

Disability Services Access Policy

Disability Services Division July 2009



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Disability Services Division 2009

Accessibility

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Published by the Victorian Government Department of Human Services
Melbourne, Victoria

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Authorised by the State Government of Victoria, 50 Lonsdale Street, Melbourne
July 2009

Printed on sustainable paper by Kosdown Printers, 63 Rouse Street, Port Melbourne.

Contents

1	Context statement	1
2	Definitions	1
3	Structure and format	1
4	Application of this policy	2
5	Objective	2
6	Key policy principles	2
7	Key policy elements	4
7.1	Who can access disability services?	4
7.2	How does a person make a request for disability services?	4
7.3	How is disability defined and determined?	6
7.4	How is a decision made about a request for disability services?	12
7.5	When can a statement of intellectual disability be issued?	13
7.6	What are the outcomes of a determination of disability?	13
7.7	How does a person request the Secretary to make a decision about disability?	14
7.8	How does a person request a review from VCAT?	16
7.9	What is the effect of the Secretary’s decision?	16
8	Priority of access	18
8.1	Is the disability service system the most suitable response?	20
8.2	What are the priority indicators?	21
8.3	What is program criteria?	22
8.4	What are reasons for refusing a request for access to services?	22
9	Timelines for making a decision about access to disability services	23
10	Related policies, procedures and legislation	24
Appendix 1	Definition of intellectual disability	25
Appendix 2	Description and supporting evidence for sensory, physical or neurological impairment or acquired brain injury; intellectual disability, developmental delay	26
Appendix 3	Exploring these questions will assist disability service providers to determine whether a person has a disability (impairment and impact) related to a sensory, physical or neurological impairment or acquired brain injury	27
Appendix 4	Exploring these questions will assist disability service providers to determine whether a person has an intellectual disability	29
Appendix 5	Exploring these questions will assist disability service providers to determine whether a child has a developmental delay	31

1 Context Statement

The Disability Act 2006 (the Act) was passed by Parliament on 4 May 2006 and became fully operational on 1 July 2007.

The Act provides the framework for a whole-of-government and whole-of-community approach to enable people with a disability to actively participate in the life of the community. The Act is guided by the principles of human rights and citizenship.

The Act outlines a simple and consistent process for access to services that is not dependent on a person's type of disability.

2 Definitions

These definitions come from Section 3 of the Act and help to interpret the policy.

the Act	means the <i>Disability Act 2006</i>
disability service provider	means (a) the Secretary or Department of Human Services staff who provide disability services under the Act, or (b) a person or body (community service organisation) registered on the register of disability service providers

3 Structure and Format

This document has three key components:

Legislative requirements – these are written in the legislation and provide a basis for the policy. Legislative requirements **must** be fulfilled.

Policy requirements – disability services, along with individuals and groups who took part in the various consultations, have interpreted the legislation to develop this policy. Policy requirements **must** be fulfilled to ensure the intent and purpose of the legislation is realised.

Practice requirements – disability services have provided some guidance for people with a disability and for service providers when applying this policy. This guidance comes from a number of sources, including current practice in Victoria and best practice from interstate and overseas. Practice requirements **should** be followed in applying this policy.

4 Application of this policy

- This policy provides information for people who have a disability as defined by the Act and who make a request for access to disability services.
- This policy applies to all disability service providers in relation to how they make decisions regarding access to disability services.

5 Objective

The objective of this policy is to:

- provide an overview of Sections 3, 6, 8 and 49 – 51 of the Act
- provide people with a disability and their support networks with an understanding of the way in which people may access disability services
- provide disability support providers with clear guidance about their roles and responsibilities in relation to considering a person's access to disability services
- describe the process for determining in a fair manner, the priority for access to disability services.

6 Key policy principles

Section 5 of the Act has a set of overarching principles. Those most relevant to access are included in this policy.

Section 5 of the Act outlines principles that relate to people with a disability and the provision of disability services. All these principles underpin the provision of disability services. However, the following principles provide guidance for the way in which people with a disability may access disability services.

People with a disability have the same right as other members of the community to:

- participate actively in the decisions that affect their lives and be provided the information and support necessary to enable this to occur
- access information and communicate in a manner appropriate to their communication and cultural needs.

Disability services should:

- be flexible and responsive to the individual needs of people with a disability
- maximise the choice and independence of people with a disability
- enable people with a disability to access services as part of their local community and foster collaboration, coordination and integration with local services

- as far as possible, be provided in a manner so that a person with a disability need not move out of his or her local community to access the disability services required
- acknowledge the important role families have in supporting persons with a disability
- acknowledge the important role families have in assisting their family member to realise their individual, physical, social, emotional and intellectual capacities
- have regard for the needs of children with a disability and preserve and promote relationships between the child, their family and other persons who are significant in the life of the child with a disability
- have regard for any potentially increased disadvantage which may be experienced by persons with a disability as a result of their gender, language, cultural or indigenous background, or location.

The Act, in Sections 8 and 49, provides for a fair, consistent and simple process for all people with a disability, to:

- apply for support from any disability service provider
- have their priority for access to services determined according to the criteria published by the Secretary.

Based on the intent of the Act, these are the aims of the Access policy.

The practices described in this policy aim to ensure that the process for making a decision in response to a request for disability services is consistent across all disability service providers.

Section 3 of the Act provides a definition of disability.

Section 8 of the Act states that one of the functions of the Secretary is to publish information about how priority for access to services is determined.

This is stated in **Section 49** of the Act.

7 Key policy elements

7.1 Who can access disability services?

To access disability services, a person must:

7.1.1 Have a disability as defined by the Disability Act 2006

AND

Be considered a:

7.1.2 Priority for access to services

The Act provides a definition of disability. People who meet this definition may be considered for access to disability services if they are defined as a priority for access and that the disability service system is considered to be the most appropriate provider of supports.

The disability service system provides supports for people with a disability which complement supports available through the community (generic) service system. These include hospitals, housing, recreation, leisure and general community supports.

For people who require services provided by the disability service system, there is often greater demand for supports than resources available. Where it has been determined that a person's needs can best be met by the disability service system, the capacity for the system to respond must be considered by determining a person's priority for access to services.

7.2 How does a person make a request for disability services?

What is defined as a disability?

Requesting services

S49 Request for disability services

- (1) A person with a disability or a person on behalf of a person with a disability may request disability services from a disability service provider.
- (2) If a disability service provider receives a request under sub-section (1), the disability service provider may—
 - (a) agree to the request; or
 - (b) refuse the request.

A person with a disability or a person on their behalf may make a written or verbal request for access to disability services.

*This is stated in **Section 49** of the Act.*

Disability service providers need to make decisions about whether a person has or is likely to have a disability.

The policy provides some prompts for disability service providers in gathering information.

7.2.1 Information gathering

S49 Request for disability services

- (3) For the purpose of making a decision on a request under sub-section (1), the disability service provider may require –
- (a) the person making the request to provide more information
 - (b) the person with a disability to undergo an assessment.

Where a person with a disability or a person on their behalf has made a request for disability services information is gathered to determine:

- the appropriateness of the disability service system to provide support
- if a person is within target group as defined by the Act
- the types of supports required and
- if a person is considered a priority for access to services.

If a person has made a request on behalf of a person with a disability, then the disability service provider must ensure, where appropriate, that the person with a disability agrees to the request.

Following a request for services a disability service provider will be able to determine, through initial conversation, some basic information about the person for whom the request is being made and the type of support being requested. Where it is reasonably clear, through these initial conversations that disability supports are required, the disability service provider should commence a target group assessment.

If it is clear, from initial discussions that

- disability supports are not required, or
- a person would not be considered to be a priority for access

then the person should be provided with information about generic and community supports.

Disability service providers often gather information in the course of initial and general conversations with people who are requesting supports.

Disability service providers must be mindful of confidentiality.

Information should be gathered from a number of sources including:

- the person with a disability
- family and key support people
- health or educational professionals.

For further information about information gathering please refer to the *Access implementation guide*.

7.3 Definition of disability as defined by the Act

The *Disability Act 2006* provides the following definition of disability:

- S3 Disability** in relation to a person means –
- (a) a sensory, physical or neurological impairment or acquired brain injury or any combination thereof, which –
 - (i) is, or is likely to be, permanent; and
 - (ii) causes a substantially reduced capacity in at least one of the areas of self care, self-management, mobility or communication; and
 - (iii) requires significant ongoing or long term episodic support; and
 - (iv) is not related to ageing; or
 - (b) an intellectual disability; or
 - (c) a developmental delay

7.3.1 How is sensory, physical or neurological impairment or acquired brain injury determined?

In forming a view as to whether or not a person has a disability associated with a sensory, physical or neurological impairment, or an acquired brain injury, a disability service provider must consider the **existence** of impairment or acquired brain injury, as well as the **associated impact**.

The existence of impairment or acquired brain injury without impact, as described by the other criteria, does not meet the definition of a disability in the Act.

Section 3 of the Act provides the definition of disability.

Definition	<p>A sensory, physical or neurological impairment or acquired brain injury or any combination thereof, which</p> <ul style="list-style-type: none"> • is, or is likely to be, permanent, and • causes a substantially reduced capacity in at least one of the areas of self-care, self-management, mobility or communication, and • requires significant ongoing or long term episodic support, and • is not related to ageing.
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<p>Impact criteria</p>	<p>The following impact criteria must be met for a person to be within target group for disability services.</p> <p>Permanence or likely permanence of impairment or acquired brain injury</p> <p>A decision regarding target group status will be made when it is clear that a person's recovery is complete and their condition is stable (their condition is such that no further improvement is likely to occur or a person has reached their full recovery potential).</p> <p>This may often occur as a person reaches their final stage of rehabilitation. Decisions regarding target group status are made when it is clear that the condition a person is presenting with is permanent and stable. These decisions are often made collaboratively between disability service providers and health care providers.</p> <p>Impact of impairment or acquired brain injury on capacity</p> <p>A substantially reduced capacity inhibits day-to-day functioning and is determined in relation to the person's capacity compared to the general population. Information must be gathered which outlines the person's capacity to carry out activities that relate to everyday functioning at home and within the community.</p> <p>A person is considered to have a substantially reduced capacity when they can no longer perform tasks of daily living without a high level of assistance or supervision.</p> <p>Significant ongoing support or long-term episodic support</p> <p>The impairment must require ongoing support or regular episodic support. In making a decision regarding whether a person has a disability as defined by the Act, disability service providers must explore the type, frequency and intensity of supports that are required.</p>
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	<p>Ageing</p> <p>A disability service provider must be able to determine that the disability support needs a person is presenting with are not related to ageing. Consideration also needs to be given to the suitability of the disability service system to meet a person’s needs.</p> <p>Where a disability service provider is satisfied a person meets impact criteria for a sensory, physical or neurological impairment or acquired brain injury, or any combination thereof, and the impairment is not related to ageing, the person is within the target group for disability services.</p> <p>To access disability services a person must be considered to be within target group and a priority for access.</p> <p>More information related to each of these impact criteria and well as the supporting evidence that can be gathered is contained within the <i>Access implementation guide</i>.</p>
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7.3.2 How is intellectual disability determined?

Section 3 of the Act provides the definition of disability.

Definition	<p>Intellectual disability</p> <p>For a person to access disability services on the basis of having an intellectual disability they must:</p> <ul style="list-style-type: none"> • be over the age of five years, and • have significant sub-average general intellectual functioning, and • have significant deficits in adaptive behaviour <p>with the latter two manifesting before the age of 18 years.</p> <p>Where a disability service provider is satisfied a person meets the criteria for an intellectual disability, the person is within the target group for disability services.</p> <p>A person must be within target group for disability services and considered to be a priority for access in order to access disability services.</p> <p>More information related to determining the presence of an intellectual disability and the supporting evidence to be collected is contained within the <i>Access implementation guide</i>.</p>
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Section 3 of the Act provides the definition of disability.

7.3.3 How is developmental delay determined?

Definition	<p>For a child to access disability services on the basis of having a developmental delay they must be under six years of age and have a delay in development which:</p> <ul style="list-style-type: none"> • is attributable to a mental or physical impairment or a combination of mental and physical impairments, and • is manifested before the child attains the age of six years, and • results in substantial functional limitations in one or more of the following areas of major life activity: <ul style="list-style-type: none"> - self-care - receptive and expressive language - cognitive development - motor development, and • reflects the child's need for a combination and sequence of special interdisciplinary, or generic care, treatment or other services which are of extended duration and are individually planned and coordinated. <p>More information related to determining the presence of a developmental delay and the supporting evidence to be collected is contained within the <i>Access implementation guide</i>.</p> <p>Where a disability service provider is satisfied a child meets the criteria for a developmental delay, the child is within the target group for disability services.</p> <p>A child with a developmental delay must be within target group for disability services and considered to be a priority for access in order to access disability services.</p>
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*Guidance for disability service providers to **form an opinion as to whether or not a person has a disability** is provided in:*

- **Appendix 1:** Definition of intellectual disability
- **Appendix 2:** Description and supporting evidence for sensory, physical or neurological impairment or acquired brain injury
- **Appendix 3:** Questions to assist disability service providers to determine if a person has a disability related to a sensory, physical or neurological impairment or acquired brain injury
- **Appendix 4:** Questions to assist disability service providers to determine if a person has an intellectual disability
- **Appendix 5:** Questions to assist disability service providers to determine if a person has a developmental delay

When a disability service provider needs more information, they should ask for the minimum amount of detail needed to decide if the person has a disability.

Collecting supporting evidence

In collecting evidence to determine whether a person has a disability, disability service providers are required to gather the minimum amount of evidence they require to make a decision. There is no need to invest resources or time in obtaining excessive verification or supporting assessments if they are not required.

7.3.4 Specific considerations

When a disability service provider is trying to determine whether or not a person has a disability, further consideration and information gathering may be required in some circumstances. For example if there are:

- mental health issues
- chronic health needs
- issues associated with ageing.

In making a decision about whether or not a person has a disability, some specific considerations can assist disability service providers.

<p>Mental health needs</p>	<p>When a person is referred to disability services with a known or suspected mental health issue, this must be considered when making decisions related to a person having a disability, particularly an intellectual disability.</p> <p>Cognitive testing that is undertaken must be able to distinguish between the impact of the disability and associated mental health issues. It is advisable to include at least one practitioner during the assessment period who has expertise in the area of mental health.</p> <p>Consideration should also be given to the timing of any testing and decision making. Where a person is experiencing an acute mental health episode, any decision should be delayed until this has stabilised.</p>
<p>Chronic health needs</p>	<p>At times it may be difficult to determine if a person is presenting with needs that relate to a chronic illness or a disability. In such cases, disability service providers are advised to develop collaborative relationships with relevant medical professionals when making a determination regarding target group status.</p> <p>A decision must be made if a person’s support needs are related to chronic illness or a disability as defined by the Act. The outcome of the decision will ensure that the appropriate supports are put in place. Disability service providers should refer to the Access Implementation Guide for more detail and specific guidance regarding the distinguishing characteristics between chronic health issues and a disability as defined by the Act.</p>

<p>Ageing</p>	<p>While there is no upper age limit that precludes people from accessing disability services, where a person aged over 65 years requests access to disability services, particularly for the first time, a disability service provider must consider whether aged care service options are more appropriate to meet the support needs of a person. A decision will need to be made if a person's support needs are a result of a disability or the ageing process. In these circumstances collaborative working relationships should be formed with relevant medical professionals to assist in making such determinations.</p>
<p>Criminal justice</p>	<p>There are a number of potential pathways for a person with a disability involved in the criminal justice system to be referred to a disability service provider.</p> <p>These include:</p> <ul style="list-style-type: none"> • self-referral (or by their legal representative) • through referral from another organisation • through the Victorian court system (both children and adults) • while in custody (with consent) • through involvement with the police (with consent) • through the Adult Parole Board, Youth Parole Board or Youth Residential Board. <p>The decision regarding whether a person involved in the criminal justice system has a disability needs to be carefully considered. Information gathering for this purpose needs to be comprehensive. People within the criminal justice system who have an intellectual disability are accorded additional rights and sentencing options under a number of pieces of Victorian legislation. These include the <i>Sentencing Act 1991</i>, the <i>Children, Youth and Families Act 2005</i>, and the <i>Crimes (Mental Impairment and Unfitness to be Tried) Act 1997</i>.</p>

7.4 How is a decision made that a person has a disability?

Following a request for access to disability services, a disability service provider must gather required information to form the view that:

- the person does have a disability. They must advise the person of this and consider further information gathering to continue to identify their support needs, **or**
- the person does not have a disability. They must advise the person of this and refer them to, or support them to access an appropriate generic service. This decision constitutes a refusal for service and the person must be notified in accordance with Section 7.6.2 of this policy, **or**
- it is unclear whether the person has a disability or not. They **must** advise the person of this situation and explain that further information gathering will be required.

Following a review of the supporting evidence, where the disability service provider remains unclear whether a person has a disability as defined by the Act, an assessment will need to be arranged.

The disability service provider and the person requesting disability services may agree that:

- The disability service provider has both the skill and capacity to undertake the assessment, **or**
- The disability service provider has the capacity to continue to gather information but does not have the skill to undertake the appropriate formal assessment. In this case the disability service provider can make a referral to have an assessment undertaken by a suitable professional once they have gained the consent of the person or their guardian while they continue to gather information **or**
- The disability service provider does not have the capacity to undertake further information gathering or appropriate assessments and with their consent the person requesting the disability service will be referred to an alternative provider such as Disability Services Intake and Response.

This is stated in Section 49 of the Act.

S49 Request for disability services

- (5) If a disability service provider agrees to provide disability services without requiring an assessment of the person, the subsequent provision of services to them is not of itself evidence that the person to whom the service is provided is a person with a disability.

7.5 When can a statement of intellectual disability be issued?

S6 Persons with an intellectual disability

- (9) If the Secretary is satisfied that a person has an intellectual disability, the Secretary may for the purposes of any Act or regulation provide a statement that a person has an intellectual disability within the meaning for this Act.

In some circumstances, courts or tribunals may seek clarification as to whether or not a person has an intellectual disability. Under Section 6 of the Act, if the Secretary is satisfied that a person has an intellectual disability as defined under the Act, the Secretary may provide a written statement of intellectual disability.

7.6 What are the outcomes of a determination of disability?

This is stated in Section 49 of the Act.

S49 Request for disability services

- (4) If a disability service provider refuses a request under sub-section (2)(b), the disability service provider must within 14 days of deciding to refuse the request advise in writing the person making the request –
- (a) that the request has been refused and the reason for the refusal; and
 - (b) if the reason for the refusal is that the disability service provider is of the opinion that the person for whom the disability services are requested does not have a disability, that the person in respect of whom disability services have been requested has a right to have the issue of whether the person has a disability decided by the Secretary.

Following the consideration of a request to access disability services, the disability service provider can:

7.6.1 Accept the person is within the target group for disability services.

Agreeing that a person is within the target group for disability services does not necessarily mean the person will be able to access the requested disability support. Following a decision that a person is within the target group, they must also be considered a priority for access (see Section 8).

Section 49 of the Act states that a person must be notified in this way and can ask the Secretary to make a decision about whether or not they have a disability.

7.6.2 Refuse the request based on the person not having a disability

Where a request is refused because the disability service provider has formed an opinion that the person does not have a disability as defined by the Act, the disability service provider must meet with the person to discuss the decision and how it has been reached. Further discussion can then take place regarding other support options which may be available. Once these discussions have been completed the disability service provider must notify the person of the decision in writing.

Written notification must be provided to the person making the request within 14 days of the decision that has been made refuse the request.

The disability service provider must also advise the person seeking support that they have the right to ask the Secretary to decide whether they have a disability.

7.7 How does a person request the Secretary to make a decision about disability?

This is stated in **Section 50** of the Act.

S50 Request to Secretary for decision as to disability

- (1) A person to whom section 49(4)(b) applies may request the Secretary to decide whether or not the person has a disability.
- (2) For the purposes of making a decision under this section, the Secretary may require the person making the request and the disability service provider to provide any relevant information.
- (3) The Secretary may determine the appropriate process to enable the Secretary to make a decision as to disability.
- (4) If the Secretary decides that a formal assessment is necessary, the Secretary must ensure that the formal assessment is commenced within 30 days of receiving the request for a decision.
- (5) Despite sub-section (4), the Secretary may –
 - (a) defer the commencement of a formal assessment for up to 3 months after receiving a request for a decision; or
 - (b) discontinue any uncompleted formal assessment and defer the undertaking of a further formal assessment for up to 3 months after discontinuing the formal assessment –

If the Secretary believes on reasonable grounds that any formal assessment completed before then is unlikely to establish reliably that the person has a disability.

7.7.1 How does the Secretary make a decision?

Where a person has been informed by a disability service provider that they do not have a disability as defined by the Act, a request can be made for the Secretary to make a determination by contacting Disability Services Intake and Response.

The person making the request for a determination by the Secretary will be required to provide relevant information, including:

- who made the decision – the name of the disability service provider and contact person
- the reasons provided by the disability service provider for making the decision
- the date the decision was made.

Where the initial decision was made by a community service organisation, the Regional Disability Client Services Manager is the approved delegate of the Secretary.

Where the initial decision was made by Disability Client Services, the Regional Disability Services Manager is the approved delegate of the Secretary.

The Secretary's delegate may be required to undertake the following in the course of the decision making process:

- request additional information from the person requesting the review and/or the disability service provider
- seek additional advice from a professional with expertise in the assessment of disability
- determine the most appropriate process to be used to make a decision
- advise the person requesting the review of the process to be undertaken and the likely timelines for a decision to be made.

If the Secretary's delegate determines a formal assessment is required, this must commence within 30 days of a request for a review of a decision being received.

Following a review of the evidence, the Secretary's delegate may defer an assessment for up to three months if it is determined that any assessment completed before then is unlikely to reliably establish whether the person has a disability.

This is stated in Section 50 of the Act.

S50 Request to Secretary for decision as to disability

- (6) The Secretary must within 14 days of making a decision as to whether a person has a disability advise in writing the person who made the request—
- (a) of the decision; and
 - (b) that the person can apply to VCAT for a review of the decision.

The Secretary must, within 14 days of making the decision as to whether a person has a disability, notify the person in writing. Prior to providing written notification, the Secretary's delegate must arrange for the person to be verbally advised about the outcome of the decision and, if required, the review processes. In some circumstances, a meeting may be required.

Where the Secretary's delegate does not believe the person has a disability, the notification must also include advice to the person that they may seek a review of the decision by the Victorian Civil and Administrative Tribunal (VCAT) and that, if they wish to do so, they must lodge an application with VCAT within 28 days of receiving the notification.

7.8 How does a person request a review from VCAT?

This is stated in Section 50 of the Act.

S50 Request to Secretary for decision as to disability

- (7) An application for review must be made within 28 days after the person receives the advice under sub-section (6)
- (8) On application for a review under sub-section (7), VCAT may –
- (a) confirm the decision of the Secretary; or
 - (b) order that the decision of the Secretary be substituted by the decision of the Tribunal; or
 - (c) remit the matter to the Secretary for further consideration in accordance with this section
- (9) A decision of VCAT under sub-section (8)(b) has effect as if it were the decision of the Secretary.

A person can contact VACT and make an application.

VCAT can be contacted at: www.vcat.vic.gov.au

The Act states that on reviewing a decision VCAT may:

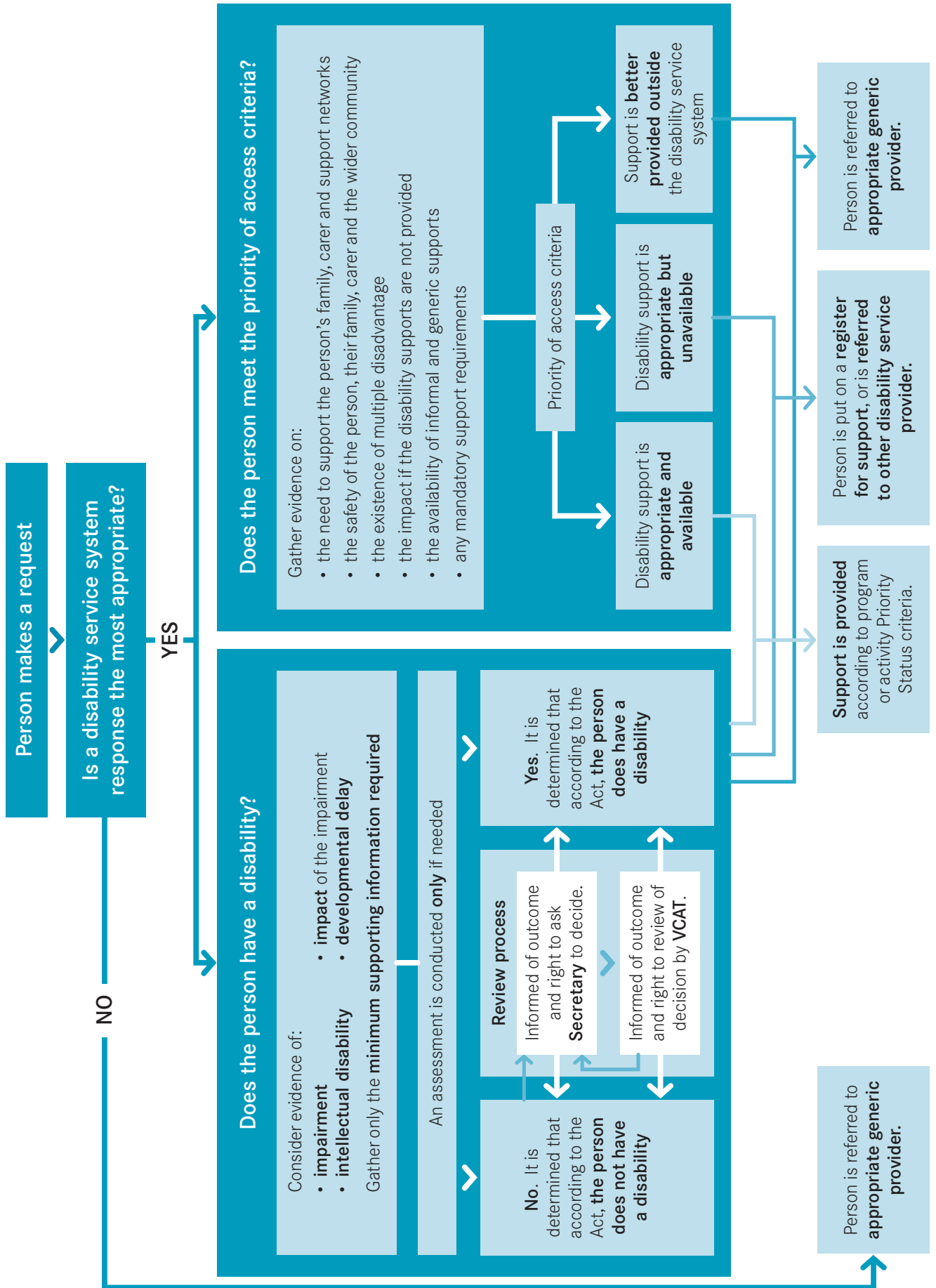
- confirm the decision of the Secretary
- return the matter to the Secretary for further consideration
- make its own decision as to whether the person has a disability.

7.9 What is the effect of the Secretary's decision?

This is stated in Section 51 of the Act.

S51 Effect of decision of Secretary

A decision by the Secretary under Section 50 that a person has a disability does not itself entitle the person to the provision of disability services.



8 Priority of access

Section 8 of the Act states that one of the functions of the Secretary is to develop and publish criteria for who gets access to services.

S8 Role and functions of the Secretary

2 (d) to develop and publish criteria to enable priority of access to disability services to be determined in a fair manner.

Following a decision by a disability service provider, the Secretary, or VCAT, that a person has a disability, the person must be considered a priority for access to services before any requested disability supports can be provided.

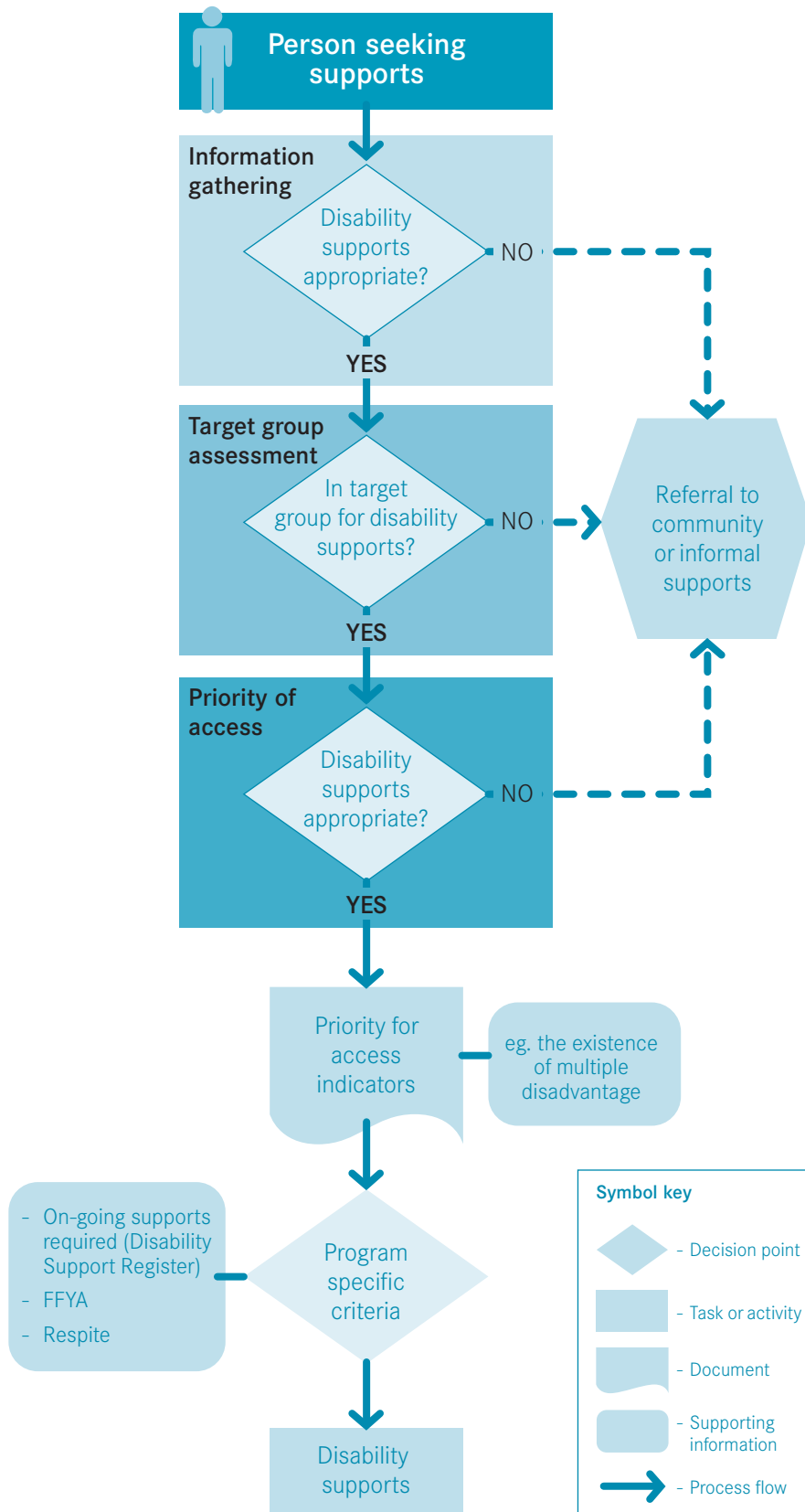
Section 8 of the Act states that the Secretary must be open and transparent about how decisions are made about who gains access to disability services, and that access must be determined in a fair manner.

Where there is a greater need for disability supports than there are resources available, clear information about the principles and process for determining the priority of access to disability support must be readily available in appropriate formats and languages.

For people who have a disability as defined by the Act, priority of access to services is determined by:

- reviewing the suitability of the disability service system to meet their needs
- applying priority indicators
- applying program criteria.

Access Flow Chart



The flow chart above outlines the key decision points when a disability service provider is determining priority for access.

8.1 Is the disability service system the most suitable response?

In making a decision about whether or not the disability service system is the most appropriate response, some specific considerations can assist disability service providers.

Where it has been determined that a person has a disability as defined by the Act, the disability service provider must discuss with the person their goals and needs and consider their current circumstances.

This will include a discussion about the current supports that may be in place for the person through generic services or informal networks, and options that could be explored to further develop these informal networks and community options.

This discussion may determine that a person does have a disability, however, their needs can be best met with a response from outside the disability service system.

Children under the age of six years

For a child under six years of age with a developmental delay, consideration must be given to the most appropriate intervention to support the child and their family. In particular, whether disability services are able to provide the most appropriate support. Early Childhood Intervention Services (ECIS) provided through the Office of Children (Department of Education and Early Childhood Development) may be a more appropriate source of supports for the child under six years and their family. These services focus on supporting children within a family context. ECIS can be contacted through each of the Department of Education's regional offices.

Disability services may be considered to be appropriate for a child under school age with high multiple and complex support needs, including physical, medical, social, communication and emotional needs that require case management, and/or supports additional to those usually available through existing services, and/or require a range of coordinated services.

For a person with a disability who has additional needs such as mental health, chronic health, age related issues or involvement in the criminal justice system, consideration needs to be given to the most appropriate support options for the person.

Developing collaborative relationships with local government and health services, aged care providers and justice services can ensure that a person's overall needs are considered and the most appropriate service response is developed.

Where a disability service provider believes the person's needs could be better met by a response outside of the disability service system, they may refuse a request for service and direct this person to alternative options. (Refer to Section 8.4 of this policy.)

8.2 What are the priority indicators?

To provide assistance in making decisions about who gets access to disability services, priority indicators have been developed to be used by **all** disability service providers.

In all circumstances, resource allocation decisions will balance the needs of the person with a disability and their family or carer in relation to the needs of others seeking support and in particular, those with similar needs or circumstances.

The allocation of resources must be efficient, equitable and maximise options for people with a disability to create independence and promote their participation in the community.

In **all** circumstances, disability services are provided:

- to address the needs of a person that are directly related to their disability
- In response to needs identified through an individualised planning process.

When determining the priority of access to disability services, a disability service provider must consider the following priority indicators:

In making a decision about whether or not the disability service system is the most appropriate response, some specific considerations can assist disability service providers.

- the need to strengthen or support the role of the family, carer or person's support network
- the need to provide support to ensure the safety and well being of the person with a disability, their family or carer or the wider community
- the existence of multiple disadvantage within the person with a disability's personal, social or community context
- the immediate and potential benefit of the support to reduce the likelihood for more intensive assistance in the future
- the impact on the individual's wellbeing, living situation and quality of life should the disability service be unavailable
- the presence and availability of informal and generic supports to complement the disability service (for example, a small amount of support such as respite may enable informal networks to continue their caring role)
- the provision of support is a mandatory requirement (for example as part of a justice plan or condition of an order).

The *Access implementation guide* provides further practice guidance regarding the priority indicators.

Disability service providers may be required to apply specific program criteria criteria.

8.3 What are program specific criteria?

In addition to the priority indicators above, disability service providers who directly allocate resources must consider any program specific criteria for access to the disability services they directly allocate.

Some examples of programs that have specific criteria that relate to access include:

- respite programs that are funded to provide support to children and young people. If a request is made to them by an adult, they can reasonably say that the person is not appropriate or a priority for their service.
- the Disability Support Register (DSR) which registers people for accommodation supports, day activities and support packages.

Disability service providers who determine priority in accordance with program specific criteria must make the guidelines and any other related information available to people upon request.

8.4 What are reasons for refusing a request for access to services?

Where a disability service provider refuses a request for support because:

- the disability service system is not considered the most appropriate response
- the person with a disability is not considered a priority for access

they must advise the person of the decision and refer them to or support them to access an appropriate generic service.

9 Timelines for making a decision about access to disability services

Disability service providers must ensure that all requests are dealt with in a timely way.

Disability service providers must consider all relevant information and make a decision within four weeks of a request for access to disability services being made.

Determining access to disability services includes both:

- whether a person has a disability as defined by the Act **and**
- whether they are considered a priority for access to services.

Disability service providers must advise the person of the decision, and the reasons for it, in writing within 14 days of the decision being made. This includes decisions both where a request for service is accepted or refused for any reason.

This represents a **maximum of six weeks** from when a person makes a request for access to disability services to notify them of the decision by the disability service provider.

Where it is anticipated that notifying a person of the decision regarding access to disability services will take longer than six weeks, in line with best practice, the disability service provider should make contact with the person who made the request to notify them of the time frame for the decision.

10 Related policies, procedures and legislation

- Victorian State Disability Plan 2002 - 2012
- Planning Policy
- Information and Policy Manual
- Provision of Information Policy (to be included in Information and Policy Manual above)
- Complaints Policy (to be included in Information and Policy Manual above)
- Legislation Implementation Guide for Restrictive Interventions
- Legislation Implementation Guide for Supervised Treatment Orders
- Legislation Implementation Guide for Residential Treatment Facilities
- Better services, better outcomes, stronger communities - The Quality Framework for Disability Services in Victoria
- The Standards for Disability Services in Victoria
- Registration of Disability Service Providers
- Strengthening Rights in Residential Services Policy

Approved

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Date: May 2009

Appendix 1 Definition of Intellectual Disability

S3 Definitions: 'intellectual disability'

(b) an *intellectual disability*

in relation to a person over the age of 5 years, means the concurrent existence of:

- (i) significant sub-average general intellectual functioning*^{*}; and
- (ii) significant deficits in adaptive behaviour[#]
- (iii) each of which became manifest before the age of 18 years[^]

* *Significant sub-average general intellectual functioning*: If a standardized measurement of intelligence is used, it is defined as a person having intelligence that is more than two standard deviations below the population average. In determining whether an IQ score is more than two standard deviations below the mean, the standard error should be taken into account at the 95 per cent confidence level.

If a standardized measurement of intelligence is inconclusive as to whether a person has an intelligence higher or lower than two standard deviations below the population average, then other indicators of general intellectual functioning can be taken into account.

Significant deficits in adaptive behaviour: If a standardized measurement of adaptive behaviour is used to assess adaptive behaviour and it indicates a score at or below the second percentile of people of the same age and cultural group then the person must be taken to have significant deficits in adaptive behaviour.

[^] *Each of which became manifest before the age of 18 years*: Deficits in both general intellectual functioning and adaptive behaviour must have occurred before the person's 18th birthday.

Appendix 2 Description and supporting evidence for sensory, physical or neurological impairment or acquired brain injury; intellectual disability, developmental delay

	Sensory	Physical	Neurological	ABI	Intellectual Disability	Developmental Delay
Description	Impairment in hearing or vision (not related to ageing)	Any loss or abnormality of body structure or function (not related to ageing)	Neurological and neuromuscular disorders (not related to ageing)	Damage to the brain that occurs after birth and is not related to a congenital disorder or a degenerative disease. Damage may be caused by a traumatic injury to the head or by a non-traumatic cause.	<ul style="list-style-type: none"> Significant deficits in general intellectual functioning and Significant deficits in adaptive behaviour, Both of which must be evident before 18 years of age 	<ul style="list-style-type: none"> Mental or physical impairment or combination of, and Manifested before six years of age, and Substantial functional limitations in one or more of the following: <ul style="list-style-type: none"> self care receptive and expressive language cognitive development motor development, and Need for coordinated, special interdisciplinary, generic, treatment or other services of extended duration
Supporting Evidence	Report from a medical or paramedical specialist describing the diagnosis or nature of the person's hearing or visual impairment.	Report from a medical or paramedical specialist describing the diagnosis or nature of the person's physical impairment.	Report from a medical specialist or neurologist describing the diagnosis or nature of the person's neurological impairment.	Report from a medical specialist, neurophysiologist or neurologist describing the nature of the person's acquired brain injury.	<ul style="list-style-type: none"> Report from psychologist or neuropsychologist of previous cognitive testing Information about the person/child's developmental milestones Educational assessment Specialist medical assessment Developmental assessment 	<ul style="list-style-type: none"> Report from psychologist or neuropsychologist of previous cognitive testing Information about the person/child's developmental milestones Educational assessment Specialist medical assessment Developmental assessment Report from Early Childhood Intervention Services

Appendix 3 Exploring these questions will assist a disability service provider to determine whether a person has a disability (impairment AND impact) related to a sensory, physical or neurological impairment or acquired brain injury

1. Does the person have an impairment or acquired brain injury?
2. Does the person have a diagnosis? If so, is there documentation to support this?
3. How long has the person had the impairment or an acquired brain injury?
4. What is the person's prognosis? Is there documentation to support this?
5. Does the person use any aides, equipment or assistive devices because of their impairment or acquired brain injury? Have they minimised the impact of the impairment or acquired brain injury?
6. How does the impairment or acquired brain injury affect the person's capacity in the area of self-care?
 - for example, eating, bathing, showering, dressing, personal hygiene, toileting
7. How does the impairment or acquired brain injury affect the person's capacity in the area of self-management?
 - for example, expressing emotions, behaviour, understanding safety issues, understanding the passage of time – days, weeks, seasons
8. How does the impairment or acquired brain injury affect the person's capacity in the area of mobility?
 - for example, to undertake personal, domestic and community activities
9. How does the impairment or acquired brain injury affect the person's capacity in the area of communication?
 - for example, can the person effectively communicate their needs, opinions and feelings, follow and give instructions, request assistance from familiar and unfamiliar people?
10. Is the person accessing any community-based supports that relate to their impairment or acquired brain injury?
 - Which services, how often and have they minimised the impact?
11. Is the person receiving support from family, friends or other informal networks?
 - What type of support is being provided?
 - By whom?
 - Is this sustainable?
12. Are the person's needs related to ageing?
 - At what age did they first develop the impairment or acquired brain injury?
 - Is the diagnosis related to something that is common to people who are ageing, such as dementia?

Supporting documentation may include:

A report or letter from a medical specialist or allied health professional describing the nature of the person's impairment or acquired brain injury **AND** information describing the person's reduced capacity and support needs.

Following consideration of these questions, if you believe a person has a disability related to a sensory, physical or neurological impairment or acquired brain injury based on the definition of disability related to a sensory, physical or neurological impairment or acquired brain injury in the Act, they can be considered within the target group for disability services.

Appendix 4 Exploring these questions will assist a disability service provider to determine whether a person has an intellectual disability

1. Is the person over the age of five years?
2. What is the person's developmental history?
 - Description of their behaviour in their first 12 months (for example, settled, unsettled, difficulty feeding)?
 - At what age did the person talk, walk, become toilet trained?
 - Did the person attend kindergarten or other pre-school group?
 - Which primary and secondary school did the person attend and what educational level was achieved?
 - Has the person gained employment? What do they do?
 - Does the person have friends and other meaningful relationships?
3. What is the person's cognitive capacity? For example, can the person:
 - tell the time, understand the passage of time and/or understand schedules and timetables?
 - tell the value of money? Would they know how much money to give or how much change they should receive?
 - read? At what level? What type of books?
 - write? Do they copy written words or write independently? What words can they write?
 - follow simple or more complex instructions?
 - understand safety issues such as road safety and other hazards?
 - respond to visual signs such as a stop sign, pedestrian lights, male or female toilet sign?
 - remember names, days of the week, anniversaries. What is their long term and short-term ability to retain information?
4. What is the person's capacity in areas of daily living? For example, can the person:
 - cook a meal? Follow a recipe?
 - dress themselves appropriately for the weather? If it were hot would they take off their jumper?
 - shower or bath, attend to personal hygiene matters independently?
 - perform domestic duties such as cleaning, laundry and grocery shopping?
 - use public transport independently?

Supporting documentation may include:

- Report from psychologist or neuropsychologist of previous cognitive testing
- Information about the person's developmental milestones
- Educational assessment
- Specialist medical assessment
- Developmental assessment
- Report from Early Childhood Intervention Services

Following consideration of these questions, if you believe a person has an intellectual disability based on the definition of intellectual disability in the Act, they can be considered within the target group for disability services.

Appendix 5 Exploring these questions will assist disability service providers to determine whether a child has a developmental delay

1. Is the child under six years of age?
2. Does the child have a diagnosis? If so, is there documentation to support this?
3. Does the child have a mental or physical impairment or a combination of these impairments?
4. What is the child's prognosis?
5. Compared with siblings or children of the same age, how does the impairment affect the child's capacity in the area of self-care?
 - for example, eating, bathing, dressing, personal hygiene, toileting
6. Compared with siblings or children of the same age, how does the impairment affect the child's capacity in the area of receptive and expressive language?
 - for example, responding to yes or no, following simple or more complex instructions, identifying common people or objects (such as mum, dad, drink or car), asking questions or holding a conversation
7. Compared with siblings or children of the same age, how does the impairment affect the child's capacity in the area of cognitive development (thinking skills)?
 - for example, memory, attention, reasoning, problem solving
8. Compared with siblings or children of the same age, how does the impairment affect the child's capacity in the area of motor development?
 - for example, sitting, crawling, walking, playing
9. Does the child use any aides, equipment or assistive devices because of their impairment?
10. Is the child or family accessing support from Early Childhood Intervention Services?
11. Is the child or family accessing any community-based supports that relate to the child's impairment?
 - Which services, how often and are they helping to provide support?
12. Is the child or family receiving support from extended family, friends or other informal networks?
 - What type of support is being provided?
 - By whom?

Supporting documentation may include:

A description or diagnosis of the impairment and the impact. This should be complemented with a detailed description or assessment report in relation to one or more of the following areas: gross motor, speech, behaviour, cognitive thinking skills, fine motor, eating, social, emotional, sensory, understanding of language, play skills, toileting, other.

Supporting evidence may include:

- Report from psychologist or neuropsychologist of previous cognitive testing
- Information about the person's developmental milestones
- Educational assessment
- Specialist medical assessment
- Developmental assessment
- Report from Early Childhood Intervention Services

Following consideration of these questions, if you believe a child has a developmental delay disability based on the definition of developmental delay in the Act, they can be considered within the target group for disability services.

