

24 November 2022

Australia's Disability Strategy Governance and Engagement Section
GPO Box 9820
Department of Social Services
CANBERRA ACT 2601

Via email: disabilityreform@dss.gov.au

Feedback in response to the 'Developing a Guide to the Guiding Principles – Full Consultation Paper'

Thank you for the opportunity to comment on this consultation draft in relation to the guiding principles included in Australia's Disability Strategy 2021-31.

As the Public Advocate for Queensland, I undertake systemic advocacy to promote and protect the rights and interests of Queensland adults with impaired decision-making ability.¹

People with impaired decision-making ability are a broad and diverse group due to the range of conditions that may affect a person's decision-making ability. These include intellectual disability, acquired brain injury, mental illness, neurological disorders (such as dementia) or alcohol and drug misuse. While not all people with these conditions will experience impaired decision-making capacity, many of them will at some point in their lives. For some, impaired decision-making capacity may be episodic or temporary, requiring intensive supports at specific times, while others may require lifelong support with decision-making and communicating their wishes and preferences.

Impaired decision-making ability can make it extremely difficult for people to access government services and systems, particularly when combined with conditions that reduce physical mobility or affect someone's ability to communicate verbally with others.

In relation to the draft guide, I would like to put forward the following comments for consideration:

- *Principle 1 – Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons*
 - The concept of supported decision-making could potentially be expanded in this section, drawing attention to the fact that the design of new systems and services needs to accommodate and respect a decision-making process that may be somewhat longer than that afforded generally but that constitutes a reasonable adjustment to respect the rights of people with disability to be involved in decisions that affect their lives.
- *Principle 2 – Non-discrimination*
 - This principle may need to acknowledge, in addition to state and territory anti-discrimination legislation, the introduction of human rights-based legislation in jurisdictions including Queensland (*Human Rights Act 2019*) and Victoria (*Charter of Human Rights and Responsibilities Act 2006*).
- *Principle 6 – Accessibility*
 - When considering accessibility, it will be important for those using this guide to understand accessibility as a much broader concept than physical accessibility to either the building in which a service is located or the information it produces. Accessibility also incorporates

¹ *Guardianship and Administration Act 2000* (Qld) s209.

concepts related to emotional and cultural accessibility that need to be considered when designing or developing a new service or program or making changes to a system, including intersectionality, which is mentioned in this guide but not under this principle. Considering all forms of accessibility will encourage those involved to give thought to the experiences that people with disability may have had with that agency or organisation in the past and what can be learnt from that, as well as how to improve the look and feel of the service so that it is as accessible as possible to people from different cultural backgrounds. These areas require service and system design elements that extend beyond things like ramps or sliding doors or material being provided in Easy English (although all important) and will encourage those using the guide to explore elements that make the service welcoming and one with which people with disability will willingly engage.

- *Principle 7 – Equality of people*
 - Under this principle an appropriate question to raise for consideration would be to ask if the agency or organisation has consulted with diverse groups when developing or changing the service, system, policy or program. Including this question will encourage those involved to actively seek out the opinions of a diverse range of people in relation to the proposal.

There are also two additional areas where I feel further consideration is necessary to complete the development of the guide.

The first is the development of accessible complaint and feedback mechanisms for people, so that a cycle of continuous improvement can be implemented utilising input from a wide variety of cohorts. Complaint and feedback mechanisms need to incorporate multiple avenues by which people can register a concern or issue, as well as a feedback loop so that people are informed regarding progress and any changes that are being considered or implemented. In some circumstances and dependent on the nature of the service, program or system, some additional provisions to facilitate the registration of complaints may be required, such as putting a person in touch with an advocate or similar to assist them in registering their concerns.

The second is in relation to the active use of the guide by those organisations and agencies responsible for the development of policy, programs, services and systems across Commonwealth, states and territories. It is understood that the guide will assist governments, business and the community in applying the Disability Strategy's guiding principles, however there is no legislative requirement requiring the principles be applied or the guide be used. With that in mind, an extensive distribution network and awareness building strategy will need to accompany the guide in an effort to ensure that it reaches the right people in business, community and government at the right time (ie. when programs are being developed or evaluated). The Department may also wish to request that those organisations and agencies that use the guide in program, policy, service or system development provide it with information on how the guide was applied and its results so that a repository or register of practice examples can be developed.

Thank you for the opportunity to provide feedback regarding the Guide to the Guiding Principles. If you require clarification of any of the issues raised in this correspondence, please contact my office on 07 3738 9513.

Yours sincerely



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Public Advocate