



Bridging the gap to independence

Submission to the House of Assembly Joint Standing Committee on Community Development: Principles that will form the basis of the new Disability Services Act

The Joint Standing Committee on Community Development will investigate and report upon:

1. the objectives, outcomes and principles that should form the basis of the new Disability Services Act to ensure the approach of institutional care as experienced in Willow Court cannot happen again;
2. whether the legislative outcomes reflect the Tasmanian Government's obligations to protect human rights under the United Nations Convention on the Rights of Persons with Disabilities; and
3. whether the quality and safety framework governing specialist disability service provision is consistent with modern approaches to service provision.

56 Glyde Street, Glenorchy, Tasmania 7910 | PO Box 424 Glenorchy, Tasmania Australia 7910
 Ph: (03) 6272 2244 | Fax: (03) 6273 1468 | info@oak.org.au | www.oak.org.au | ABN 44 055 920 393

Businesses: Mailhouse Tasmania | Oak Sewing Service | Walkabout Industries | Oakdale Industries | Tahuna Fields Services | Oak Lifestyle Options | Oak Community Living Program | Oak Training Services | Oak Respite Service

Patron: His Excellency the Honourable Peter Underwood AO, Governor of Tasmania

About Oak Tasmania

Oak Tasmania (formerly Oak Enterprises) is a leading provider of services to Tasmanians with a disability. Our services are innovative, creative, and focused on the individual needs of each person. We support the ability of each person to connect with their local community and to maintain a strong link with their families. As a result of the development of the Strategic Plan 2008-2012, the scope of services offered by the organisation was extended to include people who are disadvantaged.

Oak Tasmania was originally known as the Retarded Citizens Welfare Association (R.C.W.A.) and was founded in 1953 to provide services for children with an intellectual disability. Today, Oak Tasmania is an independent not-for-profit company and also a member company of the Tasmanian Council on Intellectual Disabilities (T.C.I.D.).

Oak Tasmania now provides day services; supported accommodation and independent living support to enable people with disabilities to live in the community; employment in one of five business services; and a range of training and development activities. Services are available to any person with a disability or who is disadvantaged.

We have developed a flexible approach to service delivery recognizing that service models need to be both flexible and measurable. We anticipate that we will be recognised by our peers and government for our capacity to be responsive and provide high quality services.

At Oak Tasmania we believe that there is the capacity within everyone to live life without community restrictions. Our job is to break down barriers to achieving life's opportunities and to **bridge the gap to independence**. We believe that the gap to independence can be bridged through seizing opportunities that show an innovative approach to challenging barriers.

Our approach values people being empowered to exercise the same rights and responsibilities as is available to the rest of the community. We link people accessing our services with all aspects of their communities. We strive to achieve best practice in all that we do through innovation and continuous improvement.

Introduction & Context

Oak Tasmania is pleased to be able to make this submission to the Joint Standing Committee. This reflects Oak Tasmania's position and recommendation in the area of the objectives, outcomes and principles of a proposed new Disability Services Act. It would be expected that the proposed legislation is made available in draft form to allow an adequate level of public consultation.

It would be expected that the Disability Services Act would provide for:

- a stronger whole-of-government, whole-of-community response to the rights and needs of people with a disability; and
- a framework for the provision of high quality services and supports for people with a disability.

It would also be expected that a number of areas of the Act will be underpinned by extensive policy and/or guidelines. These should be developed in consultation with disability service providers, with final documents available to disability service providers before commencement of the Act.

People with disability require particular safeguards. There are two critical areas relating to the rights of people with a disability residing in residential services and the rights of people subject to restrictive intervention and supervised treatment.

Regulations should be developed to support the Act in areas that could include:

- restrictive interventions;
- supervised treatments;
- residents funds
- service charges

and that a Regulatory Impact Statement is developed, with public submissions.

The Legislation should reaffirm and strengthen the rights and responsibilities of people with disabilities and recognise that this requires support across the whole of Government and community.

The introduction of a new Disability Service Acts in other jurisdictions has resulted in a significant increase in compliance costs for service providers. This needs to be monitored to ensure that any proposed regulations have minimal cost implications taken as a total package. Such new Acts have required providers to establish a range of new administrative systems and undertake substantial training

of board members, managers and support staff to ensure compliance. The Joint Standing Committee needs to ensure that compliance with the new Act does not place greater stress on the system as a whole.

It is also assumed that a Business Impact Assessment (BIA) would be completed at the time of the proposal of that legislation. I understand that this was undertaken in Victoria at the time of the introduction of their Disability Services Act in 2006. However it was a 'cabinet in confidence' document and I am unsure as to whether it was released or subjected to external scrutiny. Had this occurred, it would have raised a very significant number of new and increased costs associated with the introduction of that legislation.

There should be a strong emphasis on quality. Legislation should ensure that there is a requirement for external accreditation by a particular date, say 5 years from the date of enactment. This commitment to quality will come at a cost as many service providers are not externally accredited. This may well be beyond the means of some providers.

The purpose of any proposed changes to the Disability Services Act should be to protect the rights and interests of people with disability. Any new Act should include the explicit intention to protect the rights of persons with a disability. The Tasmanian Government should take a leadership role in this regards with respect to the rest of the community. These rights are in addition to the needs of a person with a disability.

Objectives, Outcomes and Principles in relation to specialist disability services

The principles in the current Act are comprehensive and are well supported.

There is a need for the new Act to set out on what basis service providers can refuse to provide a service. With limited funding service providers may prefer to fund people who are less costly in terms of their needs. The act should set out a mechanism to ensure that service providers cannot refuse to provide services, only because of the differential in the costs associated with the needs of different people. At every stage, the process should be transparent.

The Act should clearly identify how a person with disability can be provided with a service relative to their needs. In the case of a person with a disability who is ageing (ie over 65, but possibly earlier in the case of some disabilities) there should be a range of services to which the person can transfer, accompanied by funds.

An ageing person with disability should not be required to be out of their home between the hours of 9am and 3pm simply because the State Government does not provide adequate funding to enable appropriate staffing.

A person with a disability who has been in employment but who resides in a state-funded residential services, should be allowed to retire with dignity and remain at home. Similarly a person with disability in employment should be free to take long service leave as it falls due and not prevented from doing so just because the house is 'unstaffed' as a result of State government funding.

Principles in relation to government involvement and decision-making

It is vital that any policy and operational guidelines developed under any *new* Act should recognise the need for interagency communication and collaboration to ensure the best service provision for Tasmanians with complex needs. The role that Disability, Child and Family Services (DCFS) should play in ensuring service coordination, not just between government agencies, but with families and other substitute decision-makers, should be made explicit.

DCFS should play an important role in gathering information about people with disability in Tasmania which in turn can feed into the planning processes of government and relevant community and service organisations.

DCFS has a central role in ensuring that timely and up to date information is provided to people so they can plan for and access appropriate services.

DCFS should be lead agency in the coordination of services across government. DCFS should be legislatively obligated to provide a coordination role for the delivery of these services.

There should be a requirement in the Act that

- DCFS keep and make public detailed information about the people for whom it is responsible, including non identifying demographic information, the nature of the services provided, etc.
- DCFS should provide detailed information about the name and nature of the services it funds so that families can be informed about what services are available.
- in assessing a person's needs, the capacity of an informal carer to continue to provide care be considered.
- DCFS provide an assessment of support needs which should be independent of the capacity of the department to meet those needs and this assessment should be made available to the person or their carers.
- DCFS should have responsibility to provide and coordinate immediate services for a person with disability upon their release from inpatient mental health services or prison.