

# Disability Inclusion Bill 2023 (ACT)

Submission to Ms Suzanne Orr MLA,  
Member for Yerrabi and Government Whip

**20 October 2023**



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## Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.<sup>1</sup>

The ALA office is located on the land of the Gadigal people of the Eora Nation.

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<sup>1</sup> [www.lawyersalliance.com.au](http://www.lawyersalliance.com.au).

## Introduction

1. The ALA is grateful for the invitation from Ms Suzanne Orr MLA to provide input on the Disability Inclusion Bill 2023 ('Bill'), which is in draft form as prepared by the Parliamentary Counsel's Office.
2. The ALA welcomes the intentions of this Bill, which includes to "promote disability inclusion in the ACT by recognising that people with disability are an important and valuable part of the ACT community",<sup>2</sup> and to "enforce institutional change and help remove barriers for people with a disability in our community".<sup>3</sup>
3. We endorse the proposed object, important concepts and principles of this Bill,<sup>4</sup> which importantly draw on the rights and expectations outlined in the United Nations' *Convention on the Rights of Persons with Disability*, the *Human Rights Act 2004 (ACT)*, the *Disability Services Act 1991 (ACT)* and the *Discrimination Act 1991 (ACT)*.
4. In particular, the ALA welcomes the shift in language that is evident in this Bill in relation to the way disability and disability inclusion are defined. The ALA supports an approach that grounds reform in the social model of disability and orients its goals of disability justice through the lens of structural disadvantage.
5. The remainder of this submission will focus on the importance of prioritising justice, which the Bill achieves by identifying justice as one of five priority inclusion areas named in the Bill,<sup>5</sup> as well as presenting some recommendations regarding the foreshadowed consultations with people living with a disability envisaged by this Bill.<sup>6</sup>

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<sup>2</sup> Explanatory Statement, Disability Inclusion Bill 2023 (ACT) 2.

<sup>3</sup> Suzanne Orr MLA, 'The ACT expected to have a Disability Inclusion Bill introduced before the end of 2023' (Media Release, 10 August 2023) <[www.suzanneorr.com.au/campaigns/disability-inclusion-bill-2023/media-release](http://www.suzanneorr.com.au/campaigns/disability-inclusion-bill-2023/media-release)>

<sup>4</sup> Draft, Disability Inclusion Bill 2023 (ACT) Part 2 and Schedule 1.

<sup>5</sup> Ibid Part 3.

<sup>6</sup> Ibid cl 10, cl 14 and Part 5.

## Prioritisation of justice

6. The ALA supports strategies and proposals which enhance access to justice for people living with a disability. ALA members are committed to safe, appropriate and equal access to justice for every person who lives with a disability.
7. As such, the ALA endorses the Bill's provisions which ensure justice is a "priority inclusion area" for which a disability inclusion strategy will be made.<sup>7</sup>
8. Relatedly, the ALA supports the establishment of a Disability Advisory Council which would "advise the Minister about issues affecting people with disability", including about the National Disability Insurance Scheme (NDIS).<sup>8</sup> ALA members have found significant access to justice issues for their clients within the NDIS and its related processes, especially during appeals processes. This must be addressed as a matter of urgency.
9. The ALA also offers the following resources to assist with the further development of and the ultimate implementation of the Bill's provisions within the justice context:
  - a. The ALA's submission to the ACT Legislative Assembly's Education and Community Inclusion Committee regarding access to services and information in Auslan:<sup>9</sup>
    - The first part of this submission unpacks the terms 'access to justice' and 'access to the justice system' mean in practice.
    - The second part of this submission addresses the international, national and local human rights obligations underpinning the necessity to ensure equal access to legal processes.
    - The final section of this submission offers some practical suggestions to ensure safe, appropriate and equal accessibility.
    - Attached to the ALA's submission to the ACT Legislative Assembly's Education and Community Inclusion Committee is an article entitled 'Sign of

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<sup>7</sup> Ibid cl 9(1).

<sup>8</sup> Ibid cl 18(1)(a)(i).

<sup>9</sup> Australian Lawyers Alliance, Submission to the ACT Legislative Assembly's Education and Community Inclusion Committee, *Inquiry into access to services and information in Auslan* (28 July 2022) <[www.lawyersalliance.com.au/documents/item/2316](http://www.lawyersalliance.com.au/documents/item/2316)>.

the times: Communication courtesy for d/Deaf equality before the law’ by Aneita McGregor and Asphyxia. This article first appeared in the July/August 2022 edition of *Precedent*, the ALA’s bi-monthly journal. The ALA acknowledges the experiences of d/Deaf individuals in particular that have been shared in McGregor and Asphyxia’s article in relation to accessing the justice system, and strongly endorses the authors’ recommendations for improving access to services, including judicial processes.

b. The Victorian Law Reform Commission’s reported entitled *Inclusive Juries — Access for People Who Are Deaf, Hard of Hearing, Blind or Have Low Vision*, which the ALA endorsed earlier this year:<sup>10</sup>

- In its report, the Victorian Law Reform Commission recommended changes to the law and practice to enable people who are deaf, hard of hearing, blind or have low vision to serve on juries.<sup>11</sup>
- As part of our endorsement of that report, the ALA also noted a decision from the Supreme Court in the ACT made on 12 December 2022 which paves the way for greater involvement and inclusion in jury duty for people who need an Auslan interpreting service.

## Recommendations regarding the foreshadowed consultations

10. Whilst the Bill’s goals and proposed approach are to be commended, the ALA submits that thought could be given to the way any Disability Advisory Council is formulated, or indeed the way the foreshadowed consultations with people living with a disability are to be undertaken. As this Bill appreciates,<sup>12</sup> people living with a disability are diverse, and disabilities themselves are variable in nature.

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<sup>10</sup> Australian Lawyers Alliance, ‘Govt urged to implement recommendations allowing equal access to jury duty’ (Media Release, 22 May 2023) <[www.lawyersalliance.com.au/news/govt-urged-to-implement-recommendations-allowing-equal-access-to-jury-duty](http://www.lawyersalliance.com.au/news/govt-urged-to-implement-recommendations-allowing-equal-access-to-jury-duty)>.

<sup>11</sup> Victorian Law Reform Commission, *Inclusive Juries — Access for People Who Are Deaf, Hard of Hearing, Blind or Have Low Vision* (Report, July 2022, published in May 2023) <[www.lawreform.vic.gov.au/publication/inclusive-juries-report](http://www.lawreform.vic.gov.au/publication/inclusive-juries-report)>.

<sup>12</sup> See, eg, Draft, Disability Inclusion Bill 2023 (ACT) cl 19(4).

11. This Bill is ambitious and would be well-served by further consideration of its intent to consult with people living with a disability, perhaps by identifying key 'areas' of disability where the identified "priority inclusion areas" raise variable considerations depending on the nature of a person's disability.
  - a. The ALA submits that ensuring the foreshadowed consultations move beyond a one-size-fits-all approach, as the Bill itself endeavours to do, supports these priorities.
12. The ALA recommends that further stakeholder input should be sought at this stage of the Bill's development to identify key areas of disability to make the Bill's proposed consultation framework more meaningful. For example, a person living with a disability who uses mobility aids as a result of a motor neuron disease would understandably have a different view on access needs – both physically and socially – than a neurodiverse person, or others with an intellectual disability, would have.
13. The ALA contends that ensuring that the responsible Minister turns their mind to the appropriate cross-section of the disability community with whom to consult would ensure any consultations are meaningful and impactful in the manner the Bill clearly intends.

## Conclusion

14. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input into the draft of the Disability Inclusion Bill 2023.
15. The ALA is available to provide further assistance to Ms Suzanne Orr MLA on the issues raised in this submission.



**Hassan Ehsan**  
**President, ACT Branch Committee,**  
**Australian Lawyers Alliance**