

An overview of the *Disability Services Act 2006*

Safeguarding rights and improving services

The *Disability Services Act 2006* was passed by the Queensland Parliament on 29 March 2006, and took effect on 1 July 2006.

The new Act provides the strongest foundation Queenslanders have ever had for promoting the rights of people with a disability, increasing their wellbeing and encouraging their participation in the life of the community. It includes measures to safeguard the rights and safety of people with a disability and combines with existing systems to improve the quality of services they receive.

Human rights are everyone's right

The *Disability Services Act 2006* is based on an expanded declaration of the rights of people with a disability.

The Act retains the existing rights of people with a disability from the previous legislation, stating:

All people with a disability have the same human rights as other members of society and should be empowered to exercise their rights.

As well as affirming these rights, the Act articulates some specific rights for people with a disability. These include rights when using disability services, such as the right to receive services:

- in a way that respects the confidentiality of personal information
- in a safe, accessible built environment appropriate to the person's needs.

The Act now specifically recognises the right to live a life free from abuse, neglect or exploitation.

The new legislation encourages all Queenslanders to promote inclusive principles within their own communities.

Access to services

People with a disability have the right to equal access to services available to other members of the Queensland community.

The service delivery principles in the *Disability Services Act 2006* encourage service providers to consider the needs of people with a disability when they design and deliver services.



Safeguarding the rights of people with a disability

The *Disability Services Act 2006* strengthens the rights of people with a disability by introducing measures to safeguard those rights and improve the quality of services funded by Disability Services Queensland.

These measures include:

- recognition of service standards and a process for certification which occurs through the Disability Sector Quality System
- pre-approval of service providers before they seek funding from Disability Services Queensland
- criminal history checks for staff working in services funded by Disability Services Queensland.

The Act also enables Disability Services Queensland to respond rapidly and effectively to any concern for the safety of people with a disability receiving services funded by the department.

Background to the legislation

Disability Services Queensland is responsible for providing leadership in disability services and programs for people with a disability and their families and carers. Some services are delivered by Disability Services Queensland itself, while others are delivered by non-government organisations funded by Disability Services Queensland. In the legislation, these are referred to as 'funded non-government service providers'.

In 2004–05 more than 16 000 Queenslanders with a disability received services delivered or funded by Disability Services Queensland.

The past decade has brought significant change in the Queensland disability sector, with the development of new service approaches, community engagement processes and record increases in Queensland Government funding for disability services. The *Disability Services Act 2006* was developed in response to these changes. It provides a contemporary framework for delivering services and meeting community expectations of quality and accountability.

How the new legislation was developed

The Queensland Government began a review of the *Disability Services Act 1992* in 2002. Initial consultation began that year, followed by major community consultations in 2003 and 2004.

Through consultation, the Queensland community asked for legislation that:

- reaffirmed the rights of people with a disability
- set out requirements for disability service providers
- provided greater safeguards for people with a disability when they receive services.

In May 2005, the Queensland Government responded by announcing a package of legislative reforms to strengthen and safeguard the rights of people with a disability and support continuous improvement in the quality of services they receive. These reforms form the basis of the *Disability Services Act 2006*.



Key impacts of the legislation

Focus on quality

Disability Services Queensland will continue to implement the Disability Sector Quality System as its main means of supporting quality service delivery.

The *Disability Services Act 2006* provides a legislative basis for the Disability Sector Quality System and strengthens its role in ensuring continuous improvement in services and a client-focused approach.

Strengthening safeguards

Pre-approval of service providers

Under the new Act, non-government service providers must obtain 'approved service provider status' before they can apply for funding from Disability Services Queensland. To gain this, organisations must achieve certification under the Disability Sector Quality System, or give a commitment to implement the system and work towards certification.

The pre-approval process is designed to ensure that service providers have the capacity to provide accountable, sustainable and viable services to people with a disability.

Service providers that were receiving recurrent funding from DSQ prior to 1 July 2006 are considered 'approved' under the new legislation. However, they will still need to achieve certification by July 2008, in line with the timeframe for implementing the Disability Sector Quality System.

Criminal history screening

Criminal history screening is designed to increase the safety of people with a disability when they are accessing services.

Under the new Act, workers and volunteers in funded non-government disability services must undergo criminal history screening every two years. The department will conduct this screening in response to applications lodged by service providers and meet the costs.

Disability Services Queensland staff and volunteers will also undergo criminal history checks every two years.

Initial screening of staff in funded non-government disability services will occur between July and December 2006.

It will be unlawful for a person to work or volunteer for a funded non-government disability service provider without a criminal history check.

People working in funded non-government disability services will be issued with a card that verifies they have had a criminal history check within the past two years and are lawfully able to work or volunteer in these services.

Funding and prescribed requirements

Disability Services Queensland provides funding to non-government service providers under conditions set out in a funding agreement. The new Act provides clearer guidelines about requirements and conditions to be included in funding agreements.

The Act also allows for the development of a regulation specifying basic requirements that will apply to all funded non-government service providers.

The Disability Services Regulation 2006

The *Disability Services Regulation 2006* has been developed, and provides details which are essential to making the Act operational.

The Regulation took effect on 1 July 2006.

It details basic requirements for funded non-government service providers in relation to governance and accountability, protecting people from abuse, neglect or exploitation, deciding eligibility, resolving complaints, keeping a register of policies and collecting and reporting data. The Regulation also specifies the level of insurance funded non-government service providers must have and some records that services must keep.

Investigation and monitoring

Disability Services Queensland and funded non-government service providers will continue to work together to ensure that funding agreements are in place and that requirements for accountability in service delivery are met.

The new legislation gives Disability Services Queensland broader powers (where necessary) to monitor and investigate services funded by the department. Disability Services Queensland will be able to:

- ensure funded non-government service providers comply with funding agreements
- fully investigate and resolve complaints
- take action to ensure the safety of people with a disability receiving funded disability services.

To monitor and investigate compliance with the Act, the department may, after meeting a range of safeguards, be able to enter premises, seek information and ask questions.

The department will also be able to require a service provider to fix any problems and will have the capacity to monitor this process.

Strengthening accountability

Complaints management

The new Act recognises that people with a disability and others may make complaints or raise concerns if they are unhappy with a service provided or funded by the department.

Disability Services Queensland currently operates a complaints management system to investigate and resolve complaints in cooperation with funded non-government service providers.

Under most circumstances, complaints are resolved collaboratively and locally. Where this is not achievable, the department will have the ability to fully investigate the complaints it receives. In some circumstances — such as when it is necessary to protect a person from abuse, neglect or exploitation — the department may enter premises, seek information and ask questions to investigate a complaint.





Merit-based review of decisions

The new legislation introduces the right to seek a review by the Commercial and Consumer Tribunal of some decisions associated with:

- criminal history checks for staff and volunteers of funded non-government service providers
- pre-approval of service providers
- the appointment of interim managers
- the suspension or cancellation of funding to non-government service providers.

Notification of compensation

People who acquire a disability — for example, through an accident — may receive a compensation payment relating to their disability.

The new Act requires people seeking or receiving funded disability services to notify Disability Services Queensland:

- if they are claiming, eligible for, or have received payment relating to their disability
- whether a component of their payment has been allocated to future care.

The only requirement is to notify Disability Services Queensland. People's eligibility and priority for access to services will not necessarily be affected.

People's individual circumstances will be considered when determining whether they should contribute to the cost of the services they receive.

Strengthening government and community partnerships

Disability service plans

The new legislation requires every Queensland Government department to develop a disability service plan.

In these plans, departments need to identify:

- issues regarding service delivery to people with a disability
- ways these issues will be addressed
- how the department's plan complements the plans of other departments.

Ministerial advisory committees

The *Disability Services Act 2006* recognises the important role of community representatives in providing advice to the Minister and provides for the establishment of advisory committees.

Some committees have already been established. These include:

- the Disability Council of Queensland
- regional disability councils
- the Complaints Management Quality Committee.

Implementing the new legislation

The *Disability Services Act 2006* came into effect on 1 July 2006.

The Queensland Government values the expertise of the disability sector and will continue to work in partnership with individuals and groups within the sector as it implements the new legislation.

Disability Services Queensland will conduct a range of communication and training activities to ensure that all stakeholders are informed of their obligations under the new Act and receive the information and tools they need to comply with its requirements.

Information is available on the Disability Services Queensland website at www.disability.qld.gov.au

More information

For more information about the new legislation, the Disability Sector Quality System or to find out about information sessions in your area, contact the Disability Information Service:

Phone: 1800 177 120 (toll-free)* or (07) 3224 8444

Fax: (07) 3896 3467

Telephone typewriter (TTY): 1800 010 222 (toll-free)*

Email: disabilityinfo@disability.qld.gov.au

Web: www.disability.qld.gov.au

* Calls from mobile phones are charged at applicable rates.

Need help making phone calls?

Contact the National Relay Service (NRS) on 1800 555 677. This service is free.

Other languages and formats

If you need the assistance of an interpreter, please contact the Translating and Interpreting Service, TIS National, on 131 450 and ask to be connected to the Disability Information Service on 1800 177 120.

For information in alternative formats, phone 1800 177 120 or email disabilityinfo@disability.qld.gov.au