *Submission 36*; Anonymous *Submission 61*; K Starling QLD *Submission 64*; Australian Parent Advocacy Incorporated QLD *Submission 79*.
1110 Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
1111 South Australian Health Commission *Submission 36*.
1112 M Paxton VIC *Submission 75*.
1113 M Paxton VIC *Submission 75*.
1114 Confidential NSW *Submission 2*; South Australian Health Commission *Submission 36*; ParaQuad NSW *Submission 65*; Activ Foundation Incorporated WA *Submission 72*; Career Contact WA *Submission 73*; M Paxton VIC *Submission 75*; Confidential SA *Submission 84*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*.
1115 IDEAS Incorporated NSW *Submission 81*.
1116 K Starling QLD *Submission 64*; M Paxton VIC *Submission 75*; IDEAS Incorporated NSW *Submission 81*; New South Wales Council for Intellectual Disability *Submission 97*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* December 1995, 20.
1117 M Paxton VIC *Submission 75*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Community Services Australia (Uniting Church) ACT *Submission 86*.
1118 Broome, Wagga consultations.
1119 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* December 1995, 21.
1120 *ibid.*
1121 Wagga consultations.
1122 IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*.
1123 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Australian Veterans and Defence Services Council NSW *Submission 42*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; K Rendell SA *Submission 76*; Advisory Council for Disability Services WA *Submission 78*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*.
1124 Brain Injury Association of NSW Incorporated *Submission 27*; Australian Veterans and Defence Services Council NSW *Submission 42*; K Rendell SA *Submission 76*; IDEAS Incorporated NSW *Submission 81*; New South Wales Council for Intellectual Disability *Submission 97*.
1125 J Williams NSW *Submission 48*; New South Wales Council for Intellectual Disability *Submission 97*.
1126 Queensland Mental Health Consumer Advisory Group *Submission 56*.
1127 Headway Victoria *Submission 71*.
1128 J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*.
1129 J Williams NSW *Submission 48*.
1130 South Australian Health Commission *Submission 36*; ParaQuad NSW *Submission 65*; IDEAS Incorporated NSW *Submission 81*.
1131 Confidential NSW *Submission 2*; Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Career Contact WA *Submission 73*; M Paxton VIC *Submission 75*; Coalition of Rural People with Disabilities NSW *Submission 94*.
1132 Unicare Work Solutions QLD *Submission 30*; Career Contact WA *Submission 73*; Coalition of Rural People with Disabilities NSW *Submission 94*.
1133 Queensland Mental Health Consumer Advisory Group *Submission 56*; Autistic Children's Association of Queensland Incorporated *Submission 70*.
1134 Disability Services Commission WA *Submission 83*.
1135 South Australian Health Commission *Submission 36*.
1136 Australian Parent Advocacy Incorporated QLD *Submission 79*; Adelaide consultations.
1137 Brain Injury Association of NSW Incorporated *Submission 27*; Department of Ageing and Disability NSW *Submission 46*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; New South Wales Council for Intellectual Disability *Submission 97*.
1138 Brain Injury Association of NSW Incorporated *Submission 27*; Department of Ageing and Disability NSW *Submission 46*; ParaQuad NSW *Submission 65*; Confidential SA *Submission 84*; Australian Physiotherapy Association VIC *Submission 87*.
1139 Advisory Council for Disability Services WA *Submission 78*.
1140 Advisory Council for Disability Services WA *Submission 78*. The Commission describes the CSDA at para 2.10-2.11 and discusses its effect on service provision for people with a disability at para 4.26-27; 4.32-33; 4.40-43.
1141 Headway Victoria *Submission 71*.
1142 New South Wales Council for Intellectual Disability *Submission 97*.
1143 M Paxton VIC *Submission 75*; Advisory Council for Disability Services WA *Submission 78*; IDEAS Incorporated NSW *Submission 81*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*.
1144 Intellectual Disability Rights Service Incorporated NSW *Submission 96*.
1145 IDEAS Incorporated NSW *Submission 81*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*.
1146 Intellectual Disability Rights Service Incorporated NSW *Submission 96*.
1147 Coalition of Rural People with Disabilities NSW *Submission 94*.
1148 IDEAS Incorporated NSW *Submission 81*; New South Wales Council for Intellectual Disability *Submission 97*.

1149 Perth consultations.

1150 M Paxton VIC *Submission 75*; IDEAS Incorporated NSW *Submission 81*.

1151 K Starling QLD *Submission 64*.

1152 Australian Parent Advocacy Incorporated QLD *Submission 79*.

1153 Disability Services Commission WA *Submission 83*.

1154 South Australian Health Commission *Submission 36*; Disability Services Commission WA *Submission 83*.

1155 R Rana SA *Submission 20*.

1156 See ch 4, 8, 9.

1157 Principle 4.

1158 Objective 10.

1159 National Service Delivery Principle 4.

1160 Peter Baume & Kathleen Kay *Working Solution* Report of the Strategic Review of the Commonwealth Disability Services Program AGPS 1995, 87.

1161 Advisory Council for Disability Services WA *Submission 78*; IDEAS Incorporated NSW *Submission 81*; Community Services Australia (Uniting Church) ACT *Submission 86*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*.

1162 New South Wales Council for Intellectual Disability *Submission 97*; Adelaide consultations.

1163 Advisory Council for Disability Services WA *Submission 78*.

1164 ParaQuad NSW *Submission 65*; Coalition of Rural People with Disabilities NSW *Submission 94*.

1165 Department of Ageing and Disability NSW *Submission 46*; ParaQuad NSW *Submission 65*.

1166 Department of Ageing and Disability NSW *Submission 46*.

1167 ParaQuad NSW *Submission 65*.

1168 Anonymous *Submission 61*; Activ Foundation Incorporated WA *Submission 72*; Australian Physiotherapy Association VIC *Submission 87*.

1169 Unicare Work Solutions QLD *Submission 30*.

1170 Australian Parent Advocacy Incorporated QLD *Submission 79*; J Leddy NSW *Submission 121*.

1171 Brain Injury Association of NSW Incorporated *Submission 27*; Autistic Children's Association of Queensland Incorporated *Submission 70*; M Sheehy TAS *Submission 135*.

1172 Brain Injury Association of NSW Incorporated *Submission 27*.

1173 Article 7.

1174 Career Contact WA *Submission 73*; Coalition of Rural People with Disabilities NSW *Submission 94*.

1175 Career Contact WA *Submission 73*.

1176 R Rana SA *Submission 20*; South Australian Health Commission *Submission 36*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; United Trades and Labour Council of SA *Submission 68*; Headway Victoria *Submission 71*; Career Contact WA *Submission 73*; K Rendell SA *Submission 76*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; M Sheehy TAS *Submission 135*.

1177 ParaQuad NSW *Submission 65*.

1178 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*.

1179 K Starling QLD *Submission 64*.

1180 Anonymous *Submission 61*.

1181 ParaQuad NSW *Submission 65*.

1182 Coalition of Rural People with Disabilities NSW *Submission 94*.

1183 R Rana SA *Submission 20*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Career Contact WA *Submission 73*.

1184 R Rana SA *Submission 20*.

1185 K Starling QLD *Submission 64*.

1186 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Career Contact WA *Submission 73*.

1187 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.

1188 Queensland Mental Health Consumer Advisory Group *Submission 56*; Coalition of Rural People with Disabilities NSW *Submission 94*.

1189 South Australian Health Commission *Submission 36*; Launceston consultations.

1190 United Trades and Labour Council of SA *Submission 68*.

1191 Headway Victoria *Submission 71*.

1192 Unicare Work Solutions QLD *Submission 30*; Disability Services Commission WA *Submission 83*.

1193 ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Career Contact WA *Submission 73*; New South Wales Council for Intellectual Disability *Submission 97*; M Sheehy TAS *Submission 135*.

1194 ParaQuad NSW *Submission 65*; Career Contact WA *Submission 73*.

1195 South Australian Health Commission *Submission 36*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; IDEAS Incorporated NSW *Submission 81*; Coalition of Rural People with Disabilities NSW *Submission 94*.

1196 R Rana SA *Submission 20*; Anonymous *Submission 61*; Autistic Children's Association of Queensland Incorporated *Submission 70*.

1197 Standard 9. Minimum supporting standard 9.1 requires an agency to ensure that each employee with a disability has the same rights, protections and responsibilities as other people in the workforce. Eligibility supporting standard 9.7 requires an agency to ensure that each employee with a disability works in a job and in a work environment in which he or she receives the same employment conditions, rights, protections and responsibilities as those expected and enjoyed by other people in the general workforce.

1198 Standard 7.

1199 *Disability Services Act 1986* (Cth) s 26.

1200 R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Adelaide, Melbourne, Perth, Sydney consultations.

1201 South Australian Health Commission *Submission 36*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Public Guardian's Office WA *Submission 66*; Coalition of Rural People with Disabilities NSW *Submission 94*; Melbourne, Sydney consultations; questionnaire responses to Q 1, 20, 3; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* 1995, 11.

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- 1202 R Rana SA *Submission 20*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Public Guardian's Office WA *Submission 66*; Brisbane, Melbourne, Perth, Sydney consultations; questionnaire responses to Q 1, 3, 20.
- 1203 R Rana SA *Submission 20*; Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Public Guardian's Office WA *Submission 66*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Adelaide, Melbourne, Perth, Sydney consultations; questionnaire responses to Q 1, 7, 8, 20; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 30.
- 1204 R Rana SA *Submission 20*; South Australian Health Commission *Submission 36*; Public Guardian's Office WA *Submission 66*; New South Wales Council for Intellectual Disability *Submission 97*.
- 1205 R Rana SA *Submission 20*; Unicare Work Solutions QLD *Submission 30*; Anonymous *Submission 61*; Public Guardian's Office WA *Submission 66*; New South Wales Council for Intellectual Disability *Submission 97*; Adelaide, Hobart, Melbourne, Perth, Sydney consultations; questionnaire responses to Q 1, 20.
- 1206 South Australian Health Commission *Submission 36*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Coalition of Rural People with Disabilities NSW *Submission 94*; Melbourne, Perth, Sydney consultations; questionnaire responses to Q 8.
- 1207 J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Melbourne, Sydney, Wagga consultations; questionnaire responses to Q 13, 20; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 14, 15, 18.
- 1208 South Australian Health Commission *Submission 36*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Melbourne, Sydney, Wagga consultations; questionnaire responses to Q 13, 20.
- 1209 South Australian Health Commission *Submission 36*; New South Wales Council for Intellectual Disability *Submission 97*; Brisbane, Melbourne, Wagga consultations; questionnaire responses to Q 17, 18.
- 1210 Public Guardian's Office WA *Submission 66*; Brisbane consultations; questionnaire responses to Q 17.
- 1211 New South Wales Council for Intellectual Disability *Submission 97*; Canberra, Melbourne consultations; questionnaire responses to Q 1, 30.
- 1212 National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*; Multicultural Disability Advocacy Association NSW *Submission 173*; Cairns, Canberra, Darwin, Sydney consultations; questionnaire responses to Q 20; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 16.
- 1213 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 29.
- 1214 id, 30.
- 1215 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; ParaQuad NSW *Submission 65*; Coalition of Rural People with Disabilities NSW *Submission 94*; Adelaide, Melbourne, Perth, Sydney consultations.
- 1216 Perth, Sydney consultations.
- 1217 Brisbane consultations.
- 1218 South Australian Health Commission *Submission 36*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Public Guardian's Office WA *Submission 66*; Disability Services Office, South Australian Health Commission *Submission 74*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of Rural People with Disabilities NSW *Submission 94*; Adelaide, Brisbane, Wagga consultations; questionnaire responses to Q 15.
- 1219 South Australian Health Commission *Submission 36*; Coalition of Rural People with Disabilities NSW *Submission 94*; Wagga consultations; questionnaire responses to Q 15.
- 1220 Queensland Mental Health Consumer Advisory Group *Submission 56*; Perth, Sydney consultations; questionnaire responses to Q 15; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 37.
- 1221 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; K Starling QLD *Submission 64*; Melbourne, Perth, Sydney consultations; questionnaire responses to Q 15.
- 1222 W Stern WA *Submission 17*; R Rana SA *Submission 20*; CIPIAD Inc. VIC *Submission 37*; Public Guardian's Office WA *Submission 66*; New South Wales Council for Intellectual Disability *Submission 97*; questionnaire responses to Q 15.
- 1223 Adelaide, Wagga consultations.
- 1224 Melbourne, Perth, Wagga consultations.
- 1225 Public Guardian's Office WA *Submission 66*; Multicultural Disability Advocacy Association NSW *Submission 173*.
- 1226 R Rana SA *Submission 20*; Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; CIPIAD Inc. VIC *Submission 37*; M Hewitt VIC *Submission 39*; Australian Veterans and Defence Services Council NSW *Submission 42*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Disability Services Office, South Australian Health Commission *Submission 74*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Community Services Commission NSW *Submission 90*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.
- 1227 Melbourne, Perth, Sydney, Wagga consultations.
- 1228 Brisbane, Perth, Wagga consultations; questionnaire responses to Q 15.
- 1229 Melbourne consultations.
- 1230 Brisbane, Canberra, Wagga consultations; questionnaire responses to Q 15.
- 1231 Adelaide, Wagga consultations.
- 1232 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 30.
- 1233 R Rana SA *Submission 20*; Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; CIPIAD Inc. VIC *Submission 37*; M Hewitt VIC *Submission 39*; Australian Veterans and Defence Services Council NSW *Submission 42*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Disability Services Office, South Australian Health Commission *Submission 74*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Community Services Commission NSW *Submission 90*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Melbourne, Perth, Sydney, Wagga consultations; questionnaire responses to Q 1, 20.
- 1234 Melbourne, Perth, Sydney consultations.
- 1235 Adelaide, Wagga consultations.
- 1236 Adelaide, Melbourne, Perth, Sydney, Wagga consultations.
- 1237 South Australian Health Commission *Submission 36*.
- 1238 Administrative Appeals Tribunal NSW *Submission 47*.

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- 1239 R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; Queensland Mental Health Consumer Advisory Group *Submission 56*; New South Wales Council for Intellectual Disability *Submission 97*; Melbourne consultations.
- 1240 W Stern WA *Submission 17*; R Rana SA *Submission 20*; Australian Veterans and Defence Services Council NSW *Submission 42*; Department of Ageing and Disability NSW *Submission 46*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; New South Wales Council for Intellectual Disability *Submission 97*; Adelaide, Melbourne, Perth consultations.
- 1241 Australian Veterans and Defence Services Council NSW *Submission 42*; Department of Ageing and Disability NSW *Submission 46*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Public Guardian's Office WA *Submission 66*; Adelaide, Wagga consultations.
- 1242 Multicultural Disability Advocacy Association NSW *Submission 173*; Canberra, Melbourne, Perth, Sydney consultations; questionnaire responses to Q 1, 20.
- 1243 CIPIAD Inc. VIC *Submission 37*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Brisbane consultations; questionnaire responses to Q 16.
- 1244 South Australian Health Commission *Submission 36*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Disability Services Office, South Australian Health Commission *Submission 74*; Coalition of Rural People with Disabilities NSW *Submission 94*; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.
- 1245 M Hewitt VIC *Submission 39*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Department of Ageing and Disability NSW *Submission 46*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Disability Services Office, South Australian Health Commission *Submission 74*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*; Adelaide, Canberra, Melbourne, Perth, Sydney consultations; questionnaire responses to Q 16.
- 1246 Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
- 1247 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
- 1248 Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
- 1249 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
- 1250 Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Villamanta Legal Service Incorporated VIC *Submission 69*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*.
- 1251 Canberra, Darwin consultations.
- 1252 Adelaide, Canberra consultations.
- 1253 CIPIAD Inc. VIC *Submission 37*; Public Guardian's Office WA *Submission 66*; Australian Parent Advocacy Incorporated QLD *Submission 79*.
- 1254 R Rana SA *Submission 20*; Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; CIPIAD Inc. VIC *Submission 37*; Australian Veterans and Defence Services Council NSW *Submission 42*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Community Services Commission NSW *Submission 90*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*.
- 1255 Administrative Review Council *Administrative Review and Funding Programs: A case study of community services programs* Report no 37 AGPS Canberra 1994.
- 1256 The *Community Services (Complaints, Appeals and Monitoring) Act 1993* (NSW) established a Commissioner for Community Services with powers to investigate, promote and facilitate alternative dispute resolution procedures, to report on complaints and to monitor the standard of service provision. It also provides for the establishment of a Community Services Appeals Tribunal to hear appeals from decisions of service providers. Under the NSW Act, it would be possible for the State and Commonwealth to agree that the State body could examine Commonwealth services. Queensland has a Health Rights Commission which can receive complaints about State funded services only. In Western Australia complaints about the standard of services may be lodged with the Bureau for Disability Services. South Australia has a Disability Complaints Service, which assists people with a disability to resolve complaints against both Commonwealth and State funded services, against generic services provided by the Commonwealth and State governments and against any other organisation.
- 1257 *Disability Services Act 1986* (Cth) s 26. The Commission sets out the decisions which it proposes should be reviewed by the AAT at para 18.14-18.17.
- 1258 *Disability Services Act 1986* (Cth) s 26(2).
- 1259 W Stern WA *Submission 17*; 18; R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; M Hewitt VIC *Submission 39*; Department of Ageing and Disability NSW *Submission 46*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Villamanta Legal Service Incorporated VIC *Submission 69*; Headway Victoria *Submission 71*; Career Contact WA *Submission 73*; Disability Services Office, South Australian Health Commission *Submission 74*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Confidential SA *Submission 84*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Community Services Commission NSW *Submission 90*; Star Victoria Incorporated *Submission 92*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Spastic Society of Victoria *Submission 176*; Confidential VIC *Submission 178*; Activ Foundation - South West Regional Support Group WA *Submission 179*; Adelaide, Brisbane, Canberra, Melbourne, Perth, Sydney, Wagga consultations; questionnaire responses to Q 1, 15, 16, 20.

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- 1260 Department of Ageing and Disability NSW *Submission 46*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Headway Victoria *Submission 71*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1261 Department of Ageing and Disability NSW *Submission 46*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Headway Victoria *Submission 71*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1262 Brain Injury Association of NSW Incorporated *Submission 27*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Villamanta Legal Service Incorporated VIC *Submission 69*; Headway Victoria *Submission 71*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1263 Department of Ageing and Disability NSW *Submission 46*; J Williams NSW *Submission 48*; Headway Victoria *Submission 71*; Career Contact WA *Submission 73*; Community Services Australia (Uniting Church) ACT *Submission 86*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1264 Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Headway Victoria *Submission 71*; Community Services Australia (Uniting Church) ACT *Submission 86*; IDEAS Incorporated NSW *Submission 81*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1265 Multicultural Disability Advocacy Association NSW *Submission 173*; Canberra, Darwin, Sydney consultations.
- 1266 Melbourne, Perth consultations.
- 1267 W Stern WA *Submission 17*; C Janssen QLD *Submission 18*; R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; CIPIAD Inc. VIC *Submission 37*; M Hewitt VIC *Submission 39*; Department of Ageing and Disability NSW *Submission 46*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Villamanta Legal Service Incorporated VIC *Submission 69*; Headway Victoria *Submission 71*; Career Contact WA *Submission 73*; Disability Services Office, South Australian Health Commission *Submission 74*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Confidential SA *Submission 84*; Disability Council of NSW *Submission 85*; Community Services Australia (Uniting Church) ACT *Submission 86*; Australian Physiotherapy Association VIC *Submission 87*; Community Services Commission NSW *Submission 90*; Star Victoria Incorporated *Submission 92*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 125*; Spastic Society of Victoria *Submission 176*; Confidential VIC *Submission 178*; Activ Foundation - South West Regional Support Group WA *Submission 179*; Adelaide, Melbourne, Perth, Sydney, Wagga consultations; questionnaire responses to Q 16.
- 1268 W Stern WA *Submission 17*; R Rana SA *Submission 20*; Anonymous *Submission 61*; Public Guardian's Office WA *Submission 66*; Disability Services Office, South Australian Health Commission *Submission 74*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; Australian Disability Consultative Council ACT *Submission 177*; Adelaide, Brisbane, Melbourne consultations; questionnaire responses to Q 16.
- 1269 R Rana SA *Submission 20*; Public Guardian's Office WA *Submission 66*; Australian Disability Consultative Council ACT *Submission 177*; Adelaide, Sydney consultations.
- 1270 Adelaide, Sydney consultations.
- 1271 Adelaide, Sydney consultations.
- 1272 Coalition of Rural People with Disabilities NSW *Submission 94*; Wagga consultations.
- 1273 New South Wales Council for Intellectual Disability *Submission 125*.
- 1274 CIPIAD Inc. VIC *Submission 37*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Public Guardian's Office WA *Submission 66*; Villamanta Legal Service Incorporated VIC *Submission 69*; IDEAS Incorporated NSW *Submission 81*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1275 CIPIAD Inc. VIC *Submission 37*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Public Guardian's Office WA *Submission 66*; IDEAS Incorporated NSW *Submission 81*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1276 CIPIAD Inc. VIC *Submission 37*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Public Guardian's Office WA *Submission 66*; Villamanta Legal Service Incorporated VIC *Submission 69*; IDEAS Incorporated NSW *Submission 81*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1277 CIPIAD Inc. VIC *Submission 37*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Public Guardian's Office WA *Submission 66*; Autistic Children's Association of Queensland Incorporated *Submission 70*; IDEAS Incorporated NSW *Submission 81*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1278 CIPIAD Inc. VIC *Submission 37*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Public Guardian's Office WA *Submission 66*; IDEAS Incorporated NSW *Submission 81*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1279 CIPIAD Inc. VIC *Submission 37*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Public Guardian's Office WA *Submission 66*; IDEAS Incorporated NSW *Submission 81*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1280 Brain Injury Association of NSW Incorporated *Submission 27*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*.
- 1281 W Stern WA *Submission 17*; Disability Services Office, South Australian Health Commission *Submission 74*; Adelaide, Melbourne, Perth, Sydney consultations.
- 1282 Sydney consultations.
- 1283 Salvation Army NSW *Submission 25*; South Australian Health Commission *Submission 36*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Disability Council of NSW *Submission 85*; Adelaide, Sydney consultations.

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- 1284 R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; CIPIAD Inc. VIC *Submission 37*; Australian Veterans and Defence Services Council NSW *Submission 42*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; IDEAS Incorporated NSW *Submission 81*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Australian Disability Consultative Council ACT *Submission 177*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
- 1285 R Rana SA *Submission 20*; Unicare Work Solutions QLD *Submission 30*; CIPIAD Inc. VIC *Submission 37*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
- 1286 South Australian Health Commission *Submission 36*.
- 1287 The High Court is currently examining this issue in relation to other federal legislation. If it takes a broader view of the power of tribunals this issue would have to be reconsidered.
- 1288 Anonymous NSW *Submission 24*; CIPIAD Inc. VIC *Submission 37*; M Ryan VIC *Submission 54*; Villamanta Legal Service Incorporated VIC *Submission 69*; Disability Services Office, South Australian Health Commission *Submission 74*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; Community Services Commission NSW *Submission 90*; VICOS VIC *Submission 143*; Advisory Council for Disability Services WA *Submission 168*; Queensland Disability Advisory Council *Submission 180*.
- 1289 Questionnaire response to Q 16.
- 1290 Questionnaire response to Q 16.
- 1291 Community Services Commission NSW *Submission 90*.
- 1292 Residential and Community Care Advocacy Service WA *Submission 19*; Villamanta Legal Service Incorporated VIC *Submission 69*; Disability Services Office, South Australian Health Commission *Submission 74*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Disability Services Commission WA *Submission 83*; Community Services Commission NSW *Submission 90*.
- 1293 Citizen Advocacy Association NSW Incorporated *Submission 82*; Queensland Advocacy Incorporated *Submission 91*; Brisbane, Melbourne consultations.
- 1294 Citizen Advocacy Association NSW Incorporated *Submission 82*; Queensland Advocacy Incorporated *Submission 91*.
- 1295 Disability Services Commission WA *Submission 83*; Melbourne, Perth, Sydney consultations.
- 1296 Disability Services Commission WA *Submission 83*; Perth, Wagga consultations.
- 1297 Standards 4 and 6.
- 1298 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; ParaQuad NSW *Submission 65*; Uniting Church Disability Policy Working Group WA *Submission 80*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1299 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; ParaQuad NSW *Submission 65*; Uniting Church Disability Policy Working Group WA *Submission 80*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1300 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; ParaQuad NSW *Submission 65*; Uniting Church Disability Policy Working Group WA *Submission 80*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1301 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; ParaQuad NSW *Submission 65*; Uniting Church Disability Policy Working Group WA *Submission 80*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1302 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; ParaQuad NSW *Submission 65*; Uniting Church Disability Policy Working Group WA *Submission 80*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1303 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*.
- 1304 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; ParaQuad NSW *Submission 65*; Uniting Church Disability Policy Working Group WA *Submission 80*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1305 Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*.
- 1306 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; M Hewitt VIC *Submission 39*; Australian Veterans and Defence Services Council NSW *Submission 42*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Uniting Church Disability Policy Working Group WA *Submission 80*; IDEAS Incorporated NSW *Submission 81*; Community Services Australia (Uniting Church) ACT *Submission 86*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
- 1307 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
- 1308 *Privacy Act 1988* (Cth) s 52. These declarations are binding on the agency concerned.
- 1309 *Crimes Act 1914* (Cth) s 70, 79.
- 1310 *Public Service Act 1922* (Cth) s 61, 62; Public Service Regulations reg 8A, 35.
- 1311 *The Freedom of Information Act 1982* (Cth) s 41. Other information may not be released because of the need to protect the public interest and safeguard private and business affairs: s 43.
- 1312 See para 18.10.
- 1313 See para 9.10.
- 1314 Department of Ageing and Disability NSW *Submission 46*; IDEAS Incorporated NSW *Submission 81*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*.
- 1315 Queensland Mental Health Consumer Advisory Group *Submission 56*.
- 1316 Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
- 1317 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; ParaQuad NSW *Submission 65*; Australian Parent Advocacy Incorporated QLD *Submission 79*.
- 1318 Cairns, Canberra, Townsville, Wagga consultations.
- 1319 Adelaide, Canberra, Melbourne, Perth, Sydney, Wagga consultations.
- 1320 Brain Injury Association of NSW Incorporated *Submission 27*; South Australian Health Commission *Submission 36*; ParaQuad NSW *Submission 65*.

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- 1321 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*.
1322 Council of Intellectual Disability Agencies Incorporated *Submission 63*.
1323 Anonymous NSW *Submission 24*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; M Hewitt VIC *Submission 39*; Australian Veterans and Defence Services Council NSW *Submission 42*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
1324 Anonymous *Submission 61*.
1325 Sydney consultations.
1326 L Calvert QLD *Submission 59*; Brisbane, Canberra, Melbourne consultations.
1327 Perth consultations.
1328 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Australian Veterans and Defence Services Council NSW *Submission 42*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Career Contact WA *Submission 73*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
1329 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; Privacy Commissioner, Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
1330 Unicare Work Solutions QLD *Submission 30*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Brisbane consultations.
1331 Anonymous *Submission 61*; Multiple Sclerosis Society of Queensland QLD *Submission 105*; Activ Foundation - South West Regional Support Group WA *Submission 179*; Brisbane, Wagga workshops.
1332 Unicare Work Solutions QLD *Submission 30*.
1333 Unicare Work Solutions QLD *Submission 30*; ParaQuad NSW *Submission 65*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*.
1334 Career Contact WA *Submission 73*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*, Canberra consultations.
1335 Brisbane, Wagga consultations.
1336 Brisbane, Wagga consultations.
1337 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*.
1338 Australian Veterans and Defence Services Council NSW *Submission 42*.
1339 Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
1340 Darwin consultations.
1341 Queensland Mental Health Consumer Advisory Group *Submission 56*; Privacy Commissioner, Human Rights and Equal Opportunity Commission *Submission 93*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
1342 Brisbane consultations.
1343 Brisbane consultations.
1344 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Australian Veterans and Defence Services Council NSW *Submission 42*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Career Contact WA *Submission 73*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Australian Disability Consultative Council ACT *Submission 177*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
1345 Career Contact WA *Submission 73*.
1346 South Australian Health Commission *Submission 36*; M Hewitt VIC *Submission 39*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Disability Services Office, South Australian Health Commission *Submission 74*.
1347 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
1348 South Australian Health Commission *Submission 36*; Disability Services Office, South Australian Health Commission *Submission 74*.
1349 R Rana SA *Submission 20*; Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Career Contact WA *Submission 73*; Australian Parent Advocacy Incorporated QLD *Submission 79*; IDEAS Incorporated NSW *Submission 81*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Australian Disability Consultative Council ACT *Submission 177*; Activ Foundation - South West Regional Support Group WA *Submission 179*; Adelaide, Brisbane, Melbourne, Sydney, Wagga consultations.
1350 South Australian Health Commission *Submission 36*; Australian Veterans and Defence Services Council NSW *Submission 42*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
1351 South Australian Health Commission *Submission 36*.
1352 Australian Veterans and Defence Services Council NSW *Submission 42*.
1353 Human Rights and Equal Opportunity Commission *Submission 93*.
1354 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Australian Veterans and Defence Services Council NSW *Submission 42*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Australian Disability Consultative Council ACT *Submission 177*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
1355 South Australian Health Commission *Submission 36*.

1356 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.

1357 This is a principle underlying the recommendations of the Report of the Gibbs Committee in relation to the protection of official information. See *Review of Criminal Law Final Report* AGPS Canberra 1991, 315.

1358 *Disability Services Act 1986* (Cth) s 28.

1359 In *Open Government* ALRC 77 the Commission and the Administrative Review Council reviewed the Commonwealth's FOI legislation. The report considered whether mechanisms for protecting the privacy of information held by government agencies should also apply, in a modified form, to private sector organisations. It recommended, among other things, that

- if there is a need for greater disclosure of particular information in a particular area of the private sector, the legislation regulating that industry should be amended, or new legislation introduced, to require greater disclosure of that information
- if an agency contracts with a private sector body to provide a service or perform a function on behalf of the government, the agency should ensure that suitable arrangements are made for the provision of public information access rights and that
- where a statutory scheme provides for private sector bodies to be contracted to provide services or functions to the public on behalf of the government, information access rights should generally be provided by applying the FOI Act to those private sector bodies, but only in respect of documents that relate to the provision of those services or functions.

1360 Public Guardian's Office WA *Submission 66*.

1361 Brisbane, Wagga consultations.

1362 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* 1995, 34.

1363 Questionnaire responses to Q 17.

1364 *ibid*.

1365 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review* 1995, 34.

1366 Brisbane, Sydney consultations.

1367 Brain Injury Association of NSW Incorporated *Submission 27*; Victorian Deaf Society *Submission 55*; New South Wales Council for Intellectual Disability *Submission 97*; questionnaire responses to Q 19.

1368 Sydney consultations.

1369 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; New South Wales Council for Intellectual Disability *Submission 97*; Australian Disability Consultative Council ACT *Submission 177*.

1370 South Australian Health Commission *Submission 36*.

1371 Anonymous *Submission 61*.

1372 Coalition of Rural People with Disabilities NSW *Submission 94*.

1373 Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*.

1374 Salvation Army NSW *Submission 25*; Queensland Mental Health Consumer Advisory Group *Submission 56*.

1375 Salvation Army NSW *Submission 25*.

1376 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*; Questionnaire responses to Q 19.

1377 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*.

1378 Questionnaire responses to Q 19.

1379 Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Anonymous *Submission 61*.

1380 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Community Services Australia (Uniting Church) ACT *Submission 86*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Australian Disability Consultative Council ACT *Submission 177*; Activ Foundation - South West Regional Support Group WA *Submission 179*.

1381 South Australian Health Commission *Submission 36*; Australian Parent Advocacy Incorporated QLD *Submission 79*.

1382 Career Contact WA *Submission 73*.

1383 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Australian Disability Consultative Council ACT *Submission 177*; Activ Foundation - South West Regional Support Group WA *Submission 179*.

1384 Brain Injury Association of NSW Incorporated *Submission 27*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Australian Disability Consultative Council ACT *Submission 177*.

1385 Australian Parent Advocacy Incorporated QLD *Submission 79*.

1386 Unicare Work Solutions QLD *Submission 30*; Australian Disability Consultative Council ACT *Submission 177*.

1387 Public Guardian's Office WA *Submission 66*.

1388 Coalition of Rural People with Disabilities NSW *Submission 94*.

1389 New South Wales Council for Intellectual Disability *Submission 97*.

1390 New South Wales Council for Intellectual Disability *Submission 97*.

1391 Salvation Army NSW *Submission 25*; Unicare Work Solutions QLD *Submission 30*; Australian Parent Advocacy Incorporated QLD *Submission 79*.

1392 South Australian Health Commission *Submission 36*.

1393 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.

1394 Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*.

1395 Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*.

1396 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; ParaQuad NSW *Submission 65*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*.

1397 Darwin consultations.

1398 Schizophrenia Australia Foundation VIC *Submission 57*; Melbourne consultations.

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- 1399 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1400 Autistic Children's Association of Queensland Incorporated *Submission 70*; New South Wales Council for Intellectual Disability *Submission 97*; Activ Foundation - South West Regional Support Group WA *Submission 179*.
- 1401 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*; Privacy Commissioner (Human Rights and Equal Opportunity Commission) *Submission 93*.
- 1402 Human Rights and Equal Opportunity Commission *Submission 93*.
- 1403 South Australian Health Commission *Submission 36*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Australian Disability Consultative Council ACT *Submission 177*.
- 1404 K Starling QLD *Submission 64*; Multiple Sclerosis Society of Queensland *Submission 105*; Adelaide, Sydney consultations.
- 1405 See para 2.30.
- 1406 D Latham QLD *Submission 4*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*.
- 1407 D Latham QLD *Submission 4*.
- 1408 Queensland Mental Health Consumer Advisory Group *Submission 56*.
- 1409 Autistic Children's Association of Queensland Incorporated *Submission 70*; Perth, Sydney consultations.
- 1410 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
- 1411 Developing Buds Training and Transition Network Incorporated QLD *Submission 21*; Brain Injury Association of NSW Incorporated *Submission 27*; Parent Advocacy ACT *Submission 31*; CIPIAD Inc. VIC *Submission 37*; ParaQuad NSW *Submission 65*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*; E Rushdon NSW *Submission 120*; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.
- 1412 Brain Injury Association of NSW Incorporated *Submission 27*; Department of Ageing and Disability NSW *Submission 46*.
- 1413 Australian Parent Advocacy Incorporated QLD *Submission 79*.
- 1414 Salvation Army NSW *Submission 25*; Anonymous QLD *Submission 32*; Kurrajong Early Intervention Service NSW *Submission 45*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Uniting Church Disability Policy Working Group WA *Submission 80*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*; E Rushdon NSW *Submission 120*; Melbourne, Sydney, Wagga consultations; questionnaire responses to Q 1.
- 1415 Anonymous QLD *Submission 32*; Melbourne consultations; questionnaire responses to Q 1, 11, 20; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 30.
- 1416 Kurrajong Early Intervention Service NSW *Submission 45*; New South Wales Council for Intellectual Disability *Submission 97*.
- 1417 Department of Ageing and Disability NSW *Submission 46*; Melbourne, Perth, Sydney consultations.
- 1418 Queensland Mental Health Consumer Advisory Group *Submission 56*.
- 1419 Community Services Australia (Uniting Church) ACT *Submission 86*; E Rushdon NSW *Submission 120*; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 11, 12, 28, 30.
- 1420 New South Wales Council for Intellectual Disability *Submission 97*.
- 1421 Melbourne, Perth, Sydney, Wagga consultations.
- 1422 D Stagg SA *Submission 34*; CIPIAD Inc. VIC *Submission 37*; Uniting Church Disability Policy Working Group WA *Submission 80*; National Council on Intellectual Disability ACT *Submission 89*.
- 1423 Uniting Church Disability Policy Working Group WA *Submission 80*.
- 1424 CIPIAD Inc. VIC *Submission 37*.
- 1425 D Stagg SA *Submission 34*; New South Wales Council for Intellectual Disability *Submission 125*; Adelaide, Broome, Canberra, Perth consultations.
- 1426 National Council on Intellectual Disability ACT *Submission 89*.
- 1427 Carers Association of South Australia Incorporated *Submission 28*; Adelaide consultations.
- 1428 Adelaide, Broome, Canberra, Perth consultations.
- 1429 Broome consultations.
- 1430 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; Victorian Deaf Society *Submission 55*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; ParaQuad NSW *Submission 65*; Public Guardian's Office WA *Submission 66*; Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Citizen Advocacy Association NSW Incorporated *Submission 82*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; E Rushdon NSW *Submission 120*; Broome, Cairns, Hobart, Launceston, Melbourne, Sydney, Townsville consultations.
- 1431 Citizen Advocacy Association NSW Incorporated *Submission 82*. The Commission deals with issues relating to advocacy in ch 12.
- 1432 South Australian Health Commission *Submission 36*.
- 1433 Disability Services Commission WA *Submission 83*.
- 1434 Department of Ageing and Disability NSW *Submission 46*; Public Guardian's Office WA *Submission 66*; Community Services Australia (Uniting Church) ACT *Submission 86*.
- 1435 The Commission discusses review of funding decisions in ch 18.
- 1436 *Disability Services Act 1986* (Cth) s 15(3).
- 1437 *Disability Services Act 1986* (Cth) s 15(4).
- 1438 Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Darwin, Melbourne, Perth, Sydney consultations.
- 1439 Salvation Army NSW *Submission 25*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; Melbourne, Perth, Sydney consultations.
- 1440 Brain Injury Association of NSW Incorporated *Submission 27*; Melbourne, Perth, Sydney consultations.

1441 Anonymous *Submission 61*; Perth consultations.
 1442 New South Wales Council for Intellectual Disability *Submission 97*.
 1443 Department of Ageing and Disability NSW *Submission 46*. The NSW Act says that the Minister must determine terms and conditions, how funding will be calculated and when it will be terminated.
 1444 Unicare Work Solutions QLD *Submission 30*; Disability Services Commission WA *Submission 83*; Sydney consultations.
 1445 Disability Services Commission WA *Submission 83*.
 1446 South Australian Health Commission *Submission 36*.
 1447 Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Uniting Church Disability Policy Working Group WA *Submission 80*; Community Services Australia (Uniting Church) ACT *Submission 86*; Community Services Commission NSW *Submission 90*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*.
 1448 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
 1449 Queensland Mental Health Consumer Advisory Group *Submission 56*.
 1450 South Australian Health Commission *Submission 36*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; New South Wales Council for Intellectual Disability *Submission 97*.
 1451 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
 1452 Australian Parent Advocacy Incorporated QLD *Submission 79*.
 1453 Australian Parent Advocacy Incorporated QLD *Submission 79*.
 1454 Coalition of Rural People with Disabilities NSW *Submission 94*.
 1455 New South Wales Council for Intellectual Disability *Submission 97*.
 1456 New South Wales Council for Intellectual Disability *Submission 97*.
 1457 Brain Injury Association of NSW Incorporated *Submission 27*.
 1458 South Australian Health Commission *Submission 36*; Anonymous *Submission 61*; K Starling QLD *Submission 64*.
 1459 Anonymous *Submission 61*.
 1460 National Aboriginal and Islander Legal Service Secretariat QLD *Submission 108*.
 1461 See ch 12 for discussion of the role and function advocacy services.
 1462 Salvation Army NSW *Submission 25*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; M Hewitt VIC *Submission 39*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*; Darwin, Melbourne, Sydney consultations.
 1463 Department of Ageing and Disability NSW *Submission 46*.
 1464 ParaQuad NSW *Submission 65*; Disability Services Commission WA *Submission 83*; Community Services Australia (Uniting Church) ACT *Submission 86*; Sydney, Wagga consultations.
 1465 South Australian Health Commission *Submission 36*.
 1466 See para 9.2-9.9 on assessing need and para 16.45-16.50 on clarifying outcomes.
 1467 Brain Injury Association of NSW Incorporated *Submission 27*; Parent Advocacy ACT *Submission 31*; Anonymous QLD *Submission 32*; D Stagg SA *Submission 34*; CIPIAD Inc. VIC *Submission 37*; The Public Policy Assessment Society Incorporated ACT *Submission 41*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Activ Foundation Incorporated WA *Submission 72*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Community Services Australia (Uniting Church) ACT *Submission 86*; National Council on Intellectual Disability ACT *Submission 89*; New South Wales Council for Intellectual Disability *Submission 97*; Adelaide, Brisbane, Broome, Cairns, Darwin, Melbourne, Perth, Sydney, Wagga consultations; questionnaire responses to Q 1, 20.
 1468 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 14, 21, 27; Adelaide, Sydney, Wagga consultations.
 1469 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 14.
 1470 id, 21, 27; Adelaide, Sydney, Wagga consultations.
 1471 Adelaide consultations.
 1472 Broome consultations.
 1473 Broome, Darwin, Melbourne, Perth, Wagga consultations.
 1474 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 44.
 1475 Adelaide, Brisbane, Broome, Cairns, Canberra, Darwin, Hobart, Melbourne, Perth, Sydney, Wagga consultations.
 1476 Brain Injury Association of NSW Incorporated *Submission 27*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; Melbourne, Perth, Sydney consultations; questionnaire responses to Q 1, 20.
 1477 Canberra consultations.
 1478 Wagga, Perth, Canberra consultations.
 1479 Brain Injury Association of NSW Incorporated *Submission 27*; Headway Victoria *Submission 71*; Melbourne, Perth, Sydney consultations.
 1480 Adelaide, Sydney consultations.
 1481 Launceston, Melbourne, Wagga consultations.
 1482 Peter Baume & Kathleen Kay *Working Solution Report of the Strategic Review of the Commonwealth Disability Services Program AGPS 1995*, 106.
 1483 Department of Human Services and Health (as it then was) *Performance Based Funding: A Framework for Funding Disability Employment Services. A Position Paper* October 1995.
 1484 The implications of the new assessment system are discussed at para 9.13-9.17.
 1485 Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; Victorian Deaf Society *Submission 55*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Activ Foundation Incorporated WA *Submission 72*; Uniting Church Disability Policy Working Group WA *Submission 80*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*.
 1486 Cairns, Hobart, Townsville, Sydney consultations.
 1487 Adelaide, Brisbane, Broome, Cairns, Darwin, Hobart, Melbourne, Perth, Sydney, Wagga consultations.

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- 1488 Brain Injury Association of NSW Incorporated *Submission 27*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Career Contact WA *Submission 73*; Disability Services Commission WA *Submission 83*; Adelaide, Brisbane, Broome, Cairns, Darwin, Hobart, Launceston, Melbourne, Perth, Sydney, Townsville, Wagga consultations.
- 1489 Lasercraft NSW *Submission 38*; Victorian Deaf Society *Submission 55*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Career Contact WA *Submission 73*; Disability Services Commission WA *Submission 83*; Darwin, Melbourne, Perth, Sydney, Wagga consultations.
- 1490 Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Disability Services Commission WA *Submission 83*; Melbourne, Sydney Townsville consultations.
- 1491 Australian Parent Advocacy Incorporated QLD *Submission 79*.
- 1492 Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; ParaQuad NSW *Submission 65*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Canberra consultations.
- 1493 Cairns, Darwin, Melbourne, Sydney consultations.
- 1494 Darwin, Melbourne, Sydney, Wagga consultations.
- 1495 Perth, Wagga consultations.
- 1496 Adelaide, Cairns, Launceston, Melbourne, Sydney, Wagga consultations.
- 1497 Sydney consultations.
- 1498 Victorian Deaf Society *Submission 55*; Wagga consultations.
- 1499 Lasercraft NSW *Submission 38*; Adelaide, Melbourne, Sydney, Wagga consultations.
- 1500 Brain Injury Association of NSW Incorporated *Submission 27*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Career Contact WA *Submission 73*; Adelaide, Darwin, Melbourne, Perth, Sydney, Wagga consultations.
- 1501 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
- 1502 Unicare Work Solutions QLD *Submission 30*; Department of Ageing and Disability NSW *Submission 46*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; Uniting Church Disability Policy Working Group WA *Submission 80*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.
- 1503 J Williams NSW *Submission 48*; Victorian Deaf Society *Submission 55*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Disability Services Commission WA *Submission 83*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; Adelaide, Melbourne, Perth, Sydney, Wagga consultations.
- 1504 Brain Injury Association of NSW Incorporated *Submission 27*; Victorian Deaf Society *Submission 55*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Career Contact WA *Submission 73*; Disability Services Commission WA *Submission 83*; New South Wales Council for Intellectual Disability *Submission 97*; C Crosse VIC *Submission 138*; Adelaide, Brisbane, Canberra, Melbourne, Perth, Sydney, Wagga consultations. The issue of assessment of need is discussed at para 9.2-9.9.
- 1505 J Williams NSW *Submission 48*; Sydney, Wagga consultations.
- 1506 Adelaide, Melbourne, Sydney, Wagga consultations.
- 1507 Adelaide, Melbourne, Sydney, Wagga consultations.
- 1508 Brain Injury Association of NSW Incorporated *Submission 27*; J Williams NSW *Submission 48*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Career Contact WA *Submission 73*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Community Services Commission NSW *Submission 90*; Adelaide, Brisbane, Melbourne, Perth, Sydney consultations.
- 1509 Queensland Mental Health Consumer Advisory Group *Submission 56*; Cairns consultations.
- 1510 Anonymous *Submission 61*; questionnaire responses to Q 1, 3, 20; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 10.
- 1511 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 10.
- 1512 Lasercraft NSW *Submission 38*.
- 1513 Adelaide, Melbourne, Perth, Sydney, Wagga consultations.
- 1514 Lasercraft NSW *Submission 38*; Victorian Deaf Society *Submission 55*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Career Contact WA *Submission 73*; Disability Services Commission WA *Submission 83*; Darwin, Melbourne, Perth, Sydney, Wagga consultations.
- 1515 Wagga consultations.
- 1516 Wagga consultations.
- 1517 Wagga consultations.
- 1518 Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 10; Melbourne, Sydney, Wagga consultations; questionnaire responses to Q 1, 3, 20.
- 1519 Melbourne, Perth, Sydney consultations; questionnaire responses to Q 1, 3, 20; Juliet London Research and Consultancy *Commonwealth Disability Services Legislation Review 1995*, 10.
- 1520 R Rana SA *Submission 20*; Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; CIPIAD Inc. VIC *Submission 37*; Confidential WA *Submission 49*; M Ryan VIC *Submission 54*; ParaQuad NSW *Submission 65*; Advisory Council for Disability Services WA *Submission 78*; Villamanta Legal Service Incorporated VIC *Submission 69*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Activ Foundation Incorporated WA *Submission 72*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; IDEAS Incorporated NSW *Submission 81*; Disability Services Commission WA *Submission 83*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*; Darwin, Hobart, Melbourne, Sydney, Wagga consultations.
- 1521 J Williams NSW *Submission 48*; Activ Foundation Incorporated WA *Submission 72*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; Adelaide, Darwin, Hobart, Melbourne, Perth, Sydney, Wagga consultations.
- 1522 Lasercraft NSW *Submission 38*; Career Contact WA *Submission 73*; Cairns, Darwin, Wagga consultations.
- 1523 Lasercraft NSW *Submission 38*; Cairns, Sydney, Wagga consultations.
- 1524 Lasercraft NSW *Submission 38*; Cairns, Launceston, Sydney, Wagga consultations.
- 1525 Lasercraft NSW *Submission 38*; Cairns, Launceston, Sydney, Wagga consultations.
- 1526 Lasercraft NSW *Submission 38*; Career Contact WA *Submission 73*; Sydney, Wagga consultations.
- 1527 Brain Injury Association of NSW Incorporated *Submission 27*; Department of Ageing and Disability NSW *Submission 46*; J Williams NSW *Submission 48*; Queensland Mental Health Consumer Advisory Group *Submission 56*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; Headway Victoria *Submission 71*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Uniting Church Disability Policy Working Group WA *Submission 80*; Community Services

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- Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; Intellectual Disability Rights Service Incorporated NSW *Submission 96*; New South Wales Council for Intellectual Disability *Submission 97*; questionnaire responses to Q 1, 20; Broome, Cairns, Hobart, Melbourne, Sydney, Wagga consultations.
- 1528 Australian Parent Advocacy Incorporated QLD *Submission 79*.
- 1529 Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1530 Queensland Mental Health Consumer Advisory Group *Submission 56*.
- 1531 Unicare Work Solutions QLD *Submission 30*; Perth consultations.
- 1532 Canberra, Melbourne consultations.
- 1533 New South Wales Council for Intellectual Disability *Submission 97*.
- 1534 South Australian Health Commission *Submission 36*; Disability Services Commission WA *Submission 83*; Department of Ageing and Disability NSW *Submission 46*.
- 1535 Child care for kids ALRC 70.
- 1536 The coming of age ALRC 72.
- 1537 Salvation Army NSW *Submission 25*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Department of Ageing and Disability NSW *Submission 46*; Queensland Mental Health Consumer Advisory Group *Submission 56*; ; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; K Starling QLD *Submission 64*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*.
- 1538 South Australian Health Commission *Submission 36*; Department of Ageing and Disability NSW *Submission 46*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*.
- 1539 Unicare Work Solutions QLD *Submission 30*.
- 1540 Queensland Mental Health Consumer Advisory Group *Submission 56*.
- 1541 Brain Injury Association of NSW Incorporated *Submission 27*; ParaQuad NSW *Submission 65*; Autistic Children's Association of Queensland Incorporated *Submission 70*; Australian Parent Advocacy Incorporated QLD *Submission 79*.
- 1542 Australian Parent Advocacy Incorporated QLD *Submission 79*.
- 1543 Victorian Deaf Society *Submission 55*; Australian Parent Advocacy Incorporated QLD *Submission 79*.
- 1544 Victorian Deaf Society *Submission 55*.
- 1545 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; New South Wales Council for Intellectual Disability *Submission 97*.
- 1546 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
- 1547 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
- 1548 Disability Services Act 1986 (Cth) s 14K.
- 1549 The Commission discusses service quality in ch 11.
- 1550 Anonymous *Submission 61*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Coalition of Rural People with Disabilities NSW *Submission 94*.
- 1551 Brain Injury Association of NSW Incorporated *Submission 27*; South Australian Health Commission *Submission 36*.
- 1552 Queensland Mental Health Consumer Advisory Group *Submission 56*; ParaQuad NSW *Submission 65*; J Leddy NSW *Submission 121*.
- 1553 Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*.
- 1554 Brain Injury Association of NSW Incorporated *Submission 27*; Department of Ageing and Disability NSW *Submission 46*; New South Wales Council for Intellectual Disability *Submission 97*.
- 1555 Department of Ageing and Disability NSW *Submission 46*.
- 1556 Department of Ageing and Disability NSW *Submission 46*; Independent Commission Against Corruption Taken For Granted - Better Management of Government Grants 1994.
- 1557 The terms and conditions of funding currently impose record keeping and other duties on service providers. The terms and conditions also require services to
- provide information to departmental officers about their financial situation once funding has been approved
 - provide certain information to departmental officers upon request
 - allow authorised departmental officers to enter premises and inspect accounts, records and provide any necessary information to departmental officers.
- Standard 8 of the Disability Services Standards requires sound management practices which maximise outcomes for consumers.
- 1558 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Community Services Australia (Uniting Church) ACT *Submission 86*.
- 1559 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; South Australian Health Commission *Submission 36*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*.
- 1560 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*.
- 1561 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Anonymous *Submission 61*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; Australian Parent Advocacy Incorporated QLD *Submission 79*; Community Services Australia (Uniting Church) ACT *Submission 86*; Coalition of Rural People with Disabilities NSW *Submission 94*; New South Wales Council for Intellectual Disability *Submission 97*.
- 1562 Brain Injury Association of NSW Incorporated *Submission 27*; Unicare Work Solutions QLD *Submission 30*; Community Services Australia (Uniting Church) ACT *Submission 86*; New South Wales Council for Intellectual Disability *Submission 97*.
- 1563 New South Wales Council for Intellectual Disability *Submission 97*.
- 1564 Salvation Army NSW *Submission 25*; South Australian Health Commission *Submission 36*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; New South Wales Council for Intellectual Disability *Submission 97*.
- 1565 Salvation Army NSW *Submission 25*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; New South Wales Council for Intellectual Disability *Submission 97*; Perth consultations.
- 1566 Brain Injury Association of NSW Incorporated *Submission 27*.
- 1567 South Australian Health Commission *Submission 36*.
- 1568 Salvation Army NSW *Submission 25*; South Australian Health Commission *Submission 36*; Council of Intellectual Disability Agencies Incorporated VIC *Submission 63*; ParaQuad NSW *Submission 65*; New South Wales Council for Intellectual Disability *Submission 97*; Perth consultations.

1569 South Australian Health Commission Submission 36.
1570 Department of Ageing and Disability NSW Submission 46; Queensland Mental Health Consumer Advisory Group Submission 56; ParaQuad NSW Submission 65; Coalition of Rural People with Disabilities NSW Submission 94; Perth consultations.
1571 Salvation Army NSW Submission 25; Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; J Williams NSW Submission 48; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; ParaQuad NSW Submission 65; Public Guardian's Office WA Submission 66; Autistic Children's Association of Queensland Incorporated Submission 70; Australian Parent Advocacy Incorporated QLD Submission 79; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97.
1572 Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; Queensland Mental Health Consumer Advisory Group Submission 56; Coalition of Rural People with Disabilities NSW Submission 94.
1573 South Australian Health Commission Submission 36; Australian Parent Advocacy Incorporated QLD Submission 79.
1574 South Australian Health Commission Submission 36.
1575 South Australian Health Commission Submission 36.
1576 Anonymous Submission 61; Australian Parent Advocacy Incorporated QLD Submission 79.
1577 South Australian Health Commission Submission 36; Anonymous Submission 61.
1578 Anonymous Submission 61.
1579 Australian Parent Advocacy Incorporated QLD Submission 79.
1580 Anonymous Submission 61; New South Wales Council for Intellectual Disability Submission 97.
1581 Anonymous Submission 61.
1582 New South Wales Council for Intellectual Disability Submission 97.
1583 Department of Ageing and Disability NSW Submission 46.
1584 Council of Intellectual Disability Agencies Incorporated VIC Submission 63.
1585 Clause 24 (1).
1586 Clause 24 (2).
1587 Salvation Army NSW Submission 25; Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; Department of Ageing and Disability NSW Submission 46; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; ParaQuad NSW Submission 65; Australian Parent Advocacy Incorporated QLD Submission 79; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96.
1588 Unicare Work Solutions QLD Submission 30.
1589 ParaQuad NSW Submission 65.
1590 Council of Intellectual Disability Agencies Incorporated VIC Submission 63.
1591 Council of Intellectual Disability Agencies Incorporated VIC Submission 63; Australian Parent Advocacy Incorporated QLD Submission 79; Human Rights and Equal Opportunity Commission Submission 93; New South Wales Council for Intellectual Disability Submission 97.
1592 Council of Intellectual Disability Agencies Incorporated VIC Submission 63; Australian Parent Advocacy Incorporated QLD Submission 79.
1593 Human Rights and Equal Opportunity Commission Submission 93; New South Wales Council for Intellectual Disability Submission 97.
1594 Privacy Commissioner, (Human Rights and Equal Opportunity Commission) Submission 93.
1595 Privacy Commissioner, (Human Rights and Equal Opportunity Commission) Submission 93.
1596 Privacy Commissioner, (Human Rights and Equal Opportunity Commission) Submission 93; Perth consultations.
1597 Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; Queensland Mental Health Consumer Advisory Group Submission 56; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; Career Contact WA Submission 73; Coalition of Rural People with Disabilities NSW Submission 94.
1598 Brain Injury Association of NSW Incorporated Submission 27; Anonymous Submission 61; ParaQuad NSW Submission 65; Australian Parent Advocacy Incorporated QLD Submission 79; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97.
1599 Brain Injury Association of NSW Incorporated Submission 27.
1600 Anonymous Submission 61.
1601 Australian Parent Advocacy Incorporated QLD Submission 79.
1602 New South Wales Council for Intellectual Disability Submission 97.
1603 Brain Injury Association of NSW Incorporated Submission 27; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; ParaQuad NSW Submission 65; Career Contact WA Submission 73; Intellectual Disability Rights Service Incorporated NSW Submission 96.
1604 Salvation Army NSW Submission 25; Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; Department of Ageing and Disability NSW Submission 46; Queensland Mental Health Consumer Advisory Group Submission 56; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; ParaQuad NSW Submission 65; Australian Parent Advocacy Incorporated QLD Submission 79; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97.
1605 Unicare Work Solutions QLD Submission 30.
1606 Salvation Army NSW Submission 25; Brain Injury Association of NSW Incorporated Submission 27; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; ParaQuad NSW Submission 65; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97.
1607 Queensland Mental Health Consumer Advisory Group Submission 56.
1608 Brain Injury Association of NSW Incorporated Submission 27; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; New South Wales Council for Intellectual Disability Submission 97.
1609 Brain Injury Association of NSW Incorporated Submission 27; ParaQuad NSW Submission 65; New South Wales Council for Intellectual Disability Submission 97.
1610 Council of Intellectual Disability Agencies Incorporated VIC Submission 63.
1611 Coalition of Rural People with Disabilities NSW Submission 94; New South Wales Council for Intellectual Disability Submission 97.
1612 Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; Career Contact WA Submission 73; Australian Parent Advocacy Incorporated QLD Submission 79.
1613 Career Contact WA Submission 73.
1614 Australian Parent Advocacy Incorporated QLD Submission 79.
1615 South Australian Health Commission Submission 36.

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- 1616 Salvation Army NSW Submission 25; Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; Department of Ageing and Disability NSW Submission 46; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; ParaQuad NSW Submission 65; Public Guardian's Office WA Submission 66; Australian Parent Advocacy Incorporated QLD Submission 79; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97.
- 1617 Salvation Army NSW Submission 25; Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; Department of Ageing and Disability NSW Submission 46; Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; ParaQuad NSW Submission 65; Public Guardian's Office WA Submission 66; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97.
- 1618 South Australian Health Commission Submission 36.
- 1619 Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; Department of Ageing and Disability NSW Submission 46; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; ParaQuad NSW Submission 65; Public Guardian's Office WA Submission 66; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97.
- 1620 Salvation Army NSW Submission 25; Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; Department of Ageing and Disability NSW Submission 46; Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; ParaQuad NSW Submission 65; Public Guardian's Office WA Submission 66; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97.
- 1621 Public Guardian's Office WA Submission 66; New South Wales Council for Intellectual Disability Submission 97.
- 1622 New South Wales Council for Intellectual Disability Submission 97.
- 1623 Public Guardian's Office WA Submission 66.
- 1624 Salvation Army NSW Submission 25; Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; Department of Ageing and Disability NSW Submission 46; Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; ParaQuad NSW Submission 65; Public Guardian's Office WA Submission 66; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97.
- 1625 Brain Injury Association of NSW Incorporated Submission 27; South Australian Health Commission Submission 36; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; ParaQuad NSW Submission 65; New South Wales Council for Intellectual Disability Submission 97.
- 1626 Department of Ageing and Disability NSW Submission 46; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; Australian Parent Advocacy Incorporated QLD Submission 79; Coalition of Rural People with Disabilities NSW Submission 94.
- 1627 Unicare Work Solutions QLD Submission 30; Australian Parent Advocacy Incorporated QLD Submission 79.
- 1628 Salvation Army NSW Submission 25; Brain Injury Association of NSW Incorporated Submission 27; South Australian Health Commission Submission 36; Department of Ageing and Disability NSW Submission 46; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; K Starling QLD Submission 64; ParaQuad NSW Submission 65; Community Services Australia (Uniting Church) ACT Submission 86; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97.
- 1629 ParaQuad NSW Submission 65.
- 1630 Unicare Work Solutions QLD Submission 30.
- 1631 Australian Parent Advocacy Incorporated QLD Submission 79.
- 1632 Administrative Decisions (Judicial Review) Act 1977 (Cth).
- 1633 Administrative Review Council Administrative Review of Health, Housing and Community Services Programs Issues Paper Canberra AGPS 1993 para 1.10.
- 1634 The Department is currently developing a grievance mechanism.
- 1635 Salvation Army NSW Submission 25; Brain Injury Association of NSW Incorporated Submission 27; South Australian Health Commission Submission 36; Australian Veterans and Defence Services Council NSW Submission 42; Department of Ageing and Disability NSW Submission 46; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; K Starling QLD Submission 64; ParaQuad NSW Submission 65; Public Guardian's Office WA Submission 66; Australian Parent Advocacy Incorporated QLD Submission 79; Uniting Church Disability Policy Working Group WA Submission 80; Community Services Australia (Uniting Church) ACT Submission 86; Community Services Commission NSW Submission 90; Coalition of Rural People with Disabilities NSW Submission 94; New South Wales Council for Intellectual Disability Submission 97; Activ Foundation - South West Regional Support Group WA Submission 179.
- 1636 Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; Community Services Commission NSW Submission 90; Coalition of Rural People with Disabilities NSW Submission 94; New South Wales Council for Intellectual Disability Submission 97.
- 1637 Brain Injury Association of NSW Incorporated Submission 27; ParaQuad NSW Submission 65; Community Services Australia (Uniting Church) ACT Submission 86.
- 1638 Australian Parent Advocacy Incorporated QLD Submission 79.
- 1639 Unicare Work Solutions QLD Submission 30.
- 1640 Administrative Appeals Tribunal NSW Submission 47.
- 1641 Brain Injury Association of NSW Incorporated Submission 27.
- 1642 Salvation Army NSW Submission 25; Unicare Work Solutions QLD Submission 30; Anonymous Submission 61; ParaQuad NSW Submission 65; Uniting Church Disability Policy Working Group WA Submission 80; Community Services Australia (Uniting Church) ACT Submission 86; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97.
- 1643 Salvation Army NSW Submission 25; Unicare Work Solutions QLD Submission 30; Anonymous Submission 61; ParaQuad NSW Submission 65; Uniting Church Disability Policy Working Group WA Submission 80; Community Services Australia (Uniting Church) ACT Submission 86; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97.
- 1644 Salvation Army NSW Submission 25; Unicare Work Solutions QLD Submission 30; Anonymous Submission 61; Uniting Church Disability Policy Working Group WA Submission 80; Community Services Australia (Uniting Church) ACT Submission 86; Coalition of Rural People

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- with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97.
- 1645 Salvation Army NSW Submission 25; Unicare Work Solutions QLD Submission 30; Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; ParaQuad NSW Submission 65; Australian Parent Advocacy Incorporated QLD Submission 79; Uniting Church Disability Policy Working Group WA Submission 80; Community Services Australia (Uniting Church) ACT Submission 86; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97; Activ Foundation - South West Regional Support Group WA Submission 179.
- 1646 South Australian Health Commission Submission 36; Queensland Mental Health Consumer Advisory Group Submission 56.
- 1647 Australian Parent Advocacy Incorporated QLD Submission 79.
- 1648 Department of Ageing and Disability NSW Submission 46.
- 1649 Disability Services Act 1986 (Cth) s 14B(1).
- 1650 Disability Services Act 1986 (Cth) s 14G.
- 1651 The Commission discusses these sanctions at para 17.25.
- 1652 Brain Injury Association of NSW Incorporated Submission 27; Queensland Mental Health Consumer Advisory Group Submission 56; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; K Starling QLD Submission 64; ParaQuad NSW Submission 65; Australian Parent Advocacy Incorporated QLD Submission 79; Community Services Australia (Uniting Church) ACT Submission 86; Community Services Appeals Tribunal NSW Submission 95; Intellectual Disability Rights Service Incorporated NSW Submission 96; Activ Foundation - South West Regional Support Group WA Submission 179.
- 1653 Council of Intellectual Disability Agencies Incorporated VIC Submission 63.
- 1654 Community Services Australia (Uniting Church) ACT Submission 86; Community Services Appeals Tribunal NSW Submission 95.
- 1655 Council of Intellectual Disability Agencies Incorporated VIC Submission 63.
- 1656 Community Services Australia (Uniting Church) ACT Submission 86.
- 1657 Salvation Army NSW Submission 25; Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; Lasercraft NSW Submission 38; Advocacy Development Project QLD Submission 6; Administrative Appeals Tribunal NSW Submission 47; Coalition of Rural People with Disabilities NSW Submission 94; New South Wales Council for Intellectual Disability Submission 97.
- 1658 Salvation Army NSW Submission 25.
- 1659 Salvation Army NSW Submission 25.
- 1660 Lasercraft NSW Submission 38.
- 1661 Anonymous Submission 61.
- 1662 Salvation Army NSW Submission 25; Brain Injury Association of NSW Incorporated Submission 27; Australian Veterans and Defence Services Council NSW Submission 42; J Williams NSW Submission 48; Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; ParaQuad NSW Submission 65; Autistic Children's Association of Queensland Incorporated Submission 70; Australian Parent Advocacy Incorporated QLD Submission 79; Community Services Australia (Uniting Church) ACT Submission 86; Coalition of Rural People with Disabilities NSW Submission 94; Intellectual Disability Rights Service Incorporated NSW Submission 96; New South Wales Council for Intellectual Disability Submission 97; Activ Foundation - South West Regional Support Group WA Submission 179.
- 1663 Anonymous Submission 61.
- 1664 Salvation Army NSW Submission 25; New South Wales Council for Intellectual Disability Submission 97.
- 1665 Brain Injury Association of NSW Incorporated Submission 27; New South Wales Council for Intellectual Disability Submission 97.
- 1666 Administrative Appeals Tribunal NSW Submission 47; ParaQuad NSW Submission 65.
- 1667 New South Wales Council for Intellectual Disability Submission 97.
- 1668 Anonymous Submission 61.
- 1669 Activ Foundation - South West Regional Support Group WA Submission 179.
- 1670 South Australian Health Commission Submission 36.
- 1671 R Rana SA Submission 20; Brain Injury Association of NSW Incorporated Submission 27; Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; ParaQuad NSW Submission 65; Australian Parent Advocacy Incorporated QLD Submission 79; Community Services Australia (Uniting Church) ACT Submission 86; Coalition of Rural People with Disabilities NSW Submission 94; New South Wales Council for Intellectual Disability Submission 97; Activ Foundation - South West Regional Support Group WA Submission 179.
- 1672 Council of Intellectual Disability Agencies Incorporated VIC Submission 63; Coalition of Rural People with Disabilities NSW Submission 94.
- 1673 Council of Intellectual Disability Agencies Incorporated VIC Submission 63.
- 1674 South Australian Health Commission Submission 36; Department of Ageing and Disability NSW Submission 46.
- 1675 Anonymous Submission 61.
- 1676 South Australian Health Commission Submission 36.
- 1677 Brain Injury Association of NSW Incorporated Submission 27; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; K Starling QLD Submission 64; ParaQuad NSW Submission 65; Australian Parent Advocacy Incorporated QLD Submission 79; Community Services Australia (Uniting Church) ACT Submission 86; Community Services Commission NSW Submission 90; New South Wales Council for Intellectual Disability Submission 97; Activ Foundation - South West Regional Support Group WA Submission 179; Queensland Disability Advisory Council Submission 180.
- 1678 Brain Injury Association of NSW Incorporated Submission 27; ParaQuad NSW Submission 65; Community Services Australia (Uniting Church) ACT Submission 86; Activ Foundation - South West Regional Support Group WA Submission 179; Queensland Disability Advisory Council Submission 180.
- 1679 Council of Intellectual Disability Agencies Incorporated VIC Submission 63.
- 1680 Australian Parent Advocacy Incorporated QLD Submission 79.
- 1681 Community Services Commission NSW Submission 90; Queensland Disability Advisory Council Submission 180.
- 1682 Unicare Work Solutions QLD Submission 30; South Australian Health Commission Submission 36; Department of Ageing and Disability NSW Submission 46; Queensland Mental Health Consumer Advisory Group Submission 56; Anonymous Submission 61; Coalition of Rural People with Disabilities NSW Submission 94.
- 1683 Department of Ageing and Disability NSW Submission 46.
- 1684 South Australian Health Commission Submission 36.
- 1685 Coalition of Rural People with Disabilities NSW Submission 94.
- 1686 Brain Injury Association of NSW Incorporated Submission 27; ParaQuad NSW Submission 65; Community Services Australia (Uniting Church) ACT Submission 86.

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- 1687 Australian Parent Advocacy Incorporated QLD Submission 79.
1688 ParaQuad NSW Submission 65.
1689 Brain Injury Association of NSW Incorporated Submission 27; Community Services Australia (Uniting Church) ACT Submission 86.
1690 Community Services Commission NSW Submission 90.
1691 New South Wales Council for Intellectual Disability Submission 97.
1692 Brain Injury Association of NSW Incorporated Submission 27; ParaQuad NSW Submission 65.
1693 Council of Intellectual Disability Agencies Incorporated VIC Submission 63; Activ Foundation - South West Regional Support Group WA Submission 179.
1694 Activ Foundation - South West Regional Support Group WA Submission 179.
1695 See para 15.8.
1696 See para 15.8.
1697 Freedom of Information Act 1982 (Cth) s 43.
1698 Salvation Army NSW Submission 25; South Australian Health Commission Submission 36.
1699 Brain Injury Association of NSW Incorporated Submission 27; Activ Foundation - South West Regional Support Group WA Submission 179.
1700 ParaQuad NSW Submission 65.
1701 New South Wales Council for Intellectual Disability Submission 97.
1702 Brain Injury Association of NSW Incorporated Submission 27; ParaQuad NSW Submission 65; Coalition of Rural People with Disabilities NSW Submission 94.
1703 South Australian Health Commission Submission 36.
1704 Council of Intellectual Disability Agencies Incorporated VIC Submission 63; Coalition of Rural People with Disabilities NSW Submission 94.
1705 New South Wales Council for Intellectual Disability Submission 97.
1706 Activ Foundation - South West Regional Support Group WA Submission 179.
1707 Brain Injury Association of NSW Incorporated Submission 27; ParaQuad NSW Submission 65.
1708 South Australian Health Commission Submission 36; Activ Foundation - South West Regional Support Group WA Submission 179.
1709 Department of Ageing and Disability NSW Submission 46.
1710 Anonymous Submission 61; Coalition of Rural People with Disabilities NSW Submission 94.
1711 Council of Intellectual Disability Agencies Incorporated VIC Submission 63; Coalition of Rural People with Disabilities NSW Submission 94.
1712 Salvation Army NSW Submission 25; Brain Injury Association of NSW Incorporated Submission 27; Anonymous Submission 61; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; K Starling QLD Submission 64; ParaQuad NSW Submission 65; Coalition of Rural People with Disabilities NSW Submission 94.
1713 Salvation Army NSW Submission 25.
1714 South Australian Health Commission Submission 36; New South Wales Council for Intellectual Disability Submission 97; Activ Foundation - South West Regional Support Group WA Submission 179.
1715 Brain Injury Association of NSW Incorporated Submission 27; M Hewitt VIC Submission 39; Council of Intellectual Disability Agencies Incorporated VIC Submission 63; K Starling QLD Submission 64; ParaQuad NSW Submission 65; Coalition of Rural People with Disabilities NSW Submission 94.
1716 Anonymous Submission 61.
1717 South Australian Health Commission Submission 36; Anonymous Submission 61; New South Wales Council for Intellectual Disability Submission 97; Activ Foundation - South West Regional Support Group WA Submission 179.
1718 South Australian Health Commission Submission 36; New South Wales Council for Intellectual Disability Submission 97; Activ Foundation - South West Regional Support Group WA Submission 179.
1719 This is a principle underlying the recommendations of the Report of the Gibbs Committee in relation to the protection of official information. See Review of Criminal Law Final Report AGPS Canberra 1991, 315.