

## Considerations for the 2008 Review of the DISABILITY SERVICES ACT

### INTRODUCTION

**The Ethnic Disability Advocacy Centre (EDAC)** is the not-for-profit NGO in WA that in its systemic advocacy role represents the interests of people with disabilities and their families/carers who are from culturally and linguistically diverse backgrounds (CaLD).

**The Aboriginal Disability Network (ADN)**, located within the Aboriginal Health Council of WA (AHCWA), similarly is the state body representing Aboriginal people with disabilities and their carers/families, communities and Aboriginal community based agencies providing associated services.

Both also actively represent their WA constituents nationally.

EDAC and the Aboriginal Disability Network have separately and together both been active in each of the areas regarding which recommendations are made here. Background rationale and research to each of these recommendations is readily available in substantial reports and submissions already made by both directly to the Commission, such as the recent *Sector Health Check*. Also, EDAC's responses to legislative and policy inquiries at both state and federal levels, are continually made available, along with EDAC's other research and development outcomes, on the EDAC website.

Like involvements nationally also, EDAC and the Aboriginal Disability Network are pleased to be directly and continually involved with the Disability Services Commission of WA in assisting to successfully progress many of it's forward looking initiatives for the sector - such as promoting the Disability Services Standards in ways appropriate for the CaLD and Aboriginal populations and service providers working with them. Both are also currently involved with the Commission in developing practical applications of the Substantive Equality Policy of the WA government within the disability sector. Here, we both seek to have some of these initiatives, where they are matters that enhance principles and inform legislative objectives, to be appropriately brought forward into the Disability Services Act.

In its systemic advocacy capacity, EDAC maintains active constructive involvement in legislative and policy development at all levels. EDAC has promoted Australia's contributions to helping achieve the satisfactory completion of the UN Convention on the Rights of People with Disability, now ratified, such as interview here with the Australian disability representative to the UN on our *EthnicAbility* radio program and its promotion on the EDAC website and Newsletter. Similarly in its research and training activities, EDAC promotes legislative and policy developments at both state and federal levels that impact in potentially positive ways on CaLD people with disabilities and their families/carers and communities, such Citizenship, Equal Opportunity, Mental Health, and Multicultural policy. Here, EDAC seeks to have the most immediately important of these more recent legislative and policy initiatives recognised as informing the Disability

Services Act and its provisions and as being integral to the requirements upon services operating within its mandate.

In these matters, EDAC has worked in partnership with the Aboriginal Disability Network, the state body representing Aboriginal people with disabilities and their carers/families, communities and (potential/previous) associated Aboriginal community based service providers - to assist addressing pressing issues of the Aboriginal population in the disability sector. An example is the current development of the *Aboriginal Perspectives on the Disability Services Standards* within the Substantive Equality initiative of DSC. Where appropriate, in collaboration with the ADN, Aboriginal perspectives have been included in the recommendations below where provisions are similar/parallel.

## RECOMMENDATIONS

### RECOMMENDATION 1      **Disability International**

**That** the Disability Services Act recognises the applicability of the UN Convention on the Rights of People with Disability to all of the provisions of the Act.

**That** the Disability Services Act be examined in terms of its consistency with the UN Convention on the Rights of People with Disability now that it has been ratified by the Australian Government, and the Act amended as necessary.

### RECOMMENDATION 2      **Multicultural and Aboriginal**

**That** the Act recognises the application of both:

- the WA Charter of Multiculturalism; and
- the Aboriginal Cultural Security Policy

- to all of the provisions of the Act.

[While the former, developed by the WA Government is general in its application, the latter, developed initially by the Dept of Health, has been adopted by the Aboriginal Disability Network and the Aboriginal Health Council of WA - similarly at national level - and promoted for application to the disability and all other sectors].

**That** the Act also recognises the application of both:

- the UN Convention on the Rights of the World's Indigenous Peoples, upon its ratification by the Australian Government; and
- Australian multicultural policy *Multicultural Australia: United in Diversity* (updated from the 1999 *New Agenda for Multicultural Australia*)

- to all of the provisions of the Act.

### RECOMMENDATION 3      **Principles and Objectives**

**That** several significant gains being made by the Disability Services Commission, and constructive proposals from the sector (e.g. *Sector Health Check*), be recognized by their inclusion in Schedule 1: **Principles** and reflected in Schedule 2: **Objectives** in the Disability Services Act, in order to achieve their relative permanence as ongoing guiding values to inform the Disability Services Standards and thereby required practice.

These include:

- a) explicit recognition of inclusion, participation, employment, contracting, leadership and advocacy of people with disabilities in all matters affecting people with disabilities; and
- b) within that, the explicit recognition that each also applies to both CaLD and Aboriginal people with disabilities, in their own right.

Meeting the needs of people experiencing cultural diversity (CaLD) and Aboriginality as barriers to accessing mainstream services (Objective 5) is an inadequately cast provision.

Cultural diversity also not cited in Principle 3 (development) or Objective 7 (inclusion).

These Principles and Objectives require rewriting as more explicit and positive (not default) requirements and as implicated in all aspects of service provision at all levels.

## **PRINCIPLES AND OBJECTIVES**

### INCLUSION

People with disabilities are included in all decisions affecting people with disabilities.

*CaLD* people with disabilities are included in all decisions affecting *CaLD* people with disabilities.

*Aboriginal* people with disabilities are included in all decisions affecting *Aboriginal* people with disabilities.

### PARTICIPATION

People with disabilities participate in the research, design, development, delivery and evaluation of all activities and services for people with disabilities.

*CaLD* people with disabilities participate in the research, design, development, delivery and evaluation of all activities and services for *CaLD* people with disabilities.

*Aboriginal* people with disabilities participate in the research, design, development, delivery and evaluation of all activities and services for *Aboriginal* people with disabilities.

### EMPLOYMENT

People with disabilities are employed in all activities and at all levels involved with matters that affect the lives of people with disabilities.

*CaLD* people with disabilities are employed in all activities and at all levels involved with matters that affect the lives of *CaLD* people with disabilities.

*Aboriginal* people with disabilities are employed in all activities and at all levels involved with matters that affect the lives of *Aboriginal* people with disabilities.

#### CONTRACTING

People with disabilities and their agencies are contracted for all services and at all levels involved with matters that affect the lives of people with disabilities.

*CaLD* people with disabilities and their agencies are contracted for all services and at all levels involved with matters that affect the lives of *CaLD* people with disabilities.

*Aboriginal* people with disabilities and their agencies are contracted for all services and at all levels involved with matters that affect the lives of *Aboriginal* people with disabilities.

#### LEADERSHIP

People with disabilities exercise leadership in all disability matters – in all areas and at all levels.

*CaLD* people with disabilities exercise leadership in all disability matters affecting *CaLD* people – in all areas and at all levels.

*Aboriginal* people with disabilities exercise leadership in all disability matters affecting *Aboriginal* people – in all areas and at all levels.

#### ADVOCACY

People with disabilities and their agencies are resourced to provide independent individual and systemic advocacy services regarding matters that affect the lives of people with disabilities.

*CaLD* people with disabilities and their agencies are resourced to provide independent individual and systemic advocacy services regarding matters that affect the lives of *CaLD* people with disabilities.

*Aboriginal* people with disabilities and their agencies are resourced to provide independent individual and systemic advocacy services regarding matters that affect the lives of *Aboriginal* people with disabilities.

#### SUBSTANTIVE EQUALITY

Implementing Substantive Equality is a priority of the State Government. DSC has embraced this and has several initiatives currently in place. These include EDAC's involvement with implementing the guidelines '*CaLD Perspectives on the Disability Services Standards*' and its support of the recent Aboriginal Disability Network developing the same appropriate for Aboriginal people.

It is recommended that the Act endorses the principle and objective of substantive equality, as applying to all people with disability - and in particular explicitly applies to *CaLD* and *Aboriginal* people with disabilities.

**That** each of these above Principles and Objectives is also to be made explicit in other sections of the Act as appropriate:

e.g. Contracting - Part 4A: Contracts to provide some disability services; and 12A. Contracts to provide goods or services to the Commission.

As there are no migrant services or Aboriginal services funded by the Commission to provide disability services, it is recommended that it should be made explicit in both the Act and required in DSC policy that community based CaLD and Aboriginal services be proactively actively targeted to rectify this.

- That they be informed and supported to achieve appropriate pre-qualification for Commission funding and to maintain this qualification in all respects.
- That contracting is developed appropriate to their size and scope.
- That funding opportunities are fully transparently and widely advertised.

The same should also apply to any other new services, particularly those seeking to directly address specific needs.

It is recognised that partnerships of cultural agencies within DSC contracted mainstream services has not been a strategy acceptable to either the CaLD or Aboriginal population in the disability sector, or successful in terms of implementation or service satisfaction or outcomes.

Advocacy - Part 6: Complaints about some disability services. Division 2: Complaints and conciliation 32. Who may complain (2).

EDAC and the Aboriginal Disability Network have both made recommendation for adoption of a proactive positive model of advocacy, prioritising constructive individual self- advocacy and systemic advocacy (*Sector Health Check*).

It is recommended that the Act promote advocacy, of this nature, in its Complaints section (above) as a service which in many cases reaches successful outcomes and obviates the need for matters to progress to formal Complaint procedures (which nevertheless still need to be there and available and effective when required).

#### **RECOMMENDATION 4      Capacity Building**

**That** the Disability Services Act also mandates progressive capacity-building support for people with disabilities, with CaLD people with disabilities and with Aboriginal people with disabilities to meet the above requirements.

**That** this capacity building includes provision for both:

- a) 'alternatives to employment' support to complement national workplace support in terms of training and equipment (both set-up and ongoing); and
- b) the support role of non-disabled persons working only in subsidiary roles. (The same is to apply to non-CaLD persons in CaLD affairs and non-Aboriginal persons in Aboriginal affairs).

## **RECOMMENDATION 5      Disability Services Standards**

**That** the Disability Services Act refers to the Disability Services Standards.

**That** the Act requires the Disability Services Standards to be cast within a human rights framework.

Practically,

- a) that the Disability Services Standards be recast so that the reference to Protection of Human Rights in Standard 9 be lifted out (leaving Freedom from Abuse and Neglect as Standard 9) so that Protection of Human Rights becomes an overall requirement that applies across all the 9, i.e. to which all the 9 Standards refer; and
- b) that 'Protection' is a necessary but minimalist requirement, and it is recommended that it becomes 'Protection and Promotion', requiring commitment to a more pro-active human rights approach in all aspects of service development and delivery within the Disability Services Standards.

This recommendation has been detailed also in the *CaLD Perspectives on the Disability Services Standards* produced with the CaLD/disability community for the Disability Services Commission and part of our current contracted training program under the Commission's Substantive Equality initiative.

## **RECOMMENDATION 6      Extended Scope of Application**

**That** the Act also makes explicit that the Disability Services Standards, these Principles and Objectives, and capacity-building support recommendation;

- a) are to apply to the Disability Services Commission itself as well as to all the agencies it funds; and
- b) are also to be promoted;
  - i) intersectorily throughout Government (as e.g. is 'substantive equality'); and,
  - ii) in view of the extent of privatization, also encouraged throughout the private sector as public policy (as e.g. is the WA Multiculturalism Charter).

## **RECOMMENDATION 7      Representation on Board and Council**

**That** the Act makes explicit also, that in accordance with these Principles, the following practices of the Commission are mandated:

- a) The DSC Board include as consumer community representatives:
  - i) CaLD Member(s) with disabilities; and
  - ii) Aboriginal Member(s) with disability.

[Part 1: Preliminary, 7. Board of the Commission be amended as appropriate].

- b) The Ministers Advisory Council include as consumer community representatives:
  - i) CaLD Member(s) with disabilities; and
  - ii) Aboriginal Member(s) with disability.

[Part 3 — Ministerial Advisory Council on Disability be amended as appropriate].

---