



# Vision Australia Submission

New Aged Care Act Exposure Draft

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# Vision Australia Submission: New Aged Care Act Exposure Draft

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## Introduction

Vision Australia appreciates the opportunity to comment on the exposure draft of the new Aged Care Act. Vision Australia is the largest national provider of specialised vision services within the aged care sector and is currently funded to deliver in excess of 100,000 hours of vision supports under the Commonwealth Home Support Program each year. The new Aged Care Act takes several important steps toward the creation of a person-centred aged care system. It is encouraging to see that the legislation focuses on the safety and well-being of older Australians, whilst prioritising their needs and preferences. While the provisions of the Act that are available for the purposes of this consultation are largely positive, Vision Australia considers that there are some incremental improvements which could be made that would help to ensure people who are blind or have low vision are not disadvantaged in the evolution of Australia's aged care system.

## Recommendations

- The diversity population list in Section 22 should be included as a specific clause in the Act, rather than a note, with that Clause being referenced in the Statement of Rights as well as the Principles.
- The Act should include the need for disability supports as an explicit reason to access aged care services as part of the entry provisions in Chapter 2.
- The definition of illness or sickness should be expanded to expressly include people with disability, regardless of whether they have a medical condition.
- The definition of Care Needs included in Chapter 1 should be expanded to encompass sensory difficulty, in addition to the physical, mental and social difficulties already stated.
- an explanatory note should be added to sections 25 and 29, specifying that these sections refer to the content of information, and not the format of its delivery. Additionally, a further subsection should be added, specifying that supporters and representatives may request information in alternative formats.
- the provisions of the Act should include a commitment to co-design of support plans between assessors and individuals. Individuals should ideally have an opportunity to preview their approved service types, with a clear process to raise any identified concerns with their assessor before a support plan is finalised.
- the Act should include provisions similar to the NDIS Participant Service Guarantee, which sets clear timeframes for key NDIS processes such as access requests, plan approvals and reviews.
- The Act should include a requirement for the System Governor to report publicly on wait times from application to assessment, and from assessment to commencement of services.
- In order to maximise independence and ensure a reasonable quality of life, people with disability in residential aged care settings must have access to specialised support services and assistive technology funding. This must be considered as a key priority in the sections of the Act regarding classification and service types that are yet to be drafted.
- The Act must include a requirement for Government to fund an aged care advocacy program.

## Explicit References to Disability Supports

Vision Australia is particularly pleased to see people who are vision impaired or deafblind included as an explicit diversity group under Section 22 of the Act. This is a crucial step in ensuring that the aged care system is equipped to facilitate reablement and maintenance of capacity and independence for consumers within this cohort. We would ideally prefer to see the diversity population list included as a specific clause in the Act, rather than a note, with that Clause being referenced in the Statement of Rights as well as the Principles. It will be important to ensure that the diverse needs recognised in Section 22 flow through to the implementation of the Act and its subordinate legislation. Care must be taken to ensure that different pathways and support types can be provided for these diversity groups and that one size fits all assessment and eligibility approaches are avoided.

There are additional areas of the legislation where we feel that references to disability supports within the Act could be further strengthened. It is understood that the Act has been structured around providing services to people who have ill health or sickness. Whilst we recognise that this facilitates compliance with the Australian constitution, it also means that the Act in its current form fails to acknowledge the fact that anyone who acquires a disability after the age of 65 must access support for that disability through the aged care system. Many people with disability will be required to engage with the aged care system primarily because they have a vision condition and not because they exhibit commonly understood signs of frailty. Use of the terms 'sickness' and 'ill health' imply a deficit-based approach which is not reflective of the way in which people with disability tend to access services. For much of this cohort, service delivery is centred on developing adaptive strategies to improve or maintain independence and quality of life. Accordingly, it is suggested that the Act should include the need for disability supports as an explicit reason to access aged care services as part of the entry provisions in Chapter 2. The definition of illness or sickness should also be expanded to expressly include people with disability, regardless of whether they have a medical condition. The definition of Care Needs included in Chapter 1 should be expanded to encompass sensory difficulty, in addition to the physical, mental and social difficulties already stated.

## Supporters and Representatives

The bill takes positive steps to ensure that the principles of supported decision-making are followed in instances where an individual requires assistance in making decisions for themselves. It is also pleasing to see that regard must be had to the older person's will and preferences, with consideration given to what they would have decided for themselves in the event that they were able. Harmonisation across supported decision-making frameworks within aged care, NDIS and state-based schemes should be considered and prioritised, however, to minimise inconsistency across the care and support sectors.

Sections 25 and 29 of the Act stipulate that any information or document given to the supporter or representative of an individual must, in every respect, be in the same form and in the same terms as if it were being given to the individual. We assume that these provisions are intended to ensure that documents and information should be identical in content, regardless of whether they are provided to an individual or their supporter or representative. We are concerned, however, that these provisions may have the unintended consequence of curtailing access to information in alternative formats. This would be problematic, for example, where an aged care recipient has requested information in audio or Braille. The person's supporter or representative may not require information in an alternative format and may find it difficult or impossible to access documents in this form. Equally, there are circumstances where a person with disability acting as a supporter or representative will require information in an alternative format, where the aged care recipient themselves does not. People who are blind or have low vision can play an active and valued role in

supporting their family members to access aged care services, and it would be unfortunate if ill-conceived wording in the legislation were to prevent them from doing so, however inadvertently. It is suggested that an explanatory note be added to sections 25 and 29, specifying that these sections refer to the content of information, and not the format of its delivery. Additionally, a further subsection should be added, specifying that supporters and representatives may request information in alternative formats.

### Aged Care Assessments

Our current understanding of the process outlined in the Act is that assessment of a consumer will be carried out using the Integrated Assessment Tool. Following this, the system Governor will determine which service types are to be approved, thereafter informing the consumer of the outcome. While discussion with the consumer during the assessment appears to be contemplated, there is no indication that consumers will have an opportunity to input into the design of their support plan, or preview any recommended services before a final decision is made. It is also unclear as to whether the assessor and the delegate of the System Governor who ultimately approves services will be one and the same. This is regrettable, given that one of the key challenges identified in the recent NDIS Review concerns the lack of meaningful interaction between participants, and those who make decisions about them. Long years of experience in navigating the NDIS have led us to the view that that direct interactions between consumers and the delegates who approve their funding are crucial in ensuring transparency of process, whilst reducing the extensive administrative burden involved in conducting reviews and appeals. Moreover, if initial assessments and service approvals are not carried out by the same entity, NDIS experience indicates that there is often a significant disconnect between the needs and goals discussed with the client and the service types and funding levels that are ultimately approved. It is suggested that the provisions of the Act be bolstered to include a commitment to co-design of support plans between assessors and individuals. Individuals should ideally have an opportunity to preview their approved service types, with a clear process to raise any identified concerns with their assessor before a support plan is finalised.

### Clear Timeframes and Guaranteed Access to Services

One of the objects of the Act is to ensure equitable access to services, regardless of an individual's background, location and life experience. The only guarantee included in the current draft is that consumers will have equitable access to an aged care assessment and will be notified of the services that they have been approved to access within 14 days of a decision being made. The Act makes no guarantee around timeframes for the System Governor to make decisions about service approvals or reviews and appeals where required. It is suggested that the Act should include provisions similar to the NDIS Participant Service Guarantee, which sets clear timeframes for key NDIS processes such as access requests, plan approvals and reviews. This provides participants and their families with greater certainty about how long processes will take. The NDIA is also required to report quarterly against the timeframes in the Participant Service guarantee, thus providing an objective measure of performance. The inclusion of similar provisions in the Aged care Act would help to support timely access to services. Additionally, the Act should include a requirement for the System Governor to report publicly on wait times from application to assessment, and from assessment to commencement of services. This would aid in highlighting thin markets where wait times have historically been extensive. Vision Australia acknowledges that the act includes emergency provisions to allow for delivery of aged care services without an assessment in urgent situations, however, these provisions are not sufficient in and of themselves to ensure equitable and timely access to services for everyone.

## Aged Care Service Model

While we note that full details of the proposed service model are yet to be published, we wish to emphasise the importance of allowing adequate time for consultation with participants and providers prior to its implementation. Many people who are blind or have low vision currently face barriers in accessing specialised services through the aged care system. If approached with due consideration, the introduction of the new service model and registration categories offers an important opportunity to address these challenges. For example, many home care package providers subcontract to specialised providers when they cannot deliver a particular service type. It is common that case managers refuse to fund specialised vision services such as orthoptics and assistive technology training through a consumer's home care package. This generally occurs either because the case manager is unsure whether these services meet the inclusions criteria in the HCP Operational Manual, or because they erroneously believe these are health services covered by Medicare. While the prevalence of non-correctable vision impairment increases with age, it is nonetheless the case that the specialised services that facilitate reablement and independence for consumers in this cohort are not well understood by providers. The drafting of a new service model presents a unique opportunity to provide clarity for case managers and consumers alike to ensure appropriate funding for specialised disability supports. This is particularly important, given the majority of consumers who acquire an impairment after the age of 65 are expected to access disability supports through the aged care system. Vision Australia would welcome the opportunity to consult with the Department concerning the service list, to ensure that the needs of consumers who are blind or have low vision are accurately represented.

## Access to Specialised Disability Services in Residential Aged Care

It is somewhat disappointing to see that the draft legislation does not provide for improved delivery of specialised vision services in residential aged care settings. Indications are that under the new Aged Care Act, funding will continue to flow directly to the residential provider that the consumer has chosen to deliver their services, the assumption being that said provider will offer the full range of supports required. This approach presents various challenges, which seemingly have not been addressed in the draft legislation thus far. People who are blind or have low vision currently receive little, if any, specialised support in residential aged care, largely because service providers tend to utilise available funds on generalised allied health services, in the interests of reaching the highest possible volume of clients. There is little incentive for residential providers to subcontract services from a specialist vision provider for the benefit of a comparatively small number of residents. This is unfortunate, because services such as orientation and mobility, recommendation of vision aids by an orthoptist, or assistive technology training can support vision impaired residents to adapt to their environment, navigate a care facility safely, and remain engaged with activities that they have previously enjoyed such as reading. In order to maximise independence and ensure a reasonable quality of life, people with disability in residential aged care settings must have access to specialised support services and assistive technology funding. This must be considered as a key priority in the sections of the Act regarding classification and service types that are yet to be drafted.

## Recognition of Specialised Advocacy Expertise

It is important that the new Aged Care Act require Government to fund an aged care advocacy program. It is alarming to see that this has not been legislated in the current draft, given its inclusion in the previous iteration of the Aged Care Act. Furthermore, specific consideration must be given to the funding of advocates with specialist expertise for the diversity groups that are listed in Section 22. Independent advocates can play an important role in supporting all aged care consumers,

however, they play a particularly pivotal part in bridging the information access, digital literacy and service engagement gaps that often exist for diversity cohorts.

## Conclusion

Vision Australia thanks the department of Health and Aged Care for its consideration of this submission. We would be happy to provide further information concerning any of the issues discussed in this paper and would welcome additional opportunities to provide feedback as additional chapters of the Act and subordinate legislation are developed.

## About Vision Australia

Vision Australia is the largest national provider of services to people who are blind, deafblind, or have low vision. We are formed through the merger of several of Australia's most respected and experienced blindness and low vision agencies, celebrating our 150th year of operation in 2017.

Our vision is that people who are blind, deafblind, or have low vision will increasingly be able to choose to participate fully in every facet of community life. To help realise this goal, we provide high-quality services to the community of people who are blind, have low vision, are deafblind or have a print disability, and their families.

Vision Australia service delivery areas include:

- Allied Health and Therapy services, and registered provider of specialist supports for the NDIS and My Aged Care
- Aids and Equipment, and Assistive/Adaptive Technology training and support
- Seeing Eye Dogs
- National Library Services
- Early childhood and education services, and Felix Library for 0-7 year olds
- Employment services, including National Disability Employment Services
- Accessible information, and Alternate Format Production
- Vision Australia Radio network, and national partnership with Radio for the Print Handicapped
- Spectacles Program for the NSW Government
- Advocacy and Engagement, working collaboratively with Government, business and the community to eliminate the barriers our clients face in making life choices and fully exercising rights as Australian citizens.

Vision Australia has gained unrivalled knowledge and experience through constant interaction with clients and their families. We provide services to more than 26,000 people each year, and also through the direct involvement of people who are blind or have low vision at all levels of the Organisation. Vision Australia is therefore well placed to provide advice to governments, business and the community on the

challenges faced by people who are blind or have low vision fully participating in community life.

We have a vibrant Client Reference Group, with people who are blind or have low vision representing the voice and needs of clients of the Organisation to the Board and Management. Vision Australia is also a significant employer of people who are blind or have low vision, with 15% of total staff having vision impairment.

We also operate Memorandums of Understanding with Australian Hearing, and the Aboriginal & Torres Strait Islander Community Health Service.