



# Disability Rights Advocacy Service Inc

Safeguarding and promoting the rights and  
interests of people with disability, their families  
and carers

## DISABILITY RIGHTS ADVOCACY SERVICE POSITION ON A HUMAN RIGHTS ACT IN SOUTH AUSTRALIA

**JUNE 2023**

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## Acknowledgement of Country



The Disability Rights Advocacy Service Inc acknowledges that this submission was completed on Kaurna Land. We pay our respects to Elders past, present and emerging. We recognise the continuing relationship with the lands and seas and connection to culture.

Kaurna Miyurna yaiya yarta-mathanya Wama Tarntanyaku, parnaku yailtya, parnaku tapa puru purruna. Kaurna Miyurna ithu yailtya purruna, yarta kuma puru martinthi, puru warri-apinthi, puru tangka martulayinthi.

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## Background

Disability Rights Advocacy Service (DRAS) is part of a national network of disability advocacy organisations funded by the Australian Government Department of Social Services to provide individual advocacy, individual capacity-building and systemic advocacy for persons with disability. We service three areas in South Australia, representing people who reside within greater metropolitan Adelaide, the Adelaide Hills and Murray Bridge, the South-East and Coorong region, and the Riverland.

As part of our work, we advocate for the rights of people with disability across a range of areas including disability support services, social security, education, housing, health, among other things. We also advocate for people in closed settings, such as individuals under guardianship or administration, or who are subject to inpatient or community treatment orders.

As an organisation we strive to be inclusive and intersectional and so we support clients with disability who face barriers due to their socio-economic status, ethnicity, cultural background, gender identity, sexual orientation, or religious expression, among other things. We argue that South Australia's current legislation is insufficient in upholding the rights of persons with disability. We support the call for a parliamentary inquiry to investigate a Human Rights Act for South Australia.

## Current UN Conventions and Australian legislation

Australia is a signatory to the United Nations *Universal Declaration of Human Rights*, as well as the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*.

Human Rights legislation is already in place in the Australian Capital Territory (2004), Victoria (2006) and Queensland (2019). These laws are based on the UN Covenants.

Federally there are anti-discrimination acts covering disability, race, sex and age, in which individuals can lodge complaints to the Australian Human Rights Commission (AHRC). In South Australia we have the *Equal Opportunity Act 1984* which gives individuals the right to lodge complaints to the Office of the Commissioner for Equal Opportunity (OCEO).

However, there are significant barriers in the ability for anti-discrimination law to proactively advance human rights in Australia. For example, the *Disability Discrimination Act 1992 (Cth) (DDA)* was passed so Australia could implement its obligations under the *Convention on the Rights of Persons with Disabilities (CRPD)*. The issue is that the *DDA* is a complaints-based mechanism rather than a compliance-based mechanism. This means that there is a focus on individuals bringing complaints to get a just outcome if they believe there has been a violation of their rights – rather than putting obligations on government to proactively consider human rights in their decision-making. Current anti-discrimination legislation in Australia therefore puts the onus largely on the person whose rights have allegedly been violated, which can be an exhaustive, time-consuming and sometimes costly process.

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## DRAS Policy Position

DRAS has signed our support for the statement [Proposing a Human Rights Law for South Australia](#) along with 72 organisations and 80 committed South Australians, which calls for a parliamentary inquiry into a Human Rights Act for South Australia. An inquiry would give the South Australian community the opportunity to be involved in discussions about what a Human Rights Act should include and to debate the merits of the proposal.

DRAS considers that having a Human Rights Act in South Australia will help to:

- 1) Address and alleviate inequality and discrimination against members of our community, particularly for people with disabilities;
- 2) Ensure that government must consider the human rights implications in their decision-making processes, particularly how the decisions impact on people with disabilities;
- 3) Improve the accessibility and quality of government and social services;
- 4) Identify and address systemic social disadvantage;
- 5) Allow for broader rights-awareness and education in our community.

DRAS notes that a Human Rights Act in South Australia should promote rights based on:

- Equality, legal rights and liberty
- The right to assembly
- Disability and accessibility
- Ethnicity and ancestry
- Culture and language
- Migration status
- Religious expression
- Gender identity
- Sexual orientation
- Equitable access to healthcare and mental health services
- Socio-economic status, such as the ability to access to secure housing
- A living wage or adequate social safety net
- Equitable access to essential services regardless of geographic location
- Access to a sustainable and healthy environment.

## Recommendations

- That the South Australian Government opens a parliamentary inquiry into whether the State Government should legislate a Human Rights Act in SA;
- That the inquiry involves broad consultation from individual community members, organisations and relevant legal bodies;
- That the inquiry covers what rights should be included in a Human Rights Act in SA, what human rights legislation seeks to achieve, and what lessons can be learned from other jurisdictions that currently have human rights legislation.

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