



## Senator the Hon Simon Birmingham

Minister for Finance  
Leader of the Government in the Senate  
Senator for South Australia

REF: MS21-000736

Senator the Hon Concetta Fierravanti-Wells  
Chair  
Senate Standing Committee for the  
Scrutiny of Delegated Legislation  
Parliament House  
CANBERRA ACT 2600

Dear Senator ~~Fierravanti-Wells~~ *Connie,*

I refer to your letter dated 14 July 2021 seeking information regarding the appropriateness of establishing the Commonwealth Disability Support for Older Australians (DSOA) program in primary legislation (table item 470 in Part 4 of Schedule 1AB to the *Financial Framework (Supplementary Powers) Regulations 1997*).

The Minister for Health and Aged Care, the Hon Greg Hunt MP, has provided the following advice, on behalf of the Minister for Senior Australians and Aged Care Services, Senator the Hon Richard Colbeck, who has policy responsibility for the DSOA program, in relation to the Committee's request for information.

In 2019, the Department of Health undertook a review of the Commonwealth Continuity of Support (CoS) Programme. The CoS Programme delivered services to older Australians who were receiving specialist disability services when the National Disability Insurance Scheme (NDIS) was rolled out in their area but were ineligible for the NDIS due to their age (as outlined in respective Bilateral Agreements between the Commonwealth and each state for the transition to a full NDIS). The review identified the potential for several improvements and resulted in the introduction of the replacement DSOA program from 1 July 2021.

Once fully rolled out, the DSOA program will deliver improved parity with the NDIS by changing the way services are delivered to be more individualised and align funding levels for in-scope services to those used under the NDIS. This ensures that DSOA clients are not disadvantaged over NDIS participants, as service providers will receive the same amount of funding for each in-scope service type.

The DSOA program currently supports just under 3,000 older people with disability. To be eligible for DSOA, a person must have been receiving services under the CoS Programme. As the NDIS is now fully rolled out, access to CoS and DSOA is now closed to new entrants. Over time, as people move to the aged care system, or through death, the number of people supported by DSOA will reduce to zero.

While significant funding is attached to the program over the short to medium term, this is due to the current client base being high needs. In this regard, the DSOA program is an important program as it maintains disability support for a specific cohort of significantly vulnerable Australians, including supporting clients with complex needs to live at home or in a supported accommodation and to access increased support as their needs change.

However, DSOA is not a structural part of the Commonwealth's response to disability services. In the long term, people with similar levels of functional impairment over their lifetime are likely to become NDIS participants and will remain in the NDIS beyond age 65, unless they elect to transfer to the aged care system.

The legislative environment for DSOA is unchanged from the legislative environment used for the predecessor CoS Programme. Primary legislation is not considered necessary when compared to other programs such as the NDIS. This is on the basis that DSOA program funding is delivered through grants, there is no ongoing eligibility criteria, and that the program has a relatively short life span (as the number of people supported by the DSOA program will eventually reduce to zero).

Notwithstanding this, providers under the DSOA program are overseen by the NDIS Quality and Safeguards Commission. Jurisdiction was extended to DSOA on 29 June 2021 through the *National Disability Insurance Scheme (NDIS Provider Definition) Amendment Rules 2021*.

I have copied this letter to the Minister for Health and Aged Care and the Minister for Senior Australians and Aged Care Services.

Thank you for bringing the Committee's comments to the Government's attention.

Yours sincerely

**Simon Birmingham**

27 July 2021