APS Australian Psychological Society

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APS Response to the Department of Social Services Consultation on a New Act to Replace the Disability Services Act 1986

The Australian Psychological Society (APS) provided the following responses to the Department of Social Services Consultation on a New Act to Replace the *Disability Services Act 1986*.

QUESTION 1: Do you agree with the proposed objects for the new Act? What other objects should be included in the new Act?

The Australian Psychological Society (APS) generally supports the proposed objects of the Act as set out in the Consultation Paper. We welcome the intention of the new Act to give effect to the Convention on the Rights of Persons with Disabilities (CRPD) in promoting the rights, freedom and capacity of people with disability.

We suggest that the objects of the new Act also refer to the Optional Protocol to the CRPD. Together with additional operative provisions, this would ensure that services provided under the Act are responsive to actions taken or recommendations made by the Committee on the Rights of Persons with Disabilities. Affirming the full scope of Australia's CRPD obligations in the objects would help to promote a culture of accountability and transparency at a programmatic level.

While the proposed objects necessarily refer to the provision of services for people with disability, there is still a tendency in the language to refer to people with disability as 'objects' of services and social protection. We suggest revising the proposed objects to emphasise the rights, capacity, experience and leadership of people with disability. For example, the proposed objects could state that the Act aims to promote the participation of people with disability in the development, design and evaluation of supports and services, as well as to promote the growth of the peer/lived experience workforce in Australia.

QUESTION 2: Do you agree with the proposed approach to the target group? How do you think the target group should be defined?

The APS supports the intersectional approach proposed in the Consultation Paper. This is consistent with the social model of disability under the CRPD. We suggest that the language of a 'target group' be avoided in favour of language that sees people with disability on an equal basis as those providing or funding services.

QUESTION 3: Do you agree with our suggested principles for avoiding duplication and requiring coordination? What other principles do you think should apply?

The APS supports the suggested principles for avoiding duplication and requiring coordination. These principles should be supported by clear, regularly reviewed guidelines – potentially as a legislative instrument – which provide practical guidance for providers, participants and regulators.

We would also recommend that the new Act affirm that services and supports which promote the psychological wellbeing of people with disability are consistent with, and inseparable from, other objectives of the Act. Unfortunately, the experience of our members has been that mental health services are often seen as distinct from disability services. We would like to see that the new Act avoids such dichotomies, which only serve to limit the holistic nature of services and supports which are ultimately in service of promoting a person's capacity and participation.

QUESTION 4: Do you think the new Act should include a definition for disability? Do you have any additional comments?

The Act should include a definition of disability that reflects a social understanding of disability consistent with the CRPD, and which provides sufficient operational certainty to providers, participants and other stakeholders. The legislative definition of disability has a key expressive function, shaping norms and expectations about disability in Australia beyond the operation of the legislation itself. We therefore recommend that definition of disability in the new Act be collaboratively developed and agreed by stakeholders, led by people with disability and with input from professional groups who work with people with disability, including psychologists.

QUESTION 5: How do you think quality and safeguarding arrangements should be managed by the new Act

The design of the new Act should aim to avoid duplication with existing regulatory schemes. AHPRA-regulated health practitioners, including psychologists, are already subject to very high levels of regulation and oversight. This includes stringent registration standards, binding ethical standards, professional development and supervision requirements, complaints handling processes and significant penalties for non-compliance. The introduction of additional regulatory requirements would only serve to increase administrative burdens on practitioners who seek to provide services to people with disability in their capacity as regulated practitioners. The experience of our members in relation to the NDIS is that these unnecessary burdens act as a significant disincentive for highly qualified and motivated professionals to practise within the legislative framework, ultimately to the detriment of service users.

QUESTION 6: Do you agree with the supports and services listed above? What other kinds of supports and services should be included in the new Act?

We generally agree with the list of supports and services listed in the Consultation Paper, while reaffirming our position that psychological interventions and services can contribute to many of these categories. We recommend that services or supports led by the peer/lived experience workforce be expressly recognised. Consistent with the notion of disability as an evolving concept, we would also recommend that the new Act require these categories to be reviewed on a regular basis, or for the Act to enable additional categories to be added by regulation.

QUESTION 7: Do you consider it necessary to retain separate provisions for employment services and rehabilitation employment program, or could they be combined?

The APS supports the Department's consultation process but makes no further comment.