

## EXPLANATORY STATEMENT

### **Disability Services Act (National Standards for Disability Services) Determination 2014**

#### **Summary**

The *Disability Services Act (National Standards for Disability Services) Determination 2014* (the Determination) is made under paragraphs 5A(1)(b), (ba) and (c) and subsection 5A(2) of the *Disability Services Act 1986* (the Act). The Determination revokes and replaces the *Disability Services Act (National Standards for Disability Services) Determination 2013* (2013 Determination).

The purpose of the Determination is to set out the new National Standards for Disability Services 2013 (the Standards) to be observed in the provision of employment services and rehabilitation programs for people with disability. These new standards will eventually replace the standards set out in the *Disability Services Standards (DEWR) 2007* and the *Disability Services Standards (FaCSIA) 2007* (the Disability Services Standards 2007). The Determination also sets out key performance indicators (described as 'Indicators of Practice') relevant to each standard which are to be applied when assessing whether a particular standard has been observed.

In addition to employment services and rehabilitation services included in the 2013 Determination, the Determination now sets out the standards that are to be observed in the provision of advocacy services for people with disability. These new standards will eventually replace the standards set out in the *Disability Services Standards (Advocacy Standards) (FaHCSIA) Determination 2012* (Disability Advocacy Standards 2012). The Determination also includes minor changes to the standards set out in Schedule 1 to ensure consistency with the standards as endorsed by the Standing Council on Disability Reform.

The Determination commences on 1 July 2014.

#### **Background**

Paragraphs 5A(1)(b), (ba) and (c) of the Act authorise the Minister to determine disability employment service standards, disability advocacy standards and rehabilitation program standards to apply in the provision of an employment service, advocacy service or rehabilitation program, respectively, under the Act. Subsection 5A(2) provides that when the Minister determines employment service standards, advocacy service standards or rehabilitation program standards under paragraphs 5A(1)(b), (ba) and (c) of the Act, he or she must, by legislative instrument, also

approve key performance indicators to be applied in assessing whether the standards have been observed.

The standards intended to apply in the provision of advocacy services have recently changed. Consequently, it is necessary to revoke the 2013 Determination in order to incorporate the new disability advocacy standards into the existing framework for employment services and rehabilitation programs as agreed between the Commonwealth, States and Territories.

### ***Review of the National Standards for Disability Services***

Under the National Disability Agreement (formerly, the Commonwealth State Disability Agreement), the Disability Services Ministers in jurisdictions throughout Australia endorsed an interim National Quality Framework (NQF) in 2009. To support the implementation of the interim NQF, the Disability Services Ministers also endorsed a review of the National Standards for Disability Services, first established in 1993 (National Standards for Disability Services 1993) and set out in the Disability Services Standards 2007 and the Disability Advocacy Standards 2012. The review was completed in 2013 and culminated with the endorsement of the revised standards contained in the Determination by the Standing Council on Disability Reform on 18 December 2013.

The aim of the NQF is to promote and drive a nationally consistent approach to improving the quality of services, with a focus on improving outcomes for people who use these services. A key feature of the interim NQF is to have quality management systems in place, with organisations in every jurisdiction being required to conform with a set of legislated National Standards for Disability Services in order to receive government funding.

The National Standards for Disability Services 1993 (revised in 2013) form the backbone of the NQF and remain the primary means through which quality standards in disability services will be translated into everyday practice across the disability sector. It is anticipated that the revised version of these Standards, the National Standards for Disability Services 2013, and the final version of the NQF will be fully aligned.

### ***Consultation for the Standards***

In 2010, people with disability, their family and carers, service providers, advocates and peak industry bodies provided feedback on the National Standards for Disability Services 1993, with comprehensive consultation led by the Disability Studies and Research Centre of the University of New South Wales. Consultation occurred between April and July 2010 and focused on awareness and use of those standards, and language, meaning, relevance and utility of the standards.

Consultation was undertaken across states and territories to allow each jurisdiction to consider local protocols, engage local networks and take into account specific stakeholder needs and other major events when planning for consultation.

The major recommendations from the consultation process were as follows:

1. The content and structure of the National Standards for Disability Services 1993 should be revised, together with their purpose, focus and implementation.
2. There should be a single set of disability services standards across all jurisdictions.
3. The main purpose of the revised National Standards for Disability Services should focus on the achievement of rights, outcomes and quality of life for people with disability, with service providers having a clear role in the implementation.
4. A comprehensive resource package should be developed in a variety of accessible formats to increase stakeholder awareness of the purpose, content, use and implementation of the revised National Standards for Disability Services.
5. The assessment process against the revised National Standards for Disability Services should:
  - be based within a 'quality' and 'continuous improvement' framework;
  - be based on independent auditing;
  - include a component of self-assessment by service providers, and feedback from people with disability and families/carers;
  - consider including other policies and standards for service quality when designing the assessment, so as to minimise regulatory burden;
  - be designed following consultation with representatives of people with disability and families/carers.

Based on this feedback, a draft revised version of the National Standards for Disability Services 1993 was tested nationally in 2012. People with disability, family, friends and carers, service providers, advocacy organisations and quality assurance bodies informed the development of the revised Standards.

### **The framework for the Standards**

The framework for the National Standards for Disability Services 2013 promotes person-centred approaches and is based on principles related to Human Rights and Quality Management.

### ***Promoting person-centred approaches***

The Standards reflect the move towards person-centred approaches, whereby people with disabilities are at the centre of planning and delivery. As outlined by the Productivity Commission in its report on Disability Care and Support "the intention of person-centred approaches is to maximise, as much as reasonably possible, the capacity for people with disabilities to take control of their lives". Individuals can

shape and direct service and support arrangements to suit their strengths, needs and goals, with the support of families, friends, carers and advocates.

### ***Human Rights principles***

Australia has agreed to uphold human rights set out in a number of international treaties and declarations, including the Convention on the Rights of Persons with Disabilities. The Standards draw on these instruments, in particular the principles within the Convention on the Rights of Persons with Disabilities, which was developed by the United Nations.

The Human Rights principles which inform the National Standards for Disability Services 2013 are:

- Respect for the inherent dignity, independence of persons and individual autonomy, including the freedom to make one's own choices;
- Non-discrimination;
- Full and effective participation and inclusion in society;
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- Equality of opportunity;
- Accessibility;
- Equality between men and women;
- Respect for the evolving capacities of children with disability and respect for the right of children with disability to preserve their identities; and
- Active partnerships between services and people with disability, and where appropriate, their families, friends, carers and/or advocates.

The Determination will adopt the Standards as developed and agreed amongst the Commonwealth, States and Territories, and other stakeholders.

The Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

## **Explanation of the provisions**

### **Part 1 – Preliminary**

#### *Name of determination*

Section 1 of the Determination states the name of the Determination, which is the *Disability Services Act (National Standards for Disability Services) Determination 2014*.

#### *Commencement*

Section 2 of the Determination provides that the Determination commences on 1 July 2014.

#### *Revocation*

Section 3 of the Determination revokes the 2013 Determination.

The Determination sets out the standards that are to be observed in the provision of advocacy services for people with disability in addition to employment services and rehabilitation services as included in the 2013 Determination.

#### *Authority*

Section 4 of the Determination specifies the authority for the Determination, which is paragraphs 5A(1)(b), (ba) and (c) and subsection 5A(2) of the Act.

#### *Definitions*

Section 5 of the Determination defines the terms used in the Determination.

#### *Standards*

Subsection 6(1) of the Determination provides that for the purposes of paragraphs 5A(1)(b) and (c) of the Act, the standards set out in Schedule 1 to the Determination, the *Disability Services Standards (FaCSIA) 2007* and the *Disability Services Standards (DEWR) 2007* are the disability employment standards to be observed in the provision of an employment service and the rehabilitation program standards to be observed in the provision of a rehabilitation program.

Subsection 6(2) of the Determination provides that for the purposes of paragraph 5A(1)(ba) of the Act, the standards set out in Schedule 1 of the Determination and the Disability Advocacy Standards 2012 are the disability advocacy standards to be observed in the provision of an advocacy service.

### *Application of standards*

Subsection 7(1) provides that, for subsection 5A(2) of the Act, the key performance indicators to be applied in assessing whether a disability employment standard has been observed are:

- (a) set out in Schedule 1 to the determination in the item specifying the standard and identified by the words 'Indicators of Practice';
- (b) set out in Schedule 1 to the *Disability Services Standards (FaCSIA) 2007* in the item specifying the standard and identified by the initials 'KPI';
- (c) set out in Schedule 1 to the *Disability Services Standards (DEWR) 2007* in the item specifying the standard and identified by the initials 'KPI';
- (d) set out in Part B of the Disability Advocacy Standards 2012 in the item specifying the standard and identified by the words 'Key Performance Indicators'.

Until and including 31 December 2014, the key performance indicators which apply to a service provider under subsection 6 (1) will be determined by the transitional arrangements under section 8.

Subsection 7(2) provides that from 1 January 2015, the standards as set out in Schedule 1 to the Determination are to be observed in the provision of an employment service or rehabilitation program funded under the Act. From 1 January 2015, the key performance indicators which apply to a service provider of an employment service or rehabilitation program are the Indicators of Practice set out in Schedule 1 to the Determination and the *Disability Services Standards (FaCSIA) 2007* and the *Disability Services Standards (DEWR) 2007* cease to apply.

Subsection 7(3) provides that from 1 July 2015, the standards as set out in Schedule 1 to the Determination are to be observed in the provision of an advocacy service funded under the Act. From 1 July 2015, the key performance indicators which apply to a service provider of an advocacy service are the Indicators of Practice set out in Schedule 1 to the Determination and the Disability Advocacy Standards 2012 ceases to apply.

### *Transitional arrangements and revocation*

Section 8 of the Determination sets out transitional arrangements which are to apply in relation to the application of the new standards to employment services or rehabilitation programs until 31 December 2014 or advocacy services until 30 June 2015.

During the period from when the Determination becomes effective to

31 December 2014, service providers of employment services or rehabilitation programs will be able to choose whether to observe the *Disability Services Standards 2007*, or the new standards set out in the Determination. In the absence of any election by a service provider, the disability standards determined under the *Disability Services Standards 2007* (as relevant) will apply.

During the period from when the Determination becomes effective to 30 June 2015, service providers of advocacy services will be able to choose whether to observe the standards set out in the Disability Advocacy Standards 2012 or the standards set out in the Determination. In the absence of any election by a service provider, the standards determined under the Disability Advocacy Standards 2012 will apply.

The reason for providing transitional arrangements in the Determination is for auditing purposes. The transitional arrangements will allow service providers of employment services or rehabilitation programs to choose which standards to be assessed against when audited prior to 31 December 2014 or service providers of advocacy services to choose which standards to be assessed against when audited prior to 30 June 2015. However, all service providers of employment services or rehabilitation programs will be required to be assessed against the standards contained in the Determination in any audit conducted after 1 January 2015. Additionally, all service providers of advocacy services will be required to be assessed against the standards contained in the Determination in any audit conducted after 1 July 2015.

Subsection 8(4) revokes the *Disability Services Standards (DEWR) 2007* and *Disability Services Standards (FaCSIA) 2007* from 1 January 2015. From 1 January 2015, the new standards must be observed in the provision of all employment services and rehabilitation programs funded under the Act.

Subsection 8(8) revokes the Disability Advocacy Standards 2012 from 1 July 2015. From 1 July 2015, the new standards must be observed in the provision of all advocacy services funded under the Act.

## **Explanation of the items in Schedule 1**

Schedule 1 of the Determination sets out the six standards which providers of employment and advocacy services and rehabilitation programs (respectively) funded under the Act are required to observe.

Each standard is intended to address the same three basic elements that underpin the delivery of employment and advocacy services and rehabilitation programs for people with disability – rights for people, outcomes for people and standards for service.

- **Rights for people**

This element highlights individual rights that each standard promotes or supports. This reinforces the Human Rights principles which cover all the standards.

- **Outcome for people**

This element describes what an individual using disability services or supports should experience through the effective achievement of each particular standard.

- **Standard for service**

This element gives an introductory statement of the requirements involved for services to achieve the standard.

### **Indicators of Practice**

Each standard in Schedule 1 has key performance indicators which are to be applied when assessing whether a standard has been observed. The key performance indicators are described as 'Indicators of Practice' and provide guidance on the activities and ways of working that should be in place to support the standard. They describe what employment and advocacy services and rehabilitation programs need to do to meet each standard.

### **Item 1 – Standard 1: Rights**

Item 1 of Schedule 1 specifies Standard 1 of the National Standards for Disability Services. Item 1 sets out the Indicators of Practice to be applied when assessing whether Standard 1 has been observed.

Standard 1 requires that the service or program promotes individual rights to freedom of expression, self-determination and decision making, and actively prevent abuse, harm, neglect and violence.



The intent of this standard is to promote ethical, respectful and safe employment and advocacy service and rehabilitation program delivery and achieves positive outcomes for people with disability. The Human Rights principles are relevant across all the standards, and each standard supports the achievement of basic rights. This standard has a focus on particular rights such as freedom of expression, self-determination, choice, privacy and freedom from discrimination.

The standard recognises people's inherent right to freedom of expression and the right to make decisions about and exercise control over their own lives. It reinforces the fundamental right of people with disability to respect and dignity. This includes the dignity of risk, which is the right to choose to take some risk in life.

The standard acknowledges the risks of harm, neglect, abuse or violence that some people with disability may face when using an employment or advocacy service, rehabilitation program or supports. The standard highlights the roles for employment and advocacy services, rehabilitation programs and supports, families, friends, carers and advocates in reducing these risks. The standard promotes individual rights and individual, service and program responsibility.

The standard emphasises the importance of:

- dignity and respect;
- freedom of expression;
- self-determination;
- choice and control;
- confidentiality and privacy;
- freedom from discrimination, exploitation, abuse, harm, neglect and violence;
- the role of families, friends, carers and advocates in the safeguarding of rights; and
- comprehensive systems to prevent or promptly respond to any breaches of rights.

- **Rights for people**

This standard allows people with disability to have the right to exercise control and choice when they use an employment or advocacy service or rehabilitation program. It also enables them to have the right to dignity of risk and to be free from discrimination or harm.

- **Outcome for people**

This standard allows people with disability to make choices about the employment or advocacy service or rehabilitation program they use, and how they use them. When they use an employment or advocacy service or rehabilitation program, they feel respected and safe.

- **Standard for service**

The service or program promotes individual rights to freedom of expression, self-determination and decision-making and actively prevents abuse, harm, neglect and violence.

## Item 2 – Standard 2: Participation and Inclusion

Item 2 of Schedule 1 specifies Standard 2 of the National Standards for Disability Services. Item 2 sets out the Indicators of Practice to be applied when assessing whether Standard 2 has been observed.

Standard 2 requires an employment or advocacy service or rehabilitation program to work with individuals and families, friends and carers, in order to promote opportunities for meaningful participation and active inclusion in society.

The intent of this standard is to promote the connection of people with disability with their families, friends and chosen communities. It also requires that employment and advocacy services and rehabilitation programs work collaboratively with individuals to enable their genuine participation and inclusion.

This standard recognises the role that employment and advocacy services and rehabilitation programs can play in enabling the citizenship and inclusion of people with disability, and their valued participation in the community, including work and learning. In meeting this standard, employment and advocacy services and rehabilitation programs will actively support and encourage individuals to connect to family and friends and to feel included in their chosen communities. This should be based on individuals' interests, identity, heritage and aspirations over time. Importantly, the focus on 'valued role' needs to be one of the individual's choosing. Employment and advocacy services and rehabilitation programs will also work with the wider community to promote participation and inclusion.

The standard emphasises the importance of:

- promoting a valued role for people with disability in public and private life
- connection to family, friends and chosen communities;
- economic and community participation and associated benefits to the individual and the broader community;
- participation based on an individual's interests, identity, heritage, preferences, goals and aspirations, which may change over time; and
- the role of family, friends, carers, advocates and other organisations in promoting participation and inclusion.

- **Rights for people**

This standard allows people with disability to have the right to participate in their chosen community. It also enables them to have the right to decide how they have contact with family, friends and the community.

- **Outcome for people**

This standard allows people with disability to follow their interests, with the support of their employment or advocacy service or rehabilitation program, family, friends, carers or advocates.

- **Standard for service**

The service or program works with individuals and families, friends and carers to promote opportunities for meaningful participation and active inclusion in society.

### **Item 3 – Standard 3: Individual Outcomes**

Item 3 of Schedule 1 specifies Standard 3 of the National Standards for Disability Services. Item 3 sets out the Indicators of Practice to be applied when assessing whether Standard 3 has been observed.

Standard 3 requires an employment or advocacy service or rehabilitation program and supports to be assessed, planned, delivered and reviewed to build on individual strengths and enable individuals to reach their goals.

The intent of this standard is to promote person-centred approaches to employment and advocacy service and rehabilitation program delivery whereby individuals lead and direct their employment and advocacy service, rehabilitation program and supports.

Employment and advocacy services and rehabilitation programs used by people with disabilities are expected to be flexible and tailored to each individual's strengths and needs, and deliver positive outcomes. This includes an individual's disability as well as the need for the employment or advocacy service or rehabilitation program to competently recognise and respond to issues related to age, gender, culture, heritage, language, faith, sexual identity, relationship status, and other factors.

Achieving individual outcomes requires collaboration between the individual and employment or advocacy service or rehabilitation program to ensure active choice and decision-making. This means a joint effort, based on mutual respect, rather than the service/program making all the decisions. A focus on individual outcomes includes individuals and employment or advocacy services or rehabilitation services working together to review progress against planned and measurable outcomes.

The standard also recognises the potential role of families, friends, carers and advocates in planning, delivery and review, with the individual's consent. It encourages active dialogue between an individual, their family, friends, carers or advocates and an employment or advocacy service or rehabilitation program regarding the nature of the service/program or supports provided, with a focus on the least restrictive options.

The standard emphasises the importance of:

- people with disability leading and directing their supports, with support from family, friends, carers and advocates (with consent);
- service planning, implementation and review being based on individual strengths, needs and life goals;
- collaboration and dialogue;
- responsiveness to diversity; and
- least restrictive options.

- **Rights for people**  
This standard allows people with disability to have the right to lead and direct decisions about their life and how the services they use will support them.
- **Outcome for people**  
People with disability use an employment or advocacy service or rehabilitation program and supports which build on their strengths and support them to reach their life goals.
- **Standard for service**  
Services and supports are assessed, planned, delivered and reviewed to build on individual strengths and enable individuals to reach their goals.

## **Item 4 – Standard 4: Feedback and Complaints**

**Item 4 of Schedule 1 specifies Standard 4 of the National Standards for Disability Services. Item 4 sets out the Indicators of Practice to be applied when assessing whether Standard 4 has been observed.**

Standard 4 requires regular feedback to be sought and used to inform individual and organisation wide employment or advocacy service or rehabilitation program reviews and improvement.

The intent of this standard is to ensure that both positive and negative feedback, complaints and disputes are effectively handled and seen as opportunities for improvement. To meet this standard, employment and advocacy services and rehabilitation programs are required to have clearly communicated and effective systems in place to address and resolve issues raised by individuals, families, friends, carers and advocates.

This standard recognises that robust and timely feedback, including compliments and complaints, is a key driver for continuous improvement. Employment and advocacy services and rehabilitation programs should have a range of opportunities to seek feedback from individuals, ranging from day to day feedback, formal consultation and engagement, regular satisfaction surveys or consumer groups.

In addition, this standard recognises that people need to feel safe to make a complaint or provide negative feedback. This includes being able to access independent mechanisms for complaints, appeals or disputes, without fear of adverse consequences or loss of service. The standard also includes being able to have access to advocates and independent information, support, advice and representation.

The standard emphasises the importance of:

- clear and regular communication about how to provide feedback including how to make a complaint;
- the use of feedback and complaints to continuously drive service improvements;
- regular, proactive and inclusive feedback systems;
- effective complaints management and resolution;
- transparent dispute management; and
- access to independent information, support, advice and representation to ensure people are able to provide feedback or make a complaint.

- **Rights for people**

This standard allows people with disability to have the right and freedom to give positive and negative feedback about all aspects of their supports and employment or advocacy service or rehabilitation program, and expect to see improvements as a result. It also enables them to have the right to independent advice and support to provide feedback or make a complaint when they need it.

- **Outcome for people**

People with disability have a range of ways to speak up about their supports and employment or advocacy service or rehabilitation program, and play an active role in working out how things will improve. It also enables them to know how to access independent support and advice when providing feedback or making a complaint.

- **Standard for service**

Regular feedback is sought and used to inform individual and organisation wide service or program reviews and improvement.



## Item 5 – Standard 5: Service Access

Item 5 of Schedule 1 specifies Standard 5 of the National Standards for Disability Services. Item 5 sets out the Indicators of Practice to be applied when assessing whether Standard 5 has been observed.

Standard 5 requires an employment or advocacy service or rehabilitation program to manage access, commencement and cessation in a transparent, equitable and responsive way.

The intent of this standard is to ensure that access to employment and advocacy services, rehabilitation programs and supports is equitable and transparent; individuals are supported when services are not available and barriers to access are identified and removed. The standard applies across employment or advocacy service or rehabilitation program entry or 'commencement', service/program use and, where relevant, exit or 'cessation' processes.

Access to employment and advocacy services, rehabilitation programs and supports is dependent on a range of factors, including location, an individual's identified needs, and the resource capacity of a service. This standard recognises that individuals should be supported to understand criteria and processes regarding access to, and use of, an employment or advocacy service or rehabilitation program. This also includes clear explanations when an employment or advocacy service or rehabilitation program is not available to an individual, and referral to alternative service options as appropriate.

The standard emphasises the importance of:

- accessible information responding to diversity of need;
- transparent and consistently applied service commencement and cessation processes;
- information provision and active referral when an employment or advocacy service or rehabilitation program is not available;
- the value of partnerships with other agencies and relevant community members to enable referral; and
- regular reviews to identify and respond to any potential barriers to access;

- **Rights for people**

This standard allows people with disability to have the right to access an employment or advocacy service or rehabilitation program based on equitable and transparent criteria, and support for referral when an employment or advocacy service or rehabilitation program is not available.

- **Outcome for people**

People with disability understand what the employment or advocacy service or rehabilitation program offers, access to the employment or advocacy service or rehabilitation program is equitable and they are supported with other options when they cannot access an employment or advocacy service or rehabilitation program.

- **Standard for service**

The service or program manages access, commencement and cessation in a transparent, equitable and responsive way.

## Item 6 – Standard 6: Service Management

Item 6 of Schedule 1 specifies Standard 6 of the National Standards for Disability Services. Item 6 sets out the Indicators of Practice to be applied when assessing whether Standard 6 has been observed.

Standard 6 requires an employment or advocacy service or rehabilitation program to have effective and accountable service management and leadership to maximise outcomes for individuals.

The intent of this standard is to ensure that services are managed effectively and efficiently. It requires employment and advocacy services and rehabilitation programs to be person-centred, and to ensure flexibility to respond to individual strengths and needs. It also requires employment and advocacy services and rehabilitation programs to promote a culture of continuous improvement as a basis for quality service delivery.

A range of systems and processes are required to support quality service/program provision, and these are reflected in the standard. The standard refers to the active involvement of people with a disability, families, friends, carers and advocates, in employment and advocacy service, rehabilitation program and supports planning, delivery and review. Support for organisational learning and skills development is considered integral to a culture of quality service/program delivery and continuous improvement. This includes support and training for staff and volunteers. Additionally, service/program delivery that is reflective in practice and based on contemporary evidence will support the best possible outcomes for individuals.

Adherence to workplace related legislative and regulatory frameworks is an expectation within the standard. This will support accountability through sound governance and enable employment and advocacy services and rehabilitation programs to be delivered in a safe environment by appropriately qualified and supervised personnel.

The standard emphasises the importance of:

- sound governance and management in all aspects of employment and advocacy service and rehabilitation program planning, development and provision;
- clear communication to staff, people with disability and other stakeholders;
- continuous improvement and evidence based practice;
- a range of methods for active participation of people with disability and their family, friends, carers and advocates in planning, delivery and review at the individual, service and organisational levels, and
- compliance with workplace related legislation and regulation including Work Health Safety, human resource management and financial management.

- **Rights for people**

This standard allows people with disability to have the right to employment or advocacy services or rehabilitation programs, and supports that are effectively managed, regularly reviewed, accountable and contemporary.

- **Outcome for people**

The strengths and needs of people with disability are effectively supported through soundly managed employment or advocacy services or rehabilitation programs.

- **Standard for service**

The service or program has effective and accountable service management and leadership to maximise outcomes for individuals.

## **Regulation Impact Statement**

A Regulation Impact Statement is not required for this Determination because it is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the *Disability Services Act (National Standards for Disability Services ) Determination 2014* (the Determination)**

The purpose of this Determination is to give effect to the National Standards for Disability Services 2013 by determining that these standards are the disability employment standards, rehabilitation program standards and advocacy standards which are to be observed in the provision of employment services, rehabilitation programs and advocacy services funded under the *Disability Services Act 1986*.

The National Standards for Disability Services 2013 have been developed to promote and drive a nationally consistent approach to improving the quality of services for persons with a disability, their families and carers across Australia. They focus on rights and outcomes for people with disability. The National Standards for Disability Services as set out in the Determination, reflect the National Standards for Disability Services 2013 which were recently developed and agreed amongst the Commonwealth, States and Territories.

Transitional arrangements will allow service providers of employment services or rehabilitation programs to elect whether to observe either the standards determined under the *Disability Services Standards (DEWR) 2007* and *Disability Services Standards (FaCSIA) 2007* (as relevant) or the new National Standards for Disability Services, until 31 December 2014. The Determination will revoke the *Disability Services Standards (DEWR) 2007* and the *Disability Services Standards (FaCSIA) 2007* from 1 January 2015.

Transitional arrangements will allow service providers of advocacy services to elect whether to observe either the standards determined under the *Disability Services Standards (Advocacy Standards) (FaHCSIA) Determination 2012* or the new National Standards for Disability Services, until 31 June 2015. The Determination will revoke the *Disability Services Standards (Advocacy Standards) (FaHCSIA) Determination 2012* from 1 July 2015.

## **Background to the National Standards for Disability Services 2013**

Under the National Disability Agreement (formerly, the Commonwealth State Disability Agreement), the Disability Services Ministers in jurisdictions throughout Australia endorsed an interim National Quality Framework (NQF) in 2009. To support the implementation of the interim NQF, the Disability Services Ministers also endorsed a review of the National Standards for Disability Services.

The National Standards for Disability Services were first produced in 1993. They were revised in 2013 to better reflect current language, philosophies and service models, particularly the move towards individualised supports and person-centred service delivery.

The aim of the NQF is to promote and drive a nationally consistent approach to improving the quality of services, with a focus on improving outcomes for people who use these services. A key feature of the interim NQF is to have quality management systems in place, with organisations in every jurisdiction being required to conform with a set of legislated National Standards for Disability Services in order to receive government funding.

The revised National Standards for Disability Services form the backbone of the NQF, and remain the primary means through which quality standards in disability services will be translated into everyday practice across the disability sector. It is anticipated that the revised National Standards for Disability Services and the final version of the NQF will be fully aligned.

### ***Consultation in relation to the National Standards for Disability Services 2013***

In 2010, people with a disability, their family and carers, service providers and advocates provided feedback on the Disability Service Standards, with comprehensive consultation led by the Disability Studies and Research Centre of the University of New South Wales. Consultation focused on awareness and use of the standards, and language, meaning, relevance and utility of the standards.

Based on this feedback, the National Standards were revised with a new draft version tested nationally in 2012. People with disability, family, friends and carers, service providers, advocacy organisations and quality bodies informed the development of the revised National Standards.

The National Standards for Disability Services 2013 are:

- **Rights:** The service promotes individual rights to freedom of expression, self-determination and decision-making and actively prevents abuse, harm, neglect and violence.

- **Participation and Inclusion:** The service works with individuals and families, friends and carers to promote opportunities for meaningful participation and active inclusion in society.
- **Individual Outcomes:** Services and supports are assessed, planned, delivered and reviewed to build on individual strengths and enable individuals to reach their goals.
- **Feedback and Complaints:** Regular feedback is sought and used to inform individual and organisation-wide service reviews and improvement.
- **Service Access:** The service manages access, commencement and cessation in a transparent, equitable and responsive way.
- **Service Management:** The service has effective and accountable service management and leadership to maximise outcomes for individuals.

Each standard is intended to address the same basic elements:

- **Rights for people**

This element highlights the individual rights that each standard promotes or supports. This reinforces the Human Rights principles which cover all the standards.

- **Outcomes for people**

This element describes what an individual using disability services or supports should experience through the effective achievement of each particular standard.

- **Standards for service**

The standards for service give an introductory statement of the requirements involved for services to achieve each standard.

### **Indicators of Practice**

Associated with each standard there is a set of Key Performance Indicators (described as “Indicators of Practice”). The Indicators of Practice provide guidance on the activities and ways of working that should be in place to support the standard. They describe what services need to do to meet each standard.

### **Human rights implications**

The Determination aims to promote the human rights of people with disability by requiring providers of employment services, rehabilitation programs and advocacy services to observe the National Standards for Disability Services in their provision of these services/programs to people with disability.

This furthers the objects of the *Disability Services Act 1986* which includes assisting persons with disabilities to receive services necessary to enable them to work towards full participation as members of the community.

The Australian Government's commitment to international human rights relevant to persons with disability is set out in the Convention on the Rights of Persons with Disabilities.

The human rights set out in the Convention on the Rights of Persons with Disabilities, which the National Standards for Disability Services, as set out in the Determination, addresses are:

- respect for the inherent dignity, independence of persons and individual autonomy, including the freedom to make one's own choices;
- non-discrimination;
- full and effective participation and inclusion in society;
- respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- equality of opportunity;
- accessibility;
- equality between men and women;
- active partnerships between services and people with disability, and where appropriate, their families, friends, carers and/or advocates; and
- respect for the evolving capacities of children with disability and respect for the right of children with disability to preserve their identities.

As such, implementation of the National Standards for Disability Services under the Determination promotes the human rights of persons with disabilities, by requiring providers of employment services, rehabilitation programs and advocacy services to observe the National Standards for Disability Services in their provision of these services/programs, as set out in the Convention on the Rights of Persons with Disabilities.

### **Conclusion**

The Determination is compatible with human rights because it advances the protection of rights for people with disability.

**Mitch Fifield, Assistant Minister for Social Services**