

# Disability Services Commissioner

## Disability Act 2006

### Introduction

The *Disability Act 2006* ('the Act') becomes fully operational from 1 July 2007.

The Act strengthens both internal and external complaints and review systems as a mechanism to improve the quality of service provision for people with a disability.

The independent complaints mechanism that has been legislated in the Act is the establishment of the Disability Services Commissioner.

### Who is the Disability Services Commissioner?

The Disability Services Commissioner is an independent statutory position, appointed by the Governor-in-Council. Mr Laurie Harkin has been appointed as the first Disability Services Commissioner for Victoria.

### What is the role of the Disability Services Commissioner?

The Act provides the Disability Services Commissioner with broad and flexible discretion to consider, investigate and conciliate complaints referred to the Commissioner.

A complaint may be made to the Disability Services Commissioner if the complaint arises out of the provision of a disability service or if the disability service provider has not properly investigated and responded to a complaint.

Sections 14-19 of the Act outline the functions of the Disability Services Commissioner, which broadly include:

- investigating complaints
- conciliating complaints
- reviewing and identifying the causes of complaints
- considering ways of improving disability services complaints systems
- determining what action should be taken by a disability service provider where a complaint has been found to be justified
- providing education, training and information about how to resolve complaints
- gathering information from disability service providers about complaints and publishing this information
- conducting research into complaints relating to disability services
- reporting annually to the Victorian Parliament on the number and outcomes of complaints.

### Who can make a complaint to the Disability Services Commissioner?

Any person can make a complaint to the Disability Services Commissioner in relation to a disability service.

### What can a complaint be about?

A person can make a complaint to the Disability Services Commissioner about the service they are receiving from a disability service provider. A person can also make a complaint if the person believes that the disability service provider has not responded in an appropriate manner to the initial complaint.

### Will the Disability Services Commissioner consider all complaints?

In most cases, the Disability Services Commissioner will only accept a complaint if satisfied that all reasonable steps have been taken to resolve the matter directly with the disability service provider.

The Disability Services Commissioner may decide not to consider a complaint for reasons given in s114 of the Act, such as the complaint:

- is lacking in substance
- does not warrant investigation
- is vexatious in nature
- has already been determined or is currently being considered by another body, such as a court or tribunal
- relates to an incident that occurred more than 12 months ago and there is no good reason for the delay.

The Disability Services Commissioner can refer a complaint to another body if the complaint falls under another jurisdiction.

### **What can the Disability Services Commissioner do when a complaint is received?**

If the Disability Services Commissioner accepts a complaint, attempts will be made to resolve the complaint by conciliation between the parties. If resolution cannot be reached or the Disability Services Commissioner thinks the complaint is not suitable for conciliation, the Disability Services Commissioner may then investigate the complaint. If the complaint is justified, the Disability Services Commissioner may also determine what action should be taken to resolve the issue.

### **How to make a complaint to the Disability Services Commissioner**

A complaint can be made, in writing, in person, over the phone, or by other means appropriate for the person in the circumstances.

### **Can a complaint be withdrawn?**

A person who makes a complaint may at any time withdraw the complaint. The Disability Services Commissioner must then stop dealing with the complaint, unless the Disability Services Commissioner considers that:

- the health, safety or wellbeing of the person with a disability may be affected
- the complaint may have been withdrawn due to victimisation, coercion or duress.

### **What are the responsibilities of disability service providers in relation to complaints?**

Disability service providers are required to have in place a system for managing complaints. In addition, they are required to provide information to people with a disability on how to make a complaint to them and to the Disability Services Commissioner.

The information provided needs to be communicated and explained in a manner that ensures that it is understood. Disability service providers must report annually to the Disability Services Commissioner about the number of complaints they have received and how these complaints were dealt with.

### **Contact details for the Disability Services Commissioner:**

The office of the Disability Services Commissioner is currently being established and will be operational by 1 July 2007. Once established TTY, website and 1300 numbers will be provided. The office of the Disability Services Commissioner can be contacted during business hours on (03) 9603 8323.

### **For further information about the Act:**

Disability Services Division, Department of Human Services

Telephone 1300 366 731 (9am to 5pm, Monday to Friday)

TTY: (03) 9096 0133 (for people who are deaf or have a hearing, speech or communication impairment)

Email: [disability.legislation@dhs.vic.gov.au](mailto:disability.legislation@dhs.vic.gov.au)