



Addressing the Deaf Community's Concerns in the
Federal Government's Aged Care Act Draft

Deaf Australia

March 2024

About Deaf Australia:

Deaf Australia acknowledges the Traditional Owners and Custodians of the lands on which we work and pay our respects to Indigenous Elders past and present. Sovereignty has never been ceded. It always was and always will be, Aboriginal land.

We recognise the past atrocities against Aboriginal and Torres Strait Islander peoples of this land and that Australia was founded on the genocide and dispossession of First Nations people. We acknowledge that colonial structures and policies remain in place today and recognise the ongoing struggles of First Nations people in dismantling those structures; and especially that of Deaf, Deafblind and hard of hearing First Nations peoples.

Deaf Australia was founded in 1986 as a not-for-profit organisation that represents all Deaf, Deafblind, and hard of hearing people, and others who are fluent and knowledgeable about Auslan. The focus has and continues to be on developing access to information and accessible communication. We work with Australian governments and collaborate with key stakeholders to make sure that Australia complies with the United Nations Convention on the Rights of Persons with Disabilities. The UN Convention and the National Disability Strategy guides our work; we aspire to achieve equity for Deaf people across all areas of life.

Deaf Australia advises that this document may be publicly distributed, including by placing a copy on our website.

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Introduction:

Deaf Australia is the peak advocacy body representing all deaf, deafblind and hard of hearing Australians who use Auslan as their primary language to communicate in. When we write about Deaf seniors here, we refer to Deaf, Deafblind, Deaf and disabled, hard of hearing people who use Auslan as their language to communicate in. Deaf Australia welcomes the opportunity to participate in providing feedback of the draft Aged Care Act, a draft presented by the Parliament of the Commonwealth of Australia. When the Royal Commission into Aged Care Quality and Safety began in 2018, Deaf Australia, like many others, were horrified and distressed by the stories emanating from the Commission yet were unsurprised at the same time.

Elderly Deaf people encounter challenges unique to them in the context of deafness, violence and ageing that often goes unrecognised in policy formulation. Communication barriers, lack of access to Auslan interpreters, inadequate provision of assistive devices and support workers who are fluent in Auslan are a fraction of the hurdles they face. In aged care facilities where effective communication is paramount for quality care delivery, these challenges are magnified, leading to profound isolation, violence and neglect among Deaf seniors.

The World Health Organisation defines ageism as ‘...the stereotypes (how we think), prejudice (how we feel) and discrimination (how we act) directed towards people on the basis of their age.’¹ Ageism is prevalent in Australia and is a breach of human rights; Deaf Australians face this as well as other forms of –isms². They are also more likely to experience elder abuse.

The current Aged Care Act and its provisions of support for elder Deaf community members has never been stellar. The Aged Care Act does not provide anywhere near enough support to Deaf seniors, compared to support provided by the NDIS, creating a split of haves and have-nots, where Deaf people who received the NDIS did so before turning 65, thus continuing to receive support; and those who were 65 and over when the NDIS was rolled out, thus receiving very limited support only under the Aged Care Act. A read of the draft Act does not propose to rectify this situation for older Deaf Australians who use Auslan as their primary language to communicate in.

¹ See this link for further information: <https://humanrights.gov.au/about/news/speeches/ageism-factor-elder-abuse-2022>

² Audism and ableism, for example.

The Federal Government released a draft of their proposed Aged Care Act for consultation and feedback in late 2023. Deaf Australia is taking the opportunity after some consultation with community members to provide feedback regarding the draft Act. While the proposed Act is an improvement and is focusing on improving the quality of life for older Australians, with inclusions such as the Statement of Rights (no. 80), where it states that an individual has the right to:

'...communicate in the individual's preferred language or method of communication, with access to interpreters and communication aides as required.'

it is important to note that when viewing the Act through the lens of genuine inclusivity³ a closer inspection reveals aspects of concern particularly with and to the Deaf community.

Problematic aspects of the Draft:

- **Use of language:** the Statement of Rights (Part 3, Division 1, Section 20 Statement of Rights) outlined as follows, as examples:
 2. An individual has a right to equitable access to:
 - (a) have the individual's need for funded aged care services assessed, or reassessed, in a manner which is:
 - (i) culturally safe, culturally appropriate, trauma-aware and healing-informed; and
 - (ii) accessible and suitable for individuals living with dementia or other cognitive impairment; and
 - (b) palliative care and end-of-life care when required.

And:

 - (3) An individual has a right to:
 - (a) be treated with dignity and respect; and
 - (b) safe, fair, equitable and non-discriminatory treatment; and
 - (c) have the individual's identity, culture, spirituality and diversity valued and supported; and
 - (d) funded aged care services being delivered to the individual:
 - (i) in a way that is culturally safe, culturally appropriate, 6 trauma-aware and healing-informed; and
 - (ii) in an accessible manner; and

³ By this we mean a holistic approach to inclusivity, not just physical placement, much like placing a deaf child in a mainstream school and leaving them to float or sink. A holistic approach means to support the whole of a deaf person such as (and is not limited to!): providing active, consistent and daily support of cultural and linguistic requirements; providing support workers who are fluent in Auslan; establishing and maintaining connections with the Deaf community.

(iii) by aged care workers of registered providers who have appropriate qualifications, skills and experience.

and the Statement of Principles whereby in Part 3, Division 2, Section 22 Statement of Principles outlined as follows:

1. The safety, health, wellbeing and quality of life of individuals is the primary consideration in the delivery of funded aged care services.
2. The Commonwealth aged care system supports the delivery of funded aged care services by registered providers that
 - (a) Puts older people first; and
 - (b) Treats older people as unique individuals; and
 - (c) Recognises the rights of individuals under the Statement of Rights.

While these examples are an important addition to the Aged Care Act, the use of two phrasings in the rest of the draft Act stands out as points of concern - '*may [do this]*' in reference to contravention to the Act and '*reasonable steps*' to avoid harming those in care. These two phrasings do not inspire confidence that Deaf seniors in care will be looked after with a quality of care and safety. Deaf seniors are more likely than hearing seniors to experience elder abuse. Just as 'reasonable' adjustments in education allows many to frankly avoid their responsibilities in providing a quality and accessible education, the same will continue to happen in aged care as reported in the Royal Commission mentioned above.

- **Lack of Mandated Communication Support:** The draft fails to mandate the provision of communication support services such as Auslan interpreters AND other communication support as requested by elder deaf people in aged care facilities. Without these essential services, deaf seniors are at risk of being excluded from vital information, medical discussions, and social interactions, compromising their overall well-being.
- **Lack of allocated placements for specific need:** This absence of ensuring that there is always a cluster of allocated placements for those who identify closely with their CALD communities is a glaring gap. Deaf seniors who communicate in Auslan and identify with their CALD community – that is, the Deaf community – often end up in social isolation being the only Deaf person in their aged care residential home. The impact of this cannot be overstated; many indicate they wish to live in a space where there are other Deaf people who use Auslan who live there too.
- **Absence of Culturally Competent Care:** Cultural competence in aged care involves understanding and respecting the unique needs and preferences of diverse communities. There are many Deaf seniors who consider themselves as part of a CALD minority, with its

rich linguistic and cultural heritage. The draft Act overlooks the cultural and linguistic needs of the Deaf community, resulting in a one-size-fits-all approach that neglects their rich cultural and linguistic heritage. This is a meaningful absence from the Act and does not reflect Australia as a multicultural country it supposedly is.

- **Supporters versus Representatives:** We do not support the concept of having to choose between a supporter (such as an Auslan interpreter) and a representative (acting formally on behalf of the deaf person). A deaf person needing to access aged care may require, for example, an Auslan interpreter, a Deaf interpreter and a representative to support the decision-making processes. As the above states, a one-size-fits-all approach to communication is impossible and inflexible; it does not accept that many deaf people have unique communication needs.
- **Limited Accessibility Standards:** While the draft outlines general accessibility standards for aged care facilities, it lacks specific guidelines addressing the accessibility needs of deaf seniors. This oversight perpetuates the existing disparities in access to services and facilities, exacerbating the marginalization of the deaf community.

Recommendations for Improvement:

- **Use of language:** amend the phrasings 'may' to '**will**' and 'reasonable steps' to '**all steps**' across the Act. This will assist in rigorously ensuring that providers will take all steps to provide a quality of care and safety, thereby avoiding contravening the Aged Care Act by a large margin. Deaf seniors deserve to be treated and cared for with respect; the changing of the above language emphasises this point.
- **Mandate Communication Support Services:** Amend the draft to mandate the provision of communication support services, including Auslan interpreters and other forms of communication by request, in all aged care facilities. This ensures equitable access to information and services for deaf seniors, promoting their autonomy and well-being.
- **Creating clusters of Deaf placements in Aged Care:** Ensure that there are placements made available for Deaf people to reside together in aged care residential homes IF they so choose. This ensures that Deaf seniors continue to have a quality of life by being able to interact with each other in Auslan and will lessen the social isolation that is so common for Deaf seniors living so far apart from their Deaf community.
- **Incorporate Cultural Competence Training:** Integrate mandatory cultural competence training for aged care staff to raise awareness of the unique needs and cultural nuances of

the Deaf community. This training should encompass effective communication strategies, sensitivity to cultural differences, and respect for linguistic diversity.

- **Choice of Supporters and Representatives:** Flexibility be made inherent when looking holistically at the deaf person accessing aged care and the need for both supporters and representatives; their communication needs may appear vast on the surface yet will make all the difference in a quality of life clearly chosen by the deaf client.
- **Enhance Accessibility Standards:** Develop comprehensive accessibility standards that specifically address the needs of deaf seniors, including visual alarms, other assistive devices, and accessible communication systems. These standards should be enforced rigorously to guarantee equal access to aged care facilities for all deaf individuals.

Conclusion:

Ensuring genuine inclusivity in aged care requires proactive measures to address the diverse needs of the Deaf community. By acknowledging and rectifying the problematic aspects of the Federal Government's Aged Care Act draft, we can foster an environment that respects the rights and dignity of all elderly Deaf Australians. It is imperative that policymakers prioritise supporting this vulnerable population and actively engage with stakeholders to create a more equitable and accessible aged care system for generations to come.