



Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600
E-mail: community.affairs.sen@aph.gov.au

**Submission by the Synod of Victoria and Tasmania, Uniting Church
in Australia to the Senate Standing Committees on Community
Affairs on *Disability Services and Inclusion Bill 2023*
29 September 2023**

The Synod of Victoria and Tasmania, Uniting Church in Australia, welcomes the opportunity to make a submission on the *Disability Services and Inclusion Bill 2023*. The Synod supports the Bill and requests that the Committee recommend its passage through the Parliament after addressing the issues raised below.

The Synod has sought to be inclusive of people with a disability, seeking to improve its response over time. Our position in response to the new Act to replace the *Disability Services Act 1986* is informed by the resolutions adopted by the meetings of representatives of the Synod and our National Assembly. The resolutions are contained in the Appendix.

Under section 4(4) of the “General principles guiding actions under this Act”, the Synod urges that the Committee recommend an amendment to include spiritual development. The section would then read:

*People with disability have the same right as other members of Australian society to realise their individual capacities for physical, social, emotional, **spiritual** and Intellectual development.*

A significant and growing body of research links spirituality with a diverse array of favourable health outcomes. For example, higher levels of spirituality tend to be positively associated with hope, self-esteem, social support, and adaptation to bereavement and inversely associated with anxiety, depression, loneliness, and suicide. Although most of the extant research has been conducted with the general population or community samples, similar findings have frequently emerged using samples comprised of people with disabilities.¹

The Synod notes with some concern that Section 22 allows the Secretary to issue a certificate of compliance. The concern is the degree to which the Secretary will have the capability to assess if the person complies with the alternative compliance requirements. The Synod notes the number of disability providers that have already been exposed in recent years under the NDIS that have engaged in criminal activities to exploit people with disability and those that have provided substandard services. The Synod believes the Committee should question the Secretary about how the power will be used and what safeguards will be in place to ensure that certificates of compliance are not inappropriately issued.

The Synod is concerned that Section 22(13) allows for the disclosure of information that relates to a person if that person provides consent for the person to do so. We believe that the clause should be modified to ensure that the person has given informed consent. The person must be reasonably expected to understand the implications of giving their consent

¹ David R Hodge, Conroy Reynolds, ‘Spirituality among People with Disabilities: A Nationally Representative Study of Spiritual and Religious Profiles’, *Health & Social Work*, Volume 44, Issue 2, May 2019, 75–86, <https://doi.org/10.1093/hsw/hly035>.



to the disclosure of the information. It is our experience that people with disability are regularly asked to provide consent and sign agreements by government bodies, such as schools, where they are not able to provide informed consent and are incapable of understanding the implications of what they have been asked to consent to.

Dr Mark Zirnsak
Senior Social Justice Advocate
Uniting Church in Australia
Synod of Victoria and Tasmania
Centre for Theology and Ministry
29 College Crescent
Parkville Victoria 3052
E-mail:
Phone:



Appendix: Resolutions of Uniting Church bodies relevant to people with disability

Resolution of the Uniting Church in Australia National Assembly meeting

The 2018 meeting of hundreds of Uniting Church representatives from across Australia adopted the following resolution:

The Assembly resolved:

18.18.01 to adopt the following 'Statement of Access and Welcome' as a starting point for further conversation and action regarding justice and equality for people with disability as it provides a basis for the Assembly and Synods to develop their particular response to this matter. In accordance with the Uniting Church Basis of Union, the Church is a fellowship of reconciliation, "a body within which the diverse gifts of its members are used for the building up of the whole, an instrument through which Christ may work, and bear witness to himself" (Paragraph 3). In light of this, the Uniting Church affirms that:

- (a) Christ is most fully present when all people in the Body are unconditionally accepted as people of worth. All people are created in the image of God, including people with disability;*
- (b) along with all members, the faith, gifts, hopes and dreams of people with disability are to be valued and honoured; and*
- (c) God is a God of justice and peace who seeks reconciliation amongst all people.*

In seeking to be a community of reconciliation, the Uniting Church acknowledges that for many people with disability its life and faith has not always borne witness to this vision. The Uniting Church seeks:

- (a) to embody a community life that in its theology and practice is accessible to all people;*
- (b) to ensure that within its own life, people with disability are treated justly and have their hopes and rights realised; and*
- (c) to advocate for justice and equality for people with disability in the wider community.*

18.18.02 to request the Standing Committee to develop disability access guidelines for use at all events and activities overseen by the Assembly and to encourage each Synod to develop similar disability access guidelines for use at Synod events and meetings;

18.18.03 to encourage each Synod to develop Disability Action Plans in accordance with the federal Disability Discrimination Act 1992, with the aim of eliminating access barriers pertaining to:

- (i) Attitude/Theology and access and welcome;*
- (ii) Communication; and*
- (iii) Physical Environment.*

18.18.04 to request the appropriate Standing Committee to arrange for the development of an appropriate liturgical response that acknowledges the historical exclusion experienced by many people with disability.

Resolutions of the meetings of the Synod of Victoria and Tasmania

The 1998 meeting of hundreds of representatives of the Synod from across Victoria passed the following resolution:

98.5.4.5 The Synod resolved:

In keeping with the spirit of resolutions made in the International Year of Disability Persons, and in the light of the Disability Discrimination Act (DDA) (Cwth: 1992):

- (a) To affirm its commitment to creating a Church that is for all people with disabilities (as defined in the DDA) and in all aspects of its life, free from discrimination.*
- (b) To appoint a Task Group to develop and implement an Action Plan under the DDA in compliance with Section 61 of that Act. The initial phase would be to undertake an audit of current practices within the life of the Church that may discriminate (including unintentionally) against people with a disability, including, but not limited to, physical or sensory barriers,*



informational or attitudinal barriers, and any other elements of proclamation, teaching, fellowship or service.

(c) That the Standing Committee be asked to appoint members of the Task Group.

(d) That the Task Group report to the 1999 Synod with its recommendations, including financial and staffing implications and a schedule of action.

The 2010 meeting of the Synod representatives passed the following resolution:

10.7.10.2.6 The Synod resolved:

While acknowledging that a balance needs to be struck between freedom to practise religious beliefs and the right not to be discriminated against in relation to certain characteristics in the areas of employment, education, provision of goods and services, and accommodation; and notwithstanding the Uniting Church's support for religious liberty, its support for UN human rights treaties through the National Assembly Resolution Dignity in Humanity: Recognising Christ in Every Person 2006, and Synod resolution 93.5.1.1-3(c),

(a) (i) To support the UN Convention on the Elimination of all Forms of Racial Discrimination in its assertion that "any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous" and therefore to oppose all forms of harmful racial discrimination and all laws that legalise harmful racial discrimination, even when such discrimination is religiously motivated;

(ii) To recognise that all people are created in the image of God and therefore to oppose all forms of harmful discrimination against people with disabilities, even when religiously motivated, except where not discriminating would place unreasonable costs on a body to accommodate such persons and, in the area of employment, where a person with a disability is unable to fulfil the genuine inherent requirements of the role;

(iii) While noting that the current polity of the Uniting Church would not allow discrimination in ordination in any of the areas below, to oppose harmful discrimination and laws that accommodate harmful discrimination in education, clubs and club membership, sport, provision of goods and services, local government, accommodation, employment and employment-related areas, excluding ordination, on the grounds of:

- age*
- breastfeeding*
- industrial activity*
- status as a carer*
- physical features*
- political belief or activity*
- parental status*
- pregnancy*
- gender identity*
- marital status*
- sex*
- sexual orientation*

even where such discrimination is religiously motivated. The only exception to this opposition to discrimination on the above grounds is in the area of employment where, as a result of one of the above characteristics, the person is unable to fulfil the inherent requirements of the role.

(b) To write to the Victorian and Tasmanian Attorneys General and Shadow Attorneys General to inform them of this resolution.

(c) To ask the Justice and International Mission Unit to keep these matters under review and report to future Synods.

The 2022 Synod meeting adopted the following resolution:

The Synod resolved:

- 1) To support the full implementation of the UN Convention on the Rights of Persons with Disabilities in Australia.*



- 2) *To call on the Victorian Government to:*
 - a) *Amend the Victorian Disability Act to*
 - i) *recognise the right of people with disabilities to spiritual expression, and this be referenced in all Victorian State Disability Action Plans;*
 - ii) *ensure that the Victorian Government will provide essential supports to people with disabilities where the National Disability Insurance Scheme fails to deliver such supports;*
 - iii) *establish a Victorian Commissioner for Disability Inclusion who:*
 - (1) *oversees compliance with the state disability plan and disability action plans;*
 - (2) *has a duty to support, advocate for, and promote the rights and well-being of people with disability across Victoria, like the functions of the Commissioner for Children and Young People and the Victorian Commissioner for LGBTIQ+ Communities; and*
 - (3) *upholds the rights of all people with disability in Victoria, in line with the United Nations Convention on the Rights of Persons with Disabilities;*
 - iv) *require all organisations that receive funding from the Victorian Government above a reasonable threshold should be required to have a meaningful disability action plan;*
 - v) *ensure that any use of restrictive practices be a last resort in response to the risk of harm to the person with disability or others. The use of restrictive practices should also comply with the human rights principles contained within the UN Convention on the Rights of People with Disabilities and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;*
 - vi) *create an offence to hinder, obstruct, intimidate or threaten a Community Visitor carrying out their functions; and*
 - vii) *allow designated people on the Community Visitors program to be able to visit all forms of accommodation that the National Disability Insurance Agency has introduced, accommodation provided by the Transport Accident Commission and all accommodation that is connected or managed by, or on behalf of, a disability service provider.*
 - b) *Develop Minimum Accessibility Standards for mainstream services with guidance to Victorian businesses on how to improve their inclusivity. The Standards should be backed by a complaint mechanism. An education program should be conducted in the Victorian community on accessibility;*
 - c) *Establish a central register of disability residential properties that Community Visitors are able to inspect;*
 - d) *Establish a Disability Deaths Registrar modelled on the State Coroner's Victorian Suicide Register and accompanying review;*
 - e) *Ensure people with disabilities leaving prison are provided with appropriate transitional planning for post-release, including direct referrals to disability services, housing and other funded in-community supports.*
- 3) *To write to the Victorian Premier, the Minister for Disability, Ageing and Carers, the Leader of the Opposition and the Shadow Minister for Disability, Ageing and Carers to inform them of this resolution.*