

Information sheet 3

Access to disability services

Disability Act 2006

Introduction

The *Disability Act 2006* ('the Act') commenced on 1 July 2007.

The disability service system provides supports for people with a disability, in addition to those available to the broader community. The Act outlines an approach to enable access to disability services in a way that is simple and consistent for all people with a disability.

How does the Disability Act define disability?

The Act does not alter the target group for access to disability services from the former legislation. The Act uses a functional rather than diagnostic definition of disability. It requires that a person have an impairment which may be sensory, physical, neurological or acquired brain injury. The Act also states that the result of the impairment must be a substantially reduced capacity in at least one of the areas of self-care, self-management, mobility or communication and the person must require ongoing or long term episodic support. The definition of disability also includes an intellectual disability or developmental delay.

Further information regarding the target group for disability services can be obtained by contacting staff from Intake and Response at the Department of Human Services on 1800 783 783.

What about people with a dual disability?

The Act does not define mental illness as a disability. If however, a person has a co-existing physical, sensory or neurological impairment, an acquired brain injury or an intellectual disability, as well as a mental illness, then the person is able to access disability services.

What about children under the age of six years?

The Act provides a definition of developmental delay which applies to children under the age of six years.

Early childhood intervention services are provided through the Office for Children and Early Childhood Development (OCECD), Department of Education and Early Childhood

Development. In most circumstances a family with a child with a developmental delay will be able to access appropriate support through a referral to OCECD. Families may consider requesting support from disability services if they have a child under school age who has high multiple and complex support needs that require supports that are additional to those usually available through existing services or require a range of coordinated services.

How does a person access disability services?

The Act does change the way people with a disability access disability services. The Act aims to provide greater choice, particularly for people with an intellectual disability, as to which disability service providers can be asked for support.

Does a person need to be registered to access services?

It is no longer a requirement for a person with an intellectual disability to be 'registered' with the Department of Human Services before receiving a service.

Does a person still need to have a formal assessment before accessing services?

It is not a requirement for a person to be formally assessed to determine whether a person has a disability prior to accessing disability services. A formal assessment will only occur in circumstances where the determination of disability cannot be made without this information. Written advice confirming that a person has a disability is also no longer required. This will make the access process more streamlined and ensure that resources are used on service provision rather than unnecessary assessments.

Who determines whether a person has a disability?

Under the Act, disability service providers are able to undertake an assessment of whether a person has a disability. The assessment process is not meant to be

onerous; rather the disability service provider will gather the minimum information required to make a decision as to whether a person meets the definition of disability.

Disability service providers will ask for information from the person, their family or carer and may ask for school reports, doctors' letters, or other information to help make the decision.

Once the disability service provider confirms a person has a disability, the service will consider the needs of the person against the priority of access criteria.

What support is available to disability service providers if they are not confident in determining that a person has a disability?

Disability service providers are not expected to perform formal assessments if they were not required to do this under the former legislation. Strategies to promote consistency, and to support less experienced disability service providers, have been developed with regions for the first twelve months of implementation of the new access arrangements. Disability service providers are also encouraged to seek assistance from the Department of Human Services, Client Services Intake and Response Teams if they are unsure about the new process.

Can a decision be reviewed if a disability service provider determines that a person does not have a disability?

Section 50 of the Disability Act states that if a disability service provider refuses a request for services because the disability service provider is of the opinion a person does not have a disability, the person seeking services has a right to ask the Secretary of the Department of Human Services to decide whether they have a disability.

Section 50(6) states the Secretary must advise the person within 14 days of making a decision of a) the decision and, b) that the person can apply to the Victorian Civil and Administrative Tribunal (VCAT) for a review of the decision. An application to VCAT should be made within 28 days of the person being notified by the Secretary.

On reviewing the decision, VCAT may

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

How is priority for access to services determined?

The Act states that Disability Services must be open and transparent about how decisions are made about who can gain access to disability services.

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

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

1. Reviewing the suitability of the disability service system

In some circumstances to ensure that a person with a disability receives the right supports to meet their needs, services outside of the disability service system may be more appropriate.

For example, a person with a disability who has additional needs such as mental health issues could be better supported in the mental health service system.

2. Applying priority indicators

Where it has been determined that a person's needs could be best met by the disability service system, priority indicators have been developed to assist all disability service providers in making decisions about who gets access to services. These indicators must be used by all disability service providers in determining who is a priority for access to disability supports.

3. Applying priority status criteria at program specific levels

For people considered a priority for disability supports, specific priority status criteria will then be applied by the service or program allocating the resources,

For example, the Disability Support Register has priority status criteria for making decisions about who is a priority for the allocation of resources.

What happens for people who are already getting disability services?

In most circumstances, the situation will not change under the Act, until the person may want to access a new disability service.

For more information about the Office for Disability:

Disability Services Division,
Department of Human Services

Telephone: **1300 366 731**
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