



25 August 2010

Naomi Bleeser
Committee Secretariat
Senate Community Affairs References Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email to: community.affairs.sen@aph.gov.au

Dear Ms Bleeser

Inquiry into Planning Options and Services for People Ageing with a Disability

The Law Institute of Victoria (LIV) welcomes the opportunity to make this submission to the Senate Community Affairs References Committee (the Committee) *Inquiry into Planning Options and Services for People Ageing with a Disability* (the Inquiry).

The LIV is Victoria's peak body for lawyers and those who work with them in the legal sector, representing over 14,500 members. The LIV's Elder Law Section and Disability Law Committee are made up of private practitioners, lawyers with community legal services and government agencies with extensive experience in elder law and disability issues. The LIV regularly makes submissions on issues affecting older people and people with a disability.

The LIV welcomes the broad terms of reference for the Inquiry, which includes a review of planning options and services for people with a disability to ensure their continued quality of life as they, and their carers, age.

The LIV has sought feedback from members of its Elder Law Section and Disability Law Committees who work closely people with a disability who are affected by the service environment as they age. As such, they have been able to provide some general observations about how this works in practice and identify inadequacies in services currently available to people ageing with a disability, and their carers.

The following issues have been identified and reported by LIV practitioners in the course of their practice and experience:

1. Ageing residents living in congregate care units¹ may wish to stay at home during the day more often as they get older. However, some residential services are not staffed during the day as traditionally, residents are sent to day placements. Consequently, residents are forced to continue day placements when they would prefer to stay at home.

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¹ A concept of supported living (as distinct from supported residential services) where small groups of people live together within the same centre or unit. <http://www.disabilitycouncil.nsw.gov.au/portfolios/accomodation/models.html>

2. People with disabilities are now living longer and at times with significant co-morbidities. Health care planning for this group is difficult. Medical practitioners may find themselves having to determine whether certain interventions are futile or unduly burdensome for the individual. Whilst this could happen for any person, it is more difficult when that person is unable to participate in the decision-making process that may lead to their death.
3. Some people with disabilities are developing dementia earlier than their peers who do not have a disability. This means that they may enter the aged care sector at a younger age. They may or may not find suitable aged care facilities to accommodate them as they may be physically strong but have a cognitive disability.
4. People with disabilities are usually in a more financially disadvantaged position than their peers without a disability. This is for various reasons, but usually it is due to the difficulty in maintaining full time employment whilst having to meet the cost of their disability along with managing normal living expenses. This leads to fewer options in relation to aged care and they are more likely to be part of the *pension-only*² sector.
5. Older people who have a mental illness may not be welcome in aged care facilities which are not set up for specialised care. Many may find themselves in other forms of housing such as rooming houses, limited supported residential services and caravan parks. These people might be fearful and find it difficult to feel safe in these types of accommodation. This can lead to financial exploitation of their vulnerability, and sometimes physical and sexual abuse.
6. Some people with a disability live with their parents who are ageing and may need to enter the aged care system. Whilst it may be that the person with a disability can remain in the home as it will be exempt from being part of the asset for the determination of the aged care bond, there is no-one to provide care for them at that home.
7. Some health issues relating to ageing are not always easily identified because the person with a disability might not have the ability to communicate (for example, a loss of vision due to cataracts).
8. Older people in group homes cannot remain there as they grow older as the home may be unable to provide nursing care (as distinct from personal care).
9. Where a person is on the list for disability services³, they may not be able to receive those services if they are advancing toward the age of 65, as it is commonly believed that they will be picked up by the aged care system at that age.

Yours sincerely

Steven Stevens
President
Law Institute of Victoria

² Those with little or no disposable income. See also pension-level Supported Residential Accommodation Services: http://www.portphillip.vic.gov.au/default/AgeingandDiversityPolicyandPartnershipsMultimedia/SRS_Brochure.pdf

³ Victorian State Disability Plan Implementation Plan http://www.dhs.vic.gov.au/disability/state_disability_plan