



Department of Health and Aged Care  
New Aged Care Act Consultation  
By email: AgedCareLegislativeReform@health.gov.au

5 February 2024

To whom it may concern,

**RE: New Aged Care Act Exposure Draft Review**

Deafness Forum Australia is the peak advocacy organisation representing the interests of over 4 million Australians who live with hearing loss or ear or balance disorders, including people with hearing difficulties, people who are deafblind, and those who communicate using Australian Sign Language, as well as their families and supporters.

The reform of Australia's aged care system is particularly relevant to our membership. Roughly half of all Australians aged between 60-70 experience some form of hearing loss, with rates increasing to around 70% of people aged between 70-80 years, and over 80% of people aged 80 years and over.<sup>i</sup> As Australia's aging population increases, we can expect to see a higher number of people with hearing loss, hearing difficulties, and ear or balance disorders – by 2060 it has been estimated that the number of people with hearing impairments could double from 3.6 million people to an estimated 7.8 million.<sup>ii</sup>

Deafness Forum appreciates the opportunity to provide feedback on the New Aged Care Act exposure draft. We have reviewed the draft Act in full and are appreciative that the interests of people living with hearing loss and other hearing-related conditions have been specifically referenced in many sections of the draft, including the draft statement of principles.

Please find in the table below a series of additional modifications to the draft, which further provide for the inclusivity of our members' interests. We've also highlighted our concerns regarding the proposed limitations on an older person having supporters and representatives simultaneously in Pt 4 of the draft on p. 3.

**Recommended changes**

Ch 1, Pt 3, Div 1, s.20 (2)	<i>Equitable Access</i> We request an extra subsection (iii) which specifically provides a right to have an individual's need for funded aged care services assessed, or reassessed, in a manner that is responsive to their communication needs.
Ch 1, Pt 3, Div 1 s.20 (6)	<i>Respect for privacy and information</i> We request that this section expressly acknowledge the right to accessible information about rights under the section.
Ch. 2, Pt 2, Div 3, s. 44 (1)	<i>Undertaking aged care needs assessments</i>

	<p>The current section indicates that the assumption will be that the format of the assessment will be a discussion between the assessor and the individual (or their representative).</p> <p>We request that the section specifies that the format of the assessments is responsive to the communication requirements of the individual being assessed.</p> <p>The assessor should be flexible in their approach to the assessment – both regarding the manner that the assessment is conducted, and the time taken to complete the assessment.</p> <p>We'd recommend that the rules also provide for external persons to be permitted to attend an assessment to facilitate effective communication between the parties, for example, AUSLAN interpreters, and for the use of communication devices, if necessary.</p>
Ch. 2, Pt 2, Div 4, s. 49	<p><i>Restrictions on approvals of service types or services in certain service groups</i></p> <p>This section references sensory disabilities in s 49 (1)(a). It is important that the section specifically provides that the Systems Governor can approve funded aged care services involving, a communication aid or device, assistive technology, live assistance, or intermediaries to facilitate the individual's ability to communicate.</p> <p><i>(For context, this might include the approval of funding for assistive technology aids such as hearing aids, screen braille communicators, braille notetaking devices, CapTel telephones and Teletypewriters (TTY), and live assistance such as AUSLAN interpreters.)</i></p>
Ch. 3, Pt 4, Div 1, s. 105 (b)	<p><i>Delivery of funded aged care services</i></p> <p>We suggest that this section be amended to state that the service provider must provide and explain information to an individual accessing funded aged care services in a way that is accessible, noting that this may involve the use of alternative methods of communication in response to the specific communication requirements of the individual.</p>
Ch. 5, Pt 3, Div 2, s. 142 (a)	<p><i>Safeguarding functions</i></p> <p>We'd recommend that this section make specific reference to the safeguarding function of the Commissioner in ensuring the delivery of accessible funded aged care services.</p>
Ch. 5, Pt 4, s. 172 (3)	<p><i>Appointment of Advisory Council Members</i></p> <p>We would recommend that the Council has at least one member with lived experience as a user of the Aged Care Scheme and a member who is a carer of a person with lived experience (this might include a representative of a person who uses the scheme or a supporter of someone with lived experience of the scheme).</p>

### **Concerns regarding supporters and representatives (Ch. 1, Pt 4.)**

While we appreciate that there needs to be a clear delineation between people who provide support to older people who access the aged care scheme, and those who are empowered to represent their interests formally, we are concerned that a proportion of older people living with hearing loss, older persons with hearing difficulties, and older people who communicate using sign language or are deafblind may be disadvantaged if they are not permitted to have both a nominated support person and a representative simultaneously.

People who are deaf, deafblind, or hard of hearing use a variety of communication methods, for example, Australian Sign Language, Deafblind Finger Spelling, and screen braille communicators.

Often these communication methods require the use of a third person with specialised expertise to act as an interpreter. We are concerned that there may be situations where a person who is deaf, deafblind, or hard of hearing requires a representative, but also needs a support person to assist them to communicate more generally.

To avoid potential disadvantage, we'd ask that the System Governor be given the discretion to permit a supporter and a representative to assist an older person concurrently if they are satisfied that it is appropriate in the circumstances.

Thank you once again for the opportunity to comment. Should you require any further information, please do not hesitate to contact me directly on [REDACTED] or email, [REDACTED]

I do not require any confidentiality for this letter, which may be made publicly available.

Yours sincerely,

[REDACTED]

Hayley Stone  
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<sup>i</sup> Australian Government, Department of Health and Aged Care, *About Ear Health* <[About ear health | Australian Government Department of Health and Aged Care](#)> accessed 5 February 2024.

<sup>ii</sup> Ibid.