LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON EDUCATION AND COMMUNITY INCLUSION

(Reference: Inquiry into Disability Inclusion Bill 2024)

Members:

MR M PETTERSSON (Chair)
MISS L NUTTALL (Deputy Chair)
MS N LAWDER

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 4 APRIL 2024

Secretary to the committee:
Ms K Langham (Ph: 620 75498)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

WITNESSES

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Amended 20 May 2013

The committee met at 1.30 pm.

TOOHEY, MS KAREN, Discrimination, Health Services, Disability and Community Services Commissioner, ACT Human Rights Commission
GRIFFITHS-COOK, MS JODIE, Public Advocate and Children and Young People Commissioner, Acting Human Rights Commissioner, ACT Human Rights Commission

THE CHAIR: Good afternoon and welcome to this public hearing of the Standing Committee on Education and Community Inclusion for its inquiry into the Disability Inclusion Bill 2024.

The committee wishes to acknowledge the traditional custodians of the land we are meeting on, the Ngunnawal people. The committee wishes to acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region. We would also like to acknowledge and welcome other Aboriginal or Torres Strait Islander people who may be attending today's event.

The proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. When taking a question on notice, it would be useful if witnesses used these words: "I will take that question on notice." This will help the committee and witnesses to confirm questions taken on notice.

We now welcome witnesses from the ACT Human Rights Commission. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Could I get each of you to please confirm that you understand the implications of the statement and that you agree to comply with it.

Ms Toohey: I do.

Ms Griffiths-Cook: Yes.

THE CHAIR: Wonderful. Would you like to make a short opening statement?

Ms Griffiths-Cook: No. I am happy to lead straight into questions, if you would like.

THE CHAIR: Straight into it. Do you support the passage of the bill and are there any ways to improve the bill?

Ms Toohey: We support the passage of the bill. We certainly support the intent of the bill in promoting disability inclusion. We have, in our submission, highlighted some of the areas where we think there might be some added complexity and regulatory burden, if I can put it that way, and where there might be some ways to simplify that. We would be keen, I think, to hear from people in the disability community and the disability advisory group about their thoughts on some of those aspects of the bill.

I know there has been some discussion in the community about whether we should wait to see what the commonwealth does. The ACT is not in the habit of waiting to see what the commonwealth does. We think we should move on this. The intent of the bill, in my mind, is similar to the Multicultural Recognition Act and very much about creating an inclusive message for our community, reflecting the values that we have.

We certainly think that with regard to disability, as we have seen, particularly from the royal commission and even in our complaints and in our direct work with the community, the more we can do to promote that inclusive message and the sooner we do that, the better off the community will be.

Ms Griffiths-Cook: I might just add that it is certainly an improvement, but I think aligning with the intent behind the bill is that recognition also of the intersectional elements. People with disability have the same range of varying and complex life circumstances that any of us do. I think it is about recognising that quite often disability is just one component of that. We certainly need to remain fixed on and aware of the interplay that can often occur, where there might be multiple vulnerabilities, and ensure that they are adequately attended to.

THE CHAIR: Wonderful.

MISS NUTTALL: On that, do you think there are opportunities that accommodate for intersectionality within this act itself or would they be better put outside of the act?

Ms Griffiths-Cook: It is something that cannot ever be considered in isolation. Something that we certainly look at when we are considering any form of legislation through a human rights lens is making sure that those broad considerations are inherent in multiple pieces of legislation. It is not the responsibility of any one bill or one act to own that. It is incumbent upon us to be making sure that those considerations are applied across the board.

THE CHAIR: In your submission, you note:

> There is no clear mechanism for people with disability to raise concerns if the strategies and plans are not developed or implemented.

Do you think there is an ideal or suggested pathway for people to raise concerns?

Ms Toohey: I think what we were trying to indicate was that that is not within the bill. Certainly, people will still have our complaint mechanism available to them. The definitions in our legislation provide for complaints to be made about accepted standards. We would see that, if the bill were passed, it would be a standard or a legislative obligation that people could use as the basis for a complaint to us.

THE CHAIR: Okay. Would you recommend that as a pathway for this?

Ms Toohey: I always recommend our complaint pathway. Sorry!

Ms Griffiths-Cook: And rightly so.

Ms Toohey: As you would be aware, we can currently take discrimination complaints. We can also take complaints about disability services. From June we will be able to take complaints about alleged breaches of human rights. That will include the right to equality, and that would certainly fit within the remit of this bill.

Ms Griffiths-Cook: Broadly too, the commission, as we have established it and continued to strengthen and enhance it over the years that we have been in these roles at least, has not just the ability to support and manage through the complaints pathway but the opportunity to refer within in ways that enable. It might be public advocacy that is the appropriate role. It might be a response through the Victims of Crime Commissioner. I think having those multilayered approaches means we have the ability to work across our different jurisdictions to identify what might be the best pathway for a person to get the outcome that they are seeking.

THE CHAIR: Thanks.

MISS NUTTALL: My understanding is that the strategies introduced as part of this bill would be a notifiable instrument. Do you foresee a case for making them a disallowable instrument or something that has more remit for debate and feedback after the fact?

Ms Toohey: We would probably look to our colleagues for a response on that. I think the benefit of having an instrument that is better able to be changed and amended means that, even though it does not have the full compatibility process around it, it is able to be reflexive in responding to community concern or community need. Some of the areas that those instruments are proposing to cover are areas that change frequently in terms of the demands and the recognition of what the barriers in those spaces are. What we put in the plan today is not going to affect what needs to be there in two years. Even though there is a three-year review period, I think that in some way having that ability to be more reflexive and more responsive is actually a better approach.

MISS NUTTALL: Thanks. With respect to the disability strategies within the bill, you raised concerns about the possibility that their impact—absent from additional funding in the risk—might risk detracting from actual work to take action on the plans that have been put in place. Are you happy to expand a little bit on that point?

Ms Toohey: We wanted to acknowledge, for example, that the Disability Justice Strategy that has been implemented in the ACT has resource attached to it, and that has made a significant difference in the feedback that we have had about the effectiveness of that implementation. Similarly, the Disability Health Strategy has significant resources, in that there is a lot of work being done on the implementation.

We are conscious of the expectation that is set that government will develop these plans and implement them fully. As an organisation that often gets functions without resource, you want to do your best. Given the government's commitment, as demonstrated through the Justice Strategy in particular, it is really important that they are resourced to do that work properly.

Ms Griffiths-Cook: Having that overarching strategy but then the support of action plans that sit behind it has enabled the continued iteration of some of those things that have been piloted or trialled, but it has then enabled some of those things to also be embedded as they have proved their worth. Again, I think it is about that ability to flex as and when might be needed. It is also about the innovations that have come—some of the ideas. The fact that that has been opened beyond government and has engaged the non-government sector as well is part of what has contributed to the success of it.

THE CHAIR: In some other submissions there has been a recommendation to redefine ableism in the bill. Are you comfortable with the definition of disability or ableism in the bill as currently drafted?

Ms Toohey: Because we did not have any concerns with that, we did not comment on it. Again, it is probably better for the community to provide that feedback. Coming from a legislative perspective, drafting, as you know, is a skill. While we did not have any particular concerns, which is why we did not identify it, I think it is really important that feedback come from the community on what definition they would be comfortable with.

THE CHAIR: Sure. Have you been involved in the consultation and drafting of the bill to get us to this point?

Ms Toohey: We have not been directly involved. We have had some communication about the bill in terms of, broadly, whether we would support it. That was prior to the disability royal commission. As I said, we have had some conversations, but not consultations, about whether we should wait and see what the commonwealth does, given that that was a very clear recommendation in the royal commission report. Again, we do not think that there is value in the ACT delaying. We have no idea how long it might take for the commonwealth to deliver. Again, I think it would be opportune for the ACT to lead the way.

MISS NUTTALL: Other submissions brought up consultation fatigue. Do you think that the requirement to manage consultation fatigue and not overdraw community resources has been taken into account in the bill, or are there places where you think we could manage consultation fatigue better?

Ms Toohey: That has certainly been feedback that we get on a regular basis. I think Renée, Ms Heaton, might comment on that. It came up in an event we held at the end of last year, arising out of the disability royal commission, that there had been a lot of consultation—appropriately—but people do get fatigued about writing submissions, presenting and being consulted.

We have seen in the Disability Justice Strategy and even in the Disability Health Strategy space that you need to manage these processes. Government wants a response in this time frame. Community just does not have that resource. There is wear and tear in that space. It is one of the reasons that we identified some room to move on the complexity of the number of plans and the potential overlap. Often we see that fall to the same people in the community. I do not think we can make any recommendations on that, and we did not, but I do think it is one of the factors that the community, particularly in the ACT, because it is quite small, is really cognisant of.

MISS NUTTALL: Thank you.

THE CHAIR: In your submission you also state of the bill:

> We recommend consideration of articulating a clear statement of supported decision-making principles that promote participation and inclusion of people with disability, people from diverse backgrounds, children and young people, people experiencing vulnerability or other protected attributes.

Why do you believe it is important that this statement be included in the bill?

Ms Griffiths-Cook: I would say for quite a few different reasons, not least of which is that it underpins the rights that we all stand to uphold. If people are not provided with appropriate and reasonable support to participate in any decisions that are being made with them or on their behalf then we are not upholding their rights. Beyond that, if we are really wanting to make sure that we are getting the richness and diversity of advice that we need to produce the outcomes that we are seeking then we need to make sure that we are making our processes as accessible as possible. Supported decision-making is recognised as a contemporary supportive mechanism but also exists within some of our other legislation. It is certainly something that we are moving towards, both here in the ACT but also at a national level. Karen, do you want to add to that?

Ms Toohey: Yes. It is also a fundamental principle underpinning the Convention on the Rights of Persons with Disabilities. I think that is a really important premise to start from. The other thing that will come into effect next week, from 11 April, is an obligation under the Discrimination Act for reasonable adjustments across all the protected attributes in the ACT Discrimination Act on a positive duty basis. It is no longer about me putting my hand up and asking for an adjustment; it is actually about us, as agencies, taking those steps to make sure that we understand what adjustments are needed and providing those. Supported decision-making is one of the fundamental principles underlying the participation of people with disability.

MISS NUTTALL: On that point, do you think there is a case for amending other Acts, such as the Discrimination Act, the Human Rights Commission Act and the Disability Services Act, to harmonise the legislation and introduce principles of intersectionality and the social model for disability? Do you think there is room in other legislation to harmonise that further?

Ms Toohey: I do think that will come down to the drafting. The Discrimination Act in the ACT is already quite progressive on that point and intersectionality is explicitly recognised. It is one of the few pieces of discrimination law where it is. As Jodie indicated earlier, having a principle or a statement about the need to recognise that people have got multiple identities and that disability is one factor in their lives is really important.

From our perspective, we are always looking for opportunities to align legislation more closely to the Human Rights Act. That is sort of our reason for being. We are also looking at how we talk to government about enhancing the Human Rights Act, which is where we got the complaint mechanism from. I do think there are opportunities for that. We are in the fortunate position in the ACT, as you know, that the commission has a role in ensuring compatibility. They are the sorts of issues that we would be drawing up if the bill were to progress.

THE CHAIR: In your submission you identified that there are potentially 20-plus strategies and plans required. Do you think having such a large number of strategies and plans creates challenges or potentially allows for more specific actions?

Ms Toohey: I think that is why we identified it.

Ms Griffiths-Cook: Yes. I think the more you have of anything, the more complex the landscape becomes. The ability to ensure the level of integration that Miss Nuttall was just describing at the legislative level, and also within a strategy level, gets to the heart of why we were indicating a concern with the number and the layers that exist behind that as well.

Ms Toohey: From my perspective, one of the things that we need to acknowledge is that, as I said, there is already a Disability Justice Strategy which has been working well. There is a health strategy and we have a Disability Employment Strategy, so there are things already in existence. Sometimes it is just about acknowledging that. We may not need to redo that work; it may be that we can acknowledge what is already there.

Having come from the federal jurisdiction, where there was a requirement initially for disability action plans to be lodged and it turned into a tick-box exercise, I can absolutely guarantee that was one of the issues that we dealt with, both within the private sector and within government agencies. I think it would be helpful—again, not wanting to do away with that idea—to look at how it might be rationalised at a government level, noting the strategies that already exist. I would certainly be keen to hear what Ms Heaton says on that particular point.

Ms Griffiths-Cook: I think the importance of any of those structural mechanisms that are designed to drive change is that you have got to have the accountability that sits behind them. The more you have, sometimes the harder it can be to keep the finger on the pulse in terms of maintaining that accountability and ensuring that the outcomes are reached, because it does involve all of that coordination. You have also then got to have the mechanisms that enable the monitoring of those to be in place.

Ms Toohey: Yes. I should note as well that—and it is not an answer to all the barriers that we are aware of—we will from next week have a positive duty around reasonable adjustments coming into effect. That is across the board for duty holders, under the Discrimination Act, so that is public and private sector. From 2025 there is a positive duty to eliminate discrimination being introduced for public authorities in the ACT—that is, all government directorates and authorities. From 2026 that will apply to all duty holders under the Discrimination Act. There is also the interface with those mechanisms that I think needs to be considered, because those duties do not rely on a complaint being made. A positive duty is being imposed: you have to provide evidence that you have actually implemented it.

THE CHAIR: Is there anything further you would like to add that you think we have missed?

Ms Toohey: No; thank you.

Ms Griffiths-Cook: Thank you.

THE CHAIR: On behalf of the committee, thank you for your attendance today. You have not taken questions on notice, so thank you.

Short suspension.

HEATON, MISS RENÉE, Chair, ACT Disability Reference Group
YVANOVICH, MS TESSA, Member, ACT Disability Reference Group

THE CHAIR: We now welcome witnesses from the ACT Disability Reference Group. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered to be a contempt of the Assembly. Can I please ask each of you to confirm that you understand the implications of the statement and that you agree to comply with it?

Miss Heaton: I understand and agree.

Ms Yvanovich: I understand and agree.

THE CHAIR: Thank you. I understand that you have an opening statement that you would like to make?

Miss Heaton: Yes. Firstly, thank you for inviting us to come along today. I would like to start by acknowledging the traditional owners of the lands on which we are meeting, the Ngunnawal and Ngambri people, and pay my respects to elders past, present and emerging. I would also like to acknowledge the significant contribution that Aboriginal and Torres Strait Islander people make to this city and this region, and particularly in the disability community and on disability inclusion. I acknowledge that there has been compounding disadvantage for this particular group of people, that it has a disproportionate impact on their lives and that disability exclusion has a forward impact on the future of Aboriginal and Torres Strait Islander people in this city.

My name is Renée Heaton, and it is my privilege to be the Chair of the ACT Disability Reference Group. My pronouns are she and her. I am joined by Tess Yvanovich, who is a member of the ACT Disability Reference Group. We are really excited to be here and talking to you about the Disability Inclusion Bill. I will hand over to Tess for some opening remarks.

Ms Yvanovich: Thanks, Renée. Echoing Renée, I am delighted to be here today to share the DRG's views with the committee. As you know, the DRG plays an important role as the main ministerial advisory body on disability inclusion here in the ACT. We elevate the experience and expertise of people with disability to support the minister and government to achieve greater inclusion and accessibility for all disabled Canberrans. I use the word "disabled" in the sense of the social model of disability.

The DRG supports this bill as it provides a framework for cohesive policy work and investment in whole-of-government strategies and DAIPs. We emphasise that this bill is being proposed during what is essentially a once-in-a-lifetime chance to harness the momentum and the broad appetite for meaningful change that we have seen following the release of the DRC findings and the review into the NDIS.

Alignment of all directorates and their equal responsibility for upholding the rights of disabled people is crucial. Further, under this bill, the work of what is currently the DRG will also expand in scope and significance. For all of these reasons, the DRG supports the passage of the bill as soon as possible, and within the life of the current Assembly.

We have three main issues that we would like to highlight today. We will outline them briefly now, but we hope that, together, we can draw these out further in our discussion. Our three focus areas are: transparency, accountability and meaningful change; consultation and its impact on the disability community; and the transition from a DRG to a disability advisory council.

Miss Heaton: On transparency and accountability, we welcome and support the introduction of inclusion plans and DAIPs, but we really want to highlight that the community want to understand what these plans and DAIPs mean for them. They want to understand and know what inclusion means here in this setting that I am in. What does this specific school offer students or parents with disability? What does inclusion look like when I need to have a blood test versus going to hospital to have surgery, or what does it look like when I attend the Multicultural Festival or the Enlighten Festival? That is the level of information that the disability community want and need. We also want to understand who is accountable and for what, and where people can access these plans and DAIPs. An informed community is a strong community.

Ms Yvanovich: I would like to discuss or outline briefly consultation and its impact on people with disability. Of course, we are supportive of all efforts to centre and value the voices and expertise of disabled people, whether that is DRG members or those in the broader community. We know that the best outcomes are achieved when people with disability are involved in the decisions that affect them. We also know that people are far more motivated to continue to engage when they can see that their input is actually being listened to, adopted and is making a difference.

We are very much in favour of hearing and acting on the voices of disabled people. However, we do encourage the committee and the government to be mindful of what you ask of the disability community. As one example, I jumped at the opportunity to be here today; but, realistically, this opportunity is also a burden. The physical, mental and emotional effort required for me to prepare for and then be in this room today is sizeable, and it has caused an increase in many invisible symptoms. You probably cannot tell by looking, but I am in a fair bit of pain right now, and I expect that recovering from today will take several days, which is actually a relatively short recovery period. Sometimes people can be out for weeks or months just from a single event.

We note that this bill calls for extensive and repeated consultation with those with disabilities, as well as others with a range of intersecting identities of disadvantage. We also anticipate that there will be significant ongoing demand for community consultation in the wake of the DRC and the NDIS review.

Yes, we absolutely want a voice; but, at the end of the day, people with disability are a limited number of people and we have a limited amount of energy. With all of the demands being asked of people with disability, the DRG emphasises that it will be crucial that all consultation is coordinated and efficient, that there is minimal duplication, and that it is accessible. Accessibility is not only what you do once we are in the room, whether that room is virtual or in real life; it is also accessibility in supporting us to get there in the first place and for our participation to be sustainable.

Miss Heaton: Finally, regarding the transition to a disability advisory council, the DRG fully supports the formation of a disability advisory council, and we anticipate that we will be part of leading that change. We note that the DRG has a high workload, and the scope and focus areas of the advisory council will be expanding.

We would like to know, as Tess mentioned, how the disability advisory council will be supported to do this work sustainably, because we know there are real risks of burnout or being stretched too thin, and thus unable to achieve the outcomes that we actually all want. We know that better outcomes are achieved for people with disability when they have a say—nothing about us without us. But, as Tess said, we are a limited number of people here in the ACT, with a limited amount of energy.

THE CHAIR: I will lead off with questions. Can you tell the committee about the public consultation that was undertaken on the bill? Was it satisfactory?

Miss Heaton: I do not know the full details of the public consultation, but I am aware that the disability community was consulted, and that peak advisory and advocacy bodies were involved in the drafting. They had a say and were able to have input into the early drafts.

The disability community requires specific consultation. It is all very well and good to put something online and say, “Hey everybody, go and look there.” As Tess outlined, it takes effort, it takes energy and it takes a lot out of people with disability to consult on things. We always encourage deliberate interaction with the disability community rather than a “post and pray” approach. I know that that has happened and that the DRG was also involved in that consultation.

MISS NUTTALL: Your submission mentioned the *Towards a 10-year ACT disability strategy listening report*. I understand that a central point was the need for our community to have a greater awareness of disability and inclusion—that genuine awareness and inclusion. Do you feel that the bill promotes this need? If so, in what ways?

Miss Heaton: One of the things that came out of that consultation process was a call for disability action and inclusion plans, inclusion plans or whatever terminology would apply to that specific plan. We know that they are key to bringing about that cultural change that we need and that we are ready for.

People want to see real action, as I said, in the setting that they are in now. We do have a Disability Health Strategy, but it does not specifically explain to people what it means to access the Dickson walk-in centre, for example, or, as I said, have surgery at the Canberra Hospital. Disability action and inclusion plans actually give entities a mechanism to explain what they will do to make a strategy and a plan real for people.

Similarly, the inclusive education strategy provides a framework for what inclusion should look like across the Education Directorate, but it does not say, “My local school has a bench buddy program,” or “It has a supported small group learning program,” or “It has a peer support network for parents of neurodivergent children,” or “It has a disability champion.” That is the level of detail that will be meaningful to the community.

Ms Yvanovich: Obviously, we need that high-level, overarching strategic framework and all of those things. If you are only reporting on that, you are not really reporting on much that affects us on the ground, day to day. We want to make sure that there is something in this bill that makes it very clear that we have some really large directorates—Education, Health; lots of directorates—that have such different settings. A school on the south side is doing something completely different from a school on the north side. This school on the south side is doing something completely different from the school next door to them.

People want to know, “What can I expect in a real sense, a tangible sense, in terms of me being included or my child being included when we are in X setting?” We really want to see the practical impacts of this bill.

THE CHAIR: Is the DRG supportive of the structure of the advisory council as contained in the bill?

Miss Heaton: Absolutely. The formation of the disability advisory council and the composition of the disability advisory council are nicely aligned with the current DRG, anyway. But it does make some specific changes around identified positions and positions for carers of people with disability, and bringing in organisations that work for and with people with disability. It is important to have a comprehensive body that understands what disability inclusion looks like here in the ACT and how we can make it real.

As I said, we have a bit of concern around the expanded scope of that group. As Tess mentioned, we want to see that group’s level of consultation and engagement managed really carefully through the directorate, the secretariat or whatever mechanism is available.

MISS NUTTALL: Is there an ideal level for things like remuneration, secretariat support and guarantees regarding accessible venues—things that would make a difference to the council’s operations?

Miss Heaton: All of that; yes, absolutely. Looking at how the DRG is currently set up, how the directorate manages the DRG and provides services to the DRG, and the way the DRG interacts with the directorate, the minister and the broader government, including the public service, it is a really strong foundation from which to draw. We would not want to go backwards in this space.

Ms Yvanovich: The Office for Disability, which provides our secretariat support, can be looked at by other areas of government that might be supporting similar councils or committees. What I have observed is that they are walking the talk of inclusion. It is one of the first times, unfortunately, in my life that I have said, “I’m going to need this, if I am to attend this meeting today,” or “I need help to do X, Y and Z, if I am going to be able to participate." They say, "Absolutely, we can do that; what else do you need? Have you thought of this? Maybe we could do this, too, to help you."

That kind of support is invaluable, and it would benefit lots of other groups that are working with government in this way. Disability is not uncommon, and I would imagine that there are disabled people on just about every group you can find. I think we are getting a good level of support and respect from the office, and we need to see that kind of thing continue.

MISS NUTTALL: In your experience, do you find that the social model of disability is currently widely known and shared? Does it appear in our education settings? Does it appear elsewhere?

Ms Yvanovich: I would like to answer that one, not least because I was a teacher in the Education Directorate for a number of years and I now work in the disability sector. I would say that, within the disability community, it is very widely known, accepted and supported. I would say that, outside the community, it is much less known and used as a framework. As one very small example, we all learnt to use the term "people with disability"—person-first language. When I now talk about disabled people, I feel the need to clarify that I am saying that in this context; I am not saying it in the bad way that we previously learnt. There is not a common understanding, I would say, of the social model. Would you agree?

Miss Heaton: I would absolutely agree. It is absolutely the foundation that the disability community, advocates and activists want to work for and want to see legislation of this type based on. We would love the rest of the community to understand what that model actually means and how they can practise the social model of disability when they are providing services or functions, doing processes, doing their work or interacting with people with disability.

We fully support the inclusion of the social model of disability within the bill. We think that it sets the right foundation for the work that has to come after it. I do a lot of talking in the community. I talk about the social model of disability, and not a lot of people have heard of it. I was at the hospital just last week, and the medical model of disability is so ingrained, especially in that setting. We want to make sure that we are continuing to promote and adopt that model of disability.

THE CHAIR: Does the DRG have a view on whether disability inclusion plans, as contained in the bill, will drive system disability inclusion as intended?

Miss Heaton: We know that inclusion plans, disability action and inclusion plans, and the strategies that we have here in the ACT are critical to driving that cultural change. We have seen it with the example of, as you have heard when you heard from the Human Rights Commission, the Disability Justice Strategy that we have. That sets the framework for the work that we need to do to increase inclusion of people with disability or disabled people within the justice system. It has provided meaningful change in the services, in the attitudes of people and in the experiences of people with disability in the justice system.

We know that they can work, and that they do work, but they need, obviously, to be supported. They need resources attached to them, and they need to have a level of accountability attached to them. That is something that the Disability Reference Group is particularly keen on seeing—who will be accountable for delivering what, and in what particular time frame—so that people with disability can access that information and we can hold people accountable.

Ms Yvanovich: There are also good examples in other states—Western Australia would be one—where disability inclusion plans, or whatever we are calling them, have resulted in real, tangible change for people on the ground. Again, it comes back to reporting at a level that is meaningful and the accountability being built into the bill. Currently, it feels a bit light on in that area.

Miss Heaton: Without the inclusion plans or the disability action and inclusion plans, we are exactly where we are now. Sometimes we need a mechanism for prompting people to be able to do this. Yes, there are risks around it just becoming a “tick and flick” type exercise, but we have seen, when it actually gets done properly, the difference that it makes to people’s lives. It starts and builds momentum in particular agencies and organisations, and that is really positive.

THE CHAIR: On that great note, we are out of time. Thank you so much for appearing today.

Miss Heaton: Thank you very much.

Ms Yvanovich: Thank you very much.

ORR, MS SUZANNE, Member for Yerrabi

THE CHAIR: We now welcome Ms Suzanne Orr MLA, Member for Yerrabi. I remind all witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Can I please get you to confirm that you understand the implications of the statement and you agree to comply with it?

Ms Orr: I do, and I agree to comply with it.

THE CHAIR: Wonderful. Would you like to make a short opening statement?

Ms Orr: Sure. I think the main thing I would like to say is that, in developing this bill, it has come up a little bit within submissions and with other witnesses today the structure that it sets up and the system that it sets up and how we have arrived at this point. The main point to make is that, in framing the approach we have taken in the ACT—acknowledging that, while other states and territories might have a bill similar to this in place—we have really tried to capture the unique way that we have approached disability inclusion, particularly through things like the Disability Justice Strategy, the DRG and all those great things that have driven change in certain areas. We wanted to not rewrite that or change it in any way, but actually capture what has worked really well for us here in the ACT and to put that into our law, to codify it, and to make sure that we can build on that in more areas, so we get the change we have seen in pockets happening across the board.

I think that is probably the main thing that I would say. The rest is in my submission around the consultation of the bill going forward and a lot of the other thinking that has gone into there, but I think that is really the key point I would like to drive home.

THE CHAIR: Wonderful. I was hoping you could explain a little bit about what drove you to propose this bill.

Ms Orr: It actually came up through discussions in the Carers Recognition Act. When we had to define the meaning of disability under that act, a lot of the disability groups who had been making representations to us said, "We do not like the medical model definition that you have used." It really drove home for us that, within the law within the ACT, the only definition of disability we had was the medical one. That is outdated. It is not comfortable. I did not like using it in the Carers Recognition Act, but it was the only one we had. So there was a real acknowledgment there that there was a little bit more work to be done. So what really drove it was to put this social model of disability into our law and into our consciousness and to make sure that that is what is guiding us in the future.

MISS NUTTALL: How do you foresee establishing the social model of disability in this act interacting with other acts, such as the Discrimination Act, the Human Rights Act and the Disability Services Act?

Ms Orr: That is a really good question. It has been raised with a few submitters as to whether we would change those acts. A little bit cheekily, I would like to acknowledge that I am one member and I have one office, and I am sure you would all appreciate the size and capacity issues that sometimes come with having a member's office. For me, the focus was doing this bill and doing it really well. For any consequential amendments that come to that I am very hopeful the government will pick up and follow my lead. But the stark reality is that we just did not have the capacity to do a full change of every law that is out there. But I would hope that someone with far more resources and a bureaucracy behind them would look at that.

THE CHAIR: Hear, hear. I understand this bill was open to public consultation prior to introduction. Could you explain to the committee some of the work you undertook in doing that consultation?

Ms Orr: We have actually been developing this bill for about two years behind the scenes and doing consultation with the peak organisations who do advocacy on disability inclusion to make sure that we got the bill into the best shape possible before we released it for public consultation. There was actually quite a lengthy process in that and a number of iterations of the bill. I really wanted to live the "Nothing about us without us" and make sure that we were doing that from the get-go.

Following that, it went out for public consultation and had quite a lengthy period of public consultation. I received a number of submissions, particularly long and detailed ones from our legal counterparts, who, because of the Disability Justice Strategy, have actually become quite passionate about this as a reform area. We got really good feedback from a number of groups, particularly those legal community groups around how in practice the Disability Justice Strategy has worked and how we can best incorporate this into the bill.

We made a number of revisions from the public consultation bill to what was actually introduced into the Assembly. So it has been on a long journey already. I have also presented to the DRG. I have met with a number of stakeholders regarding their submissions, going through the feedback we have had. This inquiry is the first time that I have heard feedback from the Human Rights Commission. I am happy to engage with them prior to the debate, because I think some of the points they have raised can easily be resolved through a conversation.

THE CHAIR: Thank you.

MISS NUTTALL: What would you see as the role of the new Disability Advisory Council? How would you see them interacting with the existing Disability Reference Group and other reference groups?

Ms Orr: The inclusion of the ministerial council is from direct feedback from the consultation process. The sentiment that came through was that, if the ACT were serious about undertaking the reform agenda that would come from the passage of this bill, it is really important to give prominence to the group to make sure that they are elevated to a ministerial council, in line with other areas of inclusion which we have ministerial councils for and to make sure that people with disability do have a voice and the support there to make sure that voice is heard.

The feedback we got was that it is not so much about replacing the DRG but elevating the DRG to a ministerial council to give it that extra remit and support and to make sure that it has the input that you would hope from such a big reform agenda. With that in mind—and I think Renee sort of picked it up in what she was saying—the drafting instructions I provided would take the terms of reference from the DRG and write that as a ministerial council. We do not want to reinvent the wheel.

The feedback we got from everyone on the DRG is that it is a really good consultation input mechanism, that it functions really well and that we do not want to change it. We just want to give it a bit more oomph—that is probably the colloquial way to say it. It would replace the DRG in the sense that the DRG would not be necessary because there is a ministerial council, but you can almost just pick the DRG up and call it a ministerial council. It would not cease to function; it would just be elevated.

THE CHAIR: Some of the submissions have conflated strategies and plans as being the same thing. What is the difference between a strategy and a plan and how do they connect?

Ms Orr: That is a really good question. I noticed this when I was reading through a number of submissions. A strategy is a high-level document that can cover multiple groups and organisations. So it is not going to be limited to one organisation, and it is not necessarily going to go down into specific details for one organisation. If you look at the Disability Justice Strategy, for example, there are a number of organisations that have signed up to that with various leads assigned to different priorities under the strategy. Where you get to with plans, we have just called them "plans"—which I think can sometimes be a little bit confusing in the terminology, but it was not an easy one to pick because there are multiple names. Plans could mean the Disability Action Inclusion Plan or it could mean other things. There are various names that get used. We just went with plans because we thought it was simple.

The plans are very much specific to one organisation and they are getting down into the detail. If you think about it, they are sort of nested within a hierarchy there. Again, that is following the approach that has already been taken through the Disability Justice Strategy and through the Disability Health Strategy, where you have the strategy document, which is a higher-level document and under that sits the plan. For example, one of the actions within the Disability Justice Strategy is that directorates develop action plans for their own work programs. I think the best way to explain it is they are complementary. They are there to reinforce each other and to allow each document to do what it needs to do without becoming overly complex or bogged down.

If I can just reflect a little bit further, I think the Human Rights Commission in their submission—and I was watching their evidence earlier—were talking about wanting to make sure that you do not end up with too many plans and you do not end up with too many documents and it becomes cumbersome. I think that is a fair concern, but what I would say to that is that the inverse to it is you do not have enough to get to the detail of the change. As you have heard from the DRG this morning, the plans are actually where the real action happens. That is where you can really get some good work done. So, while some people might say that this is a lot to have to do, it is actually how we drive that change and is very important to it.

THE CHAIR: I have a follow-up to that. Some people have raised a concern over duplication of effort. Is there a risk of that?

Ms Orr: I think this is particularly relevant with regard to the positive duty under the Discrimination Act, because, wherever there is a protected attribute in place, under the positive duty, there needs to be an inclusion plan developed. Section 15 of our bill is to accommodate for that. So, instead of saying you have to do two plans, you can actually do one plan that meets the requirements of both bills, so that we are cutting down on that inefficiency that could potentially come from it. So that is very much in place.

If you look at the Discrimination Act, though, it would not necessarily cover everyone who would be covered by our bill. So it is important to acknowledge that not everyone is going to have that duplicated obligation. I think ours is actually a little bit broader in the sense of who it applies to. In including the plans, it is wanting to make sure that we can drive the change that is there but acknowledging that some people who would be required to develop these plans will also have obligations under other Acts. So we want to make it as easy as possible for them to deliver on all those requirements without them essentially having to cut and paste the same plan and call it two different plans. I would add that we have put a lot of consideration into this, and the sorts of things that you would want to do under both plans are actually very complementary. I do not think there is an issue in the sense of two sets of obligations; I think it is more making sure that we just capture the full breadth of the one obligation.

THE CHAIR: Great.

MISS NUTTALL: Do you foresee then—and this probably goes back to the earlier question; apologies—that there would be room in something like the Discrimination Act to put in changes to make sure that the two acts are complementary and further remove duplication?

Ms Orr: Certainly, if the government through their consideration period thought that they needed to amend the Discrimination Act to better align it to what is going on in my bill or to amend my bill in order to better align it to the Discrimination Act, I am very open to that. The other thing I would note with the positive duty is it is a bit of uncharted territory; it is new to come in. To conclusively understand how the two are going to operate, there is going to have to be a period of "We just need to get on with it and see how we go." We probably cannot anticipate every single bit that is going to come from it, which is why we have taken the broader approach to it, so there is a bit of wriggle room there to adapt as we move to implementing both these things.

But they are quite complementary. As the Human Rights Commission also picked up, my bill is based on systemic and institutional change; it is not based on individual rights. There is already a range of legislation and mechanisms there to pursue individual rights, and the positive duty very clearly falls into that ecosystem. What we are looking at is: how can we best drive this systemic change? If you think about it, particularly when you move to the social model of disability, if the bill works the way it is intended to work, within the environments that we exist, our community will become more inclusive. So, hopefully, you should not have to ask for as many adjustments. It is the step before you get to the problem, if that makes sense. If you think of it sequentially like that and if you think of how it can drive the change, they are very complementary.

MISS NUTTALL: Awesome. A number of submissions have pointed out the importance of the ability for people with a disability to provide feedback on the development and implementation of disability inclusion strategies. Do you see any ways of ensuring these strategies provide ample opportunity for feedback during the implementation process?

Ms Orr: Yes. We have put in place what requirements should be included in any consultation process for the strategies and for the plans. There is also the opportunity for the minister to make regulations to guide how those happen so we can move towards best practice and we can also update those quite easily. It is important to look at how people with disability can inform. Again, it comes back to, "Nothing about us without us."

I also acknowledge that a lot of people have said that there is a bit of consultation fatigue, and I am very cognisant of that. It is a big reform agenda. The feedback I have from the disability community is that they really want the change that can be driven by this bill and they really want to be included; they just want to make sure that it does not overwhelm them. So I think there is a question when it comes to the implementation phase as to how that is paced so that everyone can participate. Primarily, it is an implementation decision; it is not something we necessarily deal with through legislation.

The other thing I would pick up on is the ACT government submission where it said, "Can we not use some of the consultation that has already occurred, because there has already been quite a bit of great consultation through the Disability Justice Strategy and through the ACT Disability Strategy to further inform?" I think that is very possible. I do not think there is anything in the bill that would limit those consultations and the outcomes from them being incorporated into future consultation.

THE CHAIR: Some submitters have called for supported decision-making principles to be included in the bill. Do you see that as worthwhile?

Ms Orr: I think it was the Human Rights Commission who primarily said that. Supported decision-making is something that has a lot of discussion around it, and it is something that we need to continue to adapt to. I would be interested to know how the Human Rights Commission would want it adopted in this bill. We already deal with it under the consultation requirements—that consultation has to happen in a way that people are supported to understand. So there is actually already a requirement there in outlining that consultation could include supported decision-making, where people would need that level of support in order to interact with the consultation process.

So, from my perspective, I do not see how the bill would prohibit supported decision-making as part of the considerations in developing the framework that goes under the social model of disability, which includes the strategies and the plans. I got the sense that what the Human Rights Commission was saying was that they perhaps wanted to take it a little bit further than that.

I always say to people that it happens in three parts. The first part is putting in place the social model of disability; the second part is establishing the framework, which is the strategies and the plans to transition and to drive the change we want to come from the social model of disability; and the third part is to establish a ministerial council, so we make sure that we have the voices of people with disability firmly in the centre of the conversation.

So, if you think about it from that perspective, that is what the bill is intended to do. That is a little bit different to looking at supported decision-making, which is not solely for people with disability—it does go further than that—and the specific requirements to driving that changes the practice across a range of work areas. That was where I thought the Human Rights Commission were going with their points; I could be wrong. That is one of the things where I said that I am happy to engage with the Human Rights Commission, because that is one of the ones where I think a conversation would actually clarify a little bit more of where they are trying to go. But certainly when I read their comments it was not intuitive to me where you would put supported decision-making in the bill where it is not already contained—for example, in the consultation requirements.

THE CHAIR: Thank you.

MISS NUTTALL: My understanding is that the strategies within the bill would be notifiable instruments. Do you see any case for making them disallowable instruments?

Ms Orr: The reason they were notifiable was we received a lot of feedback from people saying that they would like them to be publicly available. This was the way we could ensure that they were publicly available and that there was no question around it. I think putting them as disallowable instruments changes the tone of that—and it was not the request.

Coming back to whether they should or should not be disallowable instruments, my question would be: why would you want to give the parliament the power to disallow that? If you think about the way this is approached, this is meant to be done in consultation with the community and be shaped by them. I guess my nervousness around making them disallowable is: are we opening up to politics in a way that would not respect the voices of the people who shaped the actual strategy or the plan itself? With the intention being to make it publicly available, I think that is achieved through a notifiable instrument, and I am yet to see many arguments for going further than that or making it a disallowable instrument or something else along those lines.

MISS NUTTALL: I understand the bill allows for flexibility within the priorities to meet the changing needs of people with a disability in our community, which is great. With that in mind, we have received feedback that housing, transport and the environment are the key areas where inclusion is paramount. Is there scope to include these areas within our priorities?

Ms Orr: The short answer is yes. The long answer is a lot longer! This is actually one of the more substantive changes between the consultation bill and the bill that was introduced. If you now look at the wording for the priority area, it is now an area mentioned in the National Disability Strategy or an area declared by the minister, and we have a range of examples. In the consultation one, we actually had areas listed, and they were consistent with the National Disability Strategy plus the option for the ACT minister to declare other areas.

The reason I moved away from actually listing them was that, in the period when we were developing the bill and it was out for public consultation until when we introduced it, the areas of the National Disability Strategy changed and my bill was already out of date before we even introduced it. So it was more one of how we make sure that we are not setting ourselves up with this little problem where we have to just be updating legislation because the titles have changed slightly. The topic areas did not change but the titles changed.

I also had a lot of people coming to me saying, "We would like this area," or "We would like that area,"—and there are compelling arguments for all those areas to be considered. They could be considered under the minister declaring an additional area. But the issue that was starting to take shape was that it was being treated as though, if it is not on the list, it cannot be considered. That is actually counterintuitive to what we want this section to be able to achieve. There is a recognition there that, through the National Disability Strategy, the ACT has taken on certain commitments to prioritise working areas. That does not mean that there will not be ACT-specific areas that we also want to go after.

After much discussion where I actually came to was putting it back to "We need to acknowledge the National Disability Strategy; we can also declare areas—and here are some examples we can run with; but it is not limiting it to anything or making it feel like if it is not on the list in the legislation it cannot be considered." It has always been the case throughout the whole legislation that, should the bill pass, it is then the case of establishing where we start and what we do. At a minimum, it will be the areas in the National Disability Strategy, but there is the opportunity for us to add more should there be a compelling argument for doing that. I would also add that I was a little bit conscious of having a list of 20 strategies, given that everyone had said it is a lot of work and some people were a little bit fatigued. So it was also: how long do we cut a piece of string to start with?

MISS NUTTALL: Do you see scope for ensuring remuneration for secretariat support, and are there necessary provisions for the Disability Advisory Council within this bill?

Ms Orr: We have not specifically put these into the bill because there are other factors that will interact with that, such as the Remuneration Tribunal and the determinations, other pieces of legislation and government conventions. It will be provided for, but it is not necessarily something we need to outline in this bill.

MISS NUTTALL: I think it section 8(1)(b) that says that the strategy may consult the following people. Do you mind me asking why "may" and not "must"?

Ms Orr: Sorry; I do not think that is 8(1)(b). I will just find the exact—

MISS NUTTALL: 8(1)(b) is what I had in my notes.

Ms Orr: I have 8(1)(b) as being an area declared by the minister.

MISS NUTTALL: It might be—

Ms Orr: I know the section. It is one of the consultation sections that you are talking about.

MISS NUTTALL: Yes.

Ms Orr: I think it is 10(1)(b) that we are actually talking about here. Section 10(1) says:

> (1) In preparing a disability inclusion strategy for a priority inclusion area, the responsible Minister for the priority inclusion area—
>
> (a) must consult—
>
> (i) people with disability; and
>
> (ii) families and carers of people with disability; and
>
> (iii) the council; and
>
> (iv) disabled peoples organisations and systemic advocacy groups; and
>
> (b) may consult with any other significant entity that represents or supports people with disability, or has expertise in relation to disability inclusion.

So the second one, 1(b) is may consult with. The reason that it is "may" and not "must" is that the second one is quite broad and you could potentially end up having a requirement for people to consult with so many groups that we do not actually get past the consultation.

In (a) you have people with disability, families and carers of people with disability, the council and disabled peoples' organisations. There is already a large cohort in there that must be consulted with. They are the people and the groups that you would want to make sure you are consulting with. Proposed subsection (b) really exists to make it clear that it is not limited to those groups—that you must have the conversation with one but you are not limited to having the conversation; you can include other people within that conversation. That is another reason that it is you "may" do this; you are not required to. Otherwise we would not have a subsection (b); you would just continue the list of (1)(a).

MISS NUTTALL: Beautiful. Thank you.

THE CHAIR: With that, we are out of time. Ms Orr, thank you for your appearance today.

Short suspension.

GIESE, MS JEAN, Chief Executive Officer, Volunteering ACT

THE CHAIR: We now welcome Ms Giese from Volunteering ACT. I remind all witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Could I please get you to confirm that you understand the implications of the statement and that you agree to comply with it.

Ms Giese: I do.

THE CHAIR: Wonderful. Would you like to make an opening statement?

Ms Giese: I would. Thank you for the invitation to present to the committee today, appreciating that what I am about to say might bring a slightly different flavour to the conversation. Volunteering ACT are the peak body for volunteering. We provide community information services across the region. We also deliver programs for people experiencing disadvantage and isolation, people with disability and people needing support for mental wellness.

The reason that we are really interested in having a conversation around how volunteering fits within the Disability Inclusion Bill is to firstly and publicly state our support for the bill and thank everybody who has been involved in the preparation of it to date, but also state that it perfectly aligns with our vision and our purpose in Volunteering ACT around enabling an inclusive Canberra. Volunteering acts as a gateway for many individuals in the community to connect with their community. Research over time has demonstrated that volunteering leads to reduced feelings of alienation and loneliness amongst people with disability and empowers them to become active providers of support to others. We know that volunteering is a strong and legitimate pathway to education and employment and has been found to help people with disability build personal skills, access networking opportunities and find paid employment.

One example of how we champion inclusion for people with disability is through our inclusive volunteering program, which has been running for many years. It is currently funded by the federal government, but of course some of that funding, as many organisations will tell you, is tenuous and rolls over, which creates some huge issues for continuity of support for people in the community. That program works one on one with people with disability to secure meaningful volunteering opportunities for them, and works actively with organisations across a huge spectrum within the region around facilitating. We work with them to facilitate ongoing development within their own organisations to build their own inclusion capability and capacity. The two parts of that program come together really neatly to not only enable people with disability into the longer term goal of employment but also break down the barriers that exist within organisations.

It is important to note that volunteering does not exist in, I suppose, the silo that people stereotype it as. It does not exist just at the tip of the iceberg, as we like to call it. Volunteering cuts across all the priority inclusion areas that have been outlined in the bill, including housing, justice, education, health and wellbeing. All those sectors in Canberra exist only through the vast numbers of volunteers that exist. Most prominently, the reason we want to be here is to offer our support, as far as we are able to, in terms of ensuring that the bill and the work that will come out of the bill acknowledges that, largely, all of the priority areas happen because of volunteers. There is, of course, a huge paid workforce across all these areas—but a large number of people volunteer across these areas—and also those that enable volunteering in them. There are those two sides of the same coin in that those priority areas do not exist without volunteers, but we also support volunteers to volunteer within those priority areas. I hope that is clear. We are well placed to support all the proposed disability strategies across different parts of government as well.

I will just say that inclusive volunteering objectives are firmly embedded within the 10-year National Strategy for Volunteering, which was launched last year, and will also be critical and a really important pillar in the ACT Volunteering Strategy, which we are in final stages of developing with the Community Services Directorate.

THE CHAIR: Great. Thank you. I will lead with questions and then we will go back and forth. I hope you can provide a bit more detail for the committee on what the inclusive volunteering objectives look like.

Ms Giese: The program has of course changed and evolved over time, but the current program works with individuals with disability. They come to us and say, “There are, of course, barriers to me finding employment. How can volunteering be a vehicle to do that?” We work with individuals to identify what their employment goals are and then we match them with a volunteering role to enable them to gain skills and experience on a pathway to employment. We are always really delighted when people exit that program, because, by and large, that means that they have found an employment pathway aligned with what they wanted. It is one of the rare programs in the community sector where you actually want people to exit pretty quickly, because that means that the program has given them what they needed.

The second part of the program is about working with organisations. The bread and butter of Volunteering ACT is to build capacity in organisations to break down barriers. Some of those barriers end up being very small and minute; other barriers within organisations are concerning and systemic, and that takes a lot longer. So it really depends on the barrier, but it is about enabling those organisations across all those sectors I spoke about to involve volunteers with disability, which of course has an enormous impact for the individual volunteer but it also makes changes within organisations and makes changes within communities, as we know.

The program, in many iterations over many years, has been highly successful and very well regarded and, in fact, won one of the Chief Minister’s Inclusion Awards last year. As I said, community sector funding is always really tenuous. At the moment, we are funded until June and we are exploring a range of options to keep the program alive after that point, notwithstanding that a lot of our core business is about providing capacity-building for organisations.

THE CHAIR: Great.

MISS NUTTALL: Thank you. With your reflection that the contents of this bill synergise well with the current National Strategy for Volunteering and the much anticipated ACT Volunteering Strategy, do you see a benefit in, perhaps, establishing best practice for inclusion strategies and making that available to community organisations that might wish to emulate it?

Ms Giese: Absolutely. We see ourselves best positioned to be able to influence volunteers, both as a workforce to help deliver these strategies and in how different sectors can actively engage people with disability. There is an undercurrent across all parts. In the bill, as it stands now, you have spoken about two sides of a coin. One is about enabling directorates and government agencies to be able to do better work themselves but also for those that they fund. Because volunteering sits across all those things, there is a role to make sure that the role of volunteers, as a key workforce and also as a key pathway to employment for people with disability and a pathway to connection, is considered in how these strategies develop out of the bill.

MISS NUTTALL: Absolutely. You express your support for the Disability Strategy Advisory Council reflecting the diversity of the ACT, including families, carers and First Nations representation. With this in mind, do you observe existing and potential opportunities for intersectionality within this bill and the way it will be implemented?

Ms Giese: We support that. We always support the inclusion of experts into any processes. I was pleased to hear Suzanne Orr say earlier that there is also an acknowledgment, in that recognition of that experience is also being considered.

THE CHAIR: This bill requires government entities to come up with plans. Are you hopeful that this reform of the way government approaches disability will flow through society more holistically?

Ms Giese: Absolutely. I think that would be the ideal goal, because the ecosystem that we work within is largely funded by government. When change is made within government agencies, that naturally flows down to the agencies and the organisations that are funded by it. I think it shows real leadership, and that leadership it will enable organisations to say, “This is actually the gold standard and it is the gold standard that we need to meet.” It also gives us, as an organisation that shouts from the rooftops about the importance of inclusion within the sector and within the environment, something to hook it back to and say, “Government have made a commitment to this and we need to get in line. We need to get in shape.” It actually gives organisations like ours, which are doing this work, something to build on as well.

THE CHAIR: Great.

Ms Giese: This is quite a nuanced area, knowing where a lot of the other speakers are coming from. I completely appreciate that.

MISS NUTTALL: A few submissions have brought up the risk of duplication of effort across areas. Given how cross-sectional volunteering in the ACT is, do you think that you may find that too—duplication in work—or do you see synergies?

Ms Giese: We are always hopeful that, when something is stood up across directorates, it is done consistently. That is not for me to speak to, because I do not work within government and do not have any influence there. We have experienced something similar with the development of the ACT Volunteering Strategy, which has not yet gone through a cabinet process. We have had to be really mindful of what directorates have in common—what things can be collaborated on and partnered on, and how we can support so that things are not done in silos and there are not different responses to the same problem. The community always responds well when governments say, "We are going to do this once and we are going to do it well." Just as community organisations are asked to turn up multiple times to talk about the same thing, we want to support it once and we want to support it well, where that is possible, of course.

MISS NUTTALL: Thank you.

THE CHAIR: There is nothing further from me. Is there anything further from you, Miss Nuttall?

MISS NUTTALL: Yes; just one more. Do you find that members of your organisation, specifically people with a disability, have expressed consultation fatigue? That has come up a little bit throughout the day.

Ms Giese: Absolutely. I do not know if this is bias on my behalf, but it feels, particularly in the last six months to a year, like there has been a lot of that, both locally and federally. There have been a lot of things that we have been asked to respond to. That is a key role for some of the peak bodies. We are funded to do this piece of work around policy and advocacy, whereas all of the organisations that are our collective members are not. If there is a way that we can support the reduction of that consultation fatigue, we are more than happy to help with that as well.

MISS NUTTALL: Awesome. Thank you. That is it from me at this stage.

THE CHAIR: Wonderful. Before we finish, is there anything further you would like to add? Have we missed anything?

Ms Giese: No; I do not think so. I am just really looking forward to seeing the next steps, and we happy to be involved however we can be. Thank you all for your time.

MISS NUTTALL: Thank you so much.

THE CHAIR: Thank you for appearing today.

Short suspension.

STEWART, DR ERIN, Policy, Advocacy, and Media Manager, Mental Health Community Coalition ACT

THE CHAIR: We now welcome witnesses from the Mental Health Community Coalition. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Could I please get you to confirm that you understand the implications of the statement and that you agree to comply with it.

Dr Stewart: Yes; I understand and agree.

THE CHAIR: Wonderful. I understand you have an opening statement.

Dr Stewart: Yes. Thank you so much for the opportunity to give feedback on this bill. It is a really strong bill, and it is good to see that the social lens of disability is being used. This definition will very much resonate with our members, who are the non-profit organisations that deliver mental health care in the ACT. Our members understand that mental health is not just about treating symptoms like a medical problem; it is also about addressing all the barriers to participation in people’s lives. That might include helping people into employment opportunities, into training opportunities, into housing, and that kind of thing. Trying to eliminate social barriers as much as medical symptoms are treated is very much the work that we do and the work that we are really proud of doing.

I will give a brief overview about the Mental Health Community Coalition ACT, which I will probably refer to as just MHCC. It is a membership based organisation. We have been established since 2004 and we provide advocacy, representation and capacity-building for the non-profit mental health service sector. This covers a range of different kinds of services: mental health recovery, early intervention, prevention, health promotion, and community support. We also advocate more broadly for a health system that offers people support and belonging in their community when they first need it.

THE CHAIR: Thank you. I will lead with questions and then we will go back and forth. Your first recommendation is to redefine ableism in the bill. I am hoping you could expand a bit more on that and why that is important.

Dr Stewart: Yes. The bill is quite strong in considering ableism. It is a really important thing to consider. In saying that, though, I think the bill might struggle slightly in defining ableism as a set of attitudes that individuals might hold. Certainly, that is part of ableism, but we also see that ableism has a long history and that it is a systemic issue, and that there are ongoing cases of discrimination, exclusion and other things that are enforced on very much the social level and often even on a government policy level. The examples that we have looked at include the fact that forced sterilisation is not illegal in any jurisdiction in Australia, which means that people with disability, particularly women with disability, are not given the same rights to their reproductive health as other people. In addition to that, there are also issues around Australia’s migration approach. If someone is seeking to migrate to Australia and they have a disability and it is determined to be expensive—and I think the definition of that is when it costs $40,000—they are not eligible to be in Australia.

When we are looking at those kinds of structural legal problems, ableism comes through our system on multiple levels. Obviously, it can also be on a personal level. It can be horrible to know that someone thinks poorly of you, but, when you have the whole state against your existence, that is a bigger problem.

In terms of mental health, we are also really concerned about coercive practices, particularly seclusion and restraint, but there are all kinds of coercive practices that people are subjected to. The human rights of people with disability, particularly people with mental illness, are routinely violated, I would say. Coercive practices are both regulated and unregulated. Dehumanising treatment happens, often in hospital settings, but it can happen in other settings as well. There are things like compulsory treatment, seclusion and restraint, the use of mechanical devices and even chemical restraint, which is the use of psychotropic drugs to control people's ability to make choice about what treatment they wish to have. They are live issues. They are quite traumatic for people. That would be where I would think the shortfall in the definition of ableism is, so far, in the bill.

THE CHAIR: Is there an ideal place for us to look for an alternative definition or should we try to encapsulate those ideas?

Dr Stewart: Encapsulating just the fact that there are various levels at which ableism can occur. It can be about individual beliefs, but ableism can also manifest in policy—legal policies or service policies and procedures.

THE CHAIR: Thank you.

MISS NUTTALL: I am interested in your discussion on universal design. I note your earlier point about accommodation for people, irrespective of their diagnosis as well. Do you foresee a place to explicitly mention or enshrine principles of universal design in this bill or do you think it is better as a guiding principle when it comes to implementing the bill?

Dr Stewart: From my perspective, it would best fit under the principles. I am not a legally trained person, so I am not really sure where the best spot for it is, but that was my thinking when I wrote the submission.

MISS NUTTALL: Absolutely. To be honest, neither of us have a legal background, so I would not be able to tell you.

THE CHAIR: Your second recommendation goes to explicitly extending exclusion rights and processes to people with disability without requiring diagnosis or disclosure wherever possible. Excuse my simpleton-ness, but explain to me how that works if you are not disclosing that—

Dr Stewart: It depends a lot on the situation. There are going to be some situations where you will need a diagnosis and disclosure—for instance, if you are applying for the disability support pension or the NDIS—but there are really great models where access arrangements are reported to people without them having to necessarily go up to someone and say, “Hey, I’m disabled. Help me out”. An example would be the sunflower lanyard scheme. In the UK, such as at Gatwick Airport, you just wear a lanyard and that indicates to staff members that you have a disability and that you might need some help getting around. In the airport situation, you might not have to queue for a long time to get through security, which can take forever, and you would be able to access disability bathrooms without people questioning whether you actually have a disability. A lot of people with invisible disabilities, those who do not look disabled, will be questioned when they use those sorts of facilities. So there are lots of opportunities, if we are creative, to make things accessible to people who really need it, without having to make a big deal about it, essentially.

THE CHAIR: That is something you would like to see included in the action plans?

Dr Stewart: Yes; I think so. In the submission, I used the example of bipolar disorder, where you are waiting between 10 to 20 years to actually be diagnosed, but you might be experiencing symptoms way before then. If you understand that you have a mental health issue, let’s say, and you are having trouble accessing work or that kind of thing, it should be something that you are able to ask for—“I need help here. I don’t have evidence that I have a specific disability, but it is affecting my life and it is affecting my ability to show up and be included”. In the action plans, it would be about being mindful of the fact that there are probably quite a lot of people with undiagnosed disability needing support, and they probably need support even more than someone with a diagnosis, a treatment team and that kind of thing.

THE CHAIR: Thank you.

MISS NUTTALL: Awesome. On the subject of the influence of accommodation for people with a disability, irrespective of diagnosis, how do you believe the bill would currently affect people with a disability who have not been diagnosed? You have possibly already answered most of this already.

Dr Stewart: In disability activism and that kind of thing, we have tended to miss the fact that actually being diagnosed or coming to terms with the fact that you have a disability in the first place can be a huge process. A lot of things like legislation, policies and procedures that we use to include more people inadvertently end up excluding people, and potentially even make the experience feel invalidating. I will use a mental health example. If you know that you are struggling, but, because you do not have a piece of paper saying, “The struggle is real,” you can have a lot of issues and feel that you are not entitled. That is something that we really need to consider. It is really important because often, when people are embarking on the journey of diagnosis and that kind of thing, they are still meeting all the same barriers and struggles that anyone else with a disability would, and potentially more, but they do not have the sense that the thing that they are going through is real, which can make it a lot more difficult to ask for help.

THE CHAIR: The committee has received evidence that there is a risk that there might be a duplication of effort or administrative burden by there being such far-reaching implications for the bill. Are these concerns justified?

Dr Stewart: Honestly, disability inclusion is hard. I think a lot of the frameworks that we have set up have implicitly excluded people with disability, because it is a different way of seeing things. I was just thinking of the bus system. It is very clear to me that someone who uses a wheelchair has not designed the bus, because it is hard to get on. And if you think about all the kinds of microstruggles that someone with a disability might face day to day, it is a lot; it is a huge burden. I think it is something that is worth the effort, but I think it will also take a long time. But in saying that, the ACT is a human rights jurisdiction; we care a lot about the wellbeing of people, and I think we are up to it.

MISS NUTTALL: As the representative from the Mental Health Community Coalition, I would be really interested to hear your thoughts on intersectionality and how you perceive that this bill might promote it?

Dr Stewart: I think intersectionality is a really important thing to consider as part of our approach. Definitely, from a mental health perspective, sometimes, say, growing up in poverty or growing up with a marginalised identity can exacerbate poor mental health, so when you eventually get mental health care and treatment you are also addressing that underlying intersectionality on top of the mental ill-health, as it were. I think that that makes a lot of sense. It has been very important, and something we should really do very deliberately, to include people from different cultural backgrounds and people with different sexualities, gender identities and different kinds of disabilities in these sorts of processes, because without the heterogeneity of experiences, we are missing part of the picture.

MISS NUTTALL: Consultation fatigue has come up, and now it starts coming up because we bring it up too! Do you find that is something that the Mental Health Community Coalition has experienced? Have you seen that with your members? Do you have any view on how this bill might alleviate it or risk exacerbating it?

Dr Stewart: It is a tricky one, because when you want to make reforms—and quite brave reforms—you need to consult; it is really important. Yes, it does take a lot of time. I feel constantly fatigued; I will just own that. I think one thing that would help a lot is reconsidering the way that people with disabilities are included in the design of policy within committees, and this sort of thing.

I am just thinking of the way that, in the mental health arena, a lot of the time, we will have an existing committee and someone with lived experience of mental ill-health will come and join it, and they might contribute to it, but they are often alone, as someone with lived experience. The terms of reference have already been decided and the goals have already been decided. I would not say that it goes so far as paying lip-service to inclusion, but it is a struggle for me, as a witness to this. It is a struggle to think about what the purpose of this inclusion is in that case.

If we actually want to see meaningful change, I think we need to include people earlier in the process. They need to be setting the goals. The committee should be reporting to them. The committee should be held accountable to people with lived experience. I think if we redefined these power structures, it could be possible that it would be less fatiguing, because you would feel like you were getting more done, and you would be feeling more of that empowerment. That is just a suggestion.

MISS NUTTALL: That is awesome, thank you.

Dr Stewart: No worries.

THE CHAIR: Is there anything that we have missed, do you think?

Dr Stewart: No. I think this is a really good bill, and I am happy to see the feedback we have gotten. I am really glad to have been able to contribute, so thanks.

THE CHAIR: Thank you. On behalf of the committee, thank you for your attendance today.

Hearing suspended from 3.15 pm to 4.01 pm.

BROWNE, MS TANIA, Acting Executive Branch Manager, Health Policy and Strategy Branch, ACT Health Directorate
EVANS, MS JACINTA, Executive Group Manager, Strategic Policy, Community Services Directorate
WOOD, MS JO, Deputy Director-General, CSD
STEPHEN-SMITH, MS RACHEL, Minister for Health, Minister for Children, Youth and Family Services, Minister for Disability, Minister for Aboriginal and Torres Strait Islander Affairs

THE CHAIR: Welcome back to the public hearings for the committee's inquiry into the Disability Inclusion Bill 2024. The proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. When taking a question on notice it would be useful if witnesses used these words: "I will take that question on notice". This will help the committee and witnesses to confirm questions taken on notice from the transcript.

We now welcome Ms Rachel Stephen-Smith, Minister for Disability, and officials. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Could I please get each of you to confirm that you understand the implications of the statement and that you agree to comply with it?

Ms Browne: Yes.

Ms Evans: I have.

Ms Wood: Yes.

Ms Stephen-Smith: Yes.

THE CHAIR: Wonderful. We do not have an opening statement, so we will now proceed to questions. The government submission notes that this bill is being considered at an opportune time in the context of implementing impactful, effective and sustainable policies and practices which will systematically and practically improve outcomes for people with disability. Could you please describe why this is an opportune time?

Ms Stephen-Smith: Thank you, Chair. I think this is an opportune time for this bill in the context of Australia's Disability Strategy 2021-2031 and the work we have been doing to consult on the ACT Disability Strategy, which we have nearly finalised. And, of course, we released, late last year in December, both the Disability Health Strategy and the inclusive education strategy as well and, a few years ago, the Disability Justice Strategy, which is in the process of finalising the evaluation of the first action plan and completing the second action plan.

We have got this really good national structure under Australia's Disability Strategy. We have also got the context of the disability royal commission and the NDIS review. So, at a national level, we have got a really clear set of directions that have been given to governments at all levels around the need to ensure that people with disability are included and supported and so that we work collaboratively and across governments, but also right across the community, to address exploitation, abuse and neglect of people with disability, on the negative side of the ledger, but also to uplift disability pride and the value that people with disability bring to our community, which is why inclusion is so important. The disability royal commission brings out all of those aspects and Australia's Disability Strategy really gives effect to that and will be refreshed in the context of the royal commission and the NDIS review as well.

THE CHAIR: It has been raised with the committee that there are fears in the community that this may be a duplication of effort or may be an administrative burden. Are those fears justified?

Ms Stephen-Smith: I do not think they are, because I think what the bill will do, if it is agreed to by the Assembly, is to set a framework and an expectation about the work that governments need to do. Obviously, we are a long way progressed in a range of areas around having the types of strategies in place that the bill requires the public service to do, but also in having disability action and inclusion plans across a number of directorates as well, and Canberra Health Services now has an established plan. So, I think it is very much aligned with the work that government has been doing. What the bill, if it becomes law, would provide is a real framework and an ongoing requirement to remain committed and to continue to do better in this work. Because, while we do have a lot of things in place, we know, also, that there is a lot more work to do, and the royal commission showed us that and our own consultations, locally, demonstrate that as well.

THE CHAIR: Thank you.

MISS NUTTALL: A number of submissions have pointed out the importance of the ability for people with a disability to provide feedback on the development and the implementation of disability inclusion strategies. Do you foresee other ways that the ACT government can ensure these strategies provide ample opportunity for feedback not just in the conception but during the implementation?

Ms Stephen-Smith: Again, we have worked really hard to ensure that is the case across the range of strategies that we have been developing. I will get Jacinta and Tania to talk about the disability strategy work, recognising we have not released the Disability Strategy yet, but we are very close to finalising the Disability Strategy and first action plan, and then in relation to the Disability Health Strategy.

What I would say, in my observation, having gone through the process of the Disability Justice Strategy and the Disability Health Strategy with close engagement—and the Disability Strategy at a bit more of a distance until December—is that engagement has been done in different ways because of the lessons learnt over time but also for good reasons, because the different sectors are quite different in the way that people engage with them.

I think, when you contrast the justice sector with the health sector, for example, while the health sector is quite diverse, it is in some ways actually simpler to understand and engage with than the justice sector. When we started looking at the Disability Justice

Strategy, we then had to really think about what justice is in this context: we are talking about civil law; we are talking about criminal law; we are talking about child protection; we are talking about housing advocacy and ACAT. So, the tentacles really spread as soon as we started thinking about the scope of it, which meant we were bringing in not only the lived experience of people with disability but also all of those sector players around the table. They had to be accommodated in that conversation about what we mean when we are talking about a more inclusive and accessible justice sector, whereas I think in health we kind of already understood a lot of what the sector is and looks like. We still have the public and private elements of that, but in some ways, it was actually a simpler concept to get our heads around. So, I think there is a bit of horse for courses, but there are also lessons learned.

One of the things that I am really proud of in the Disability Health Strategy work in the steering committee was our ability to bring in Kim Adams from ACT Down Syndrome and Intellectual Disability Association, and supported by Down syndrome ACT, to fully participate in the process as a member of the steering committee. What that meant for the steering committee for that strategy development was real thinking and deep thinking about how to ensure that reasonable adjustments were made for everybody in that steering committee. The adjustments that had to be made to support Kim to participate fully in that process were lessons for a lot of other people with lived experience of disability who have a different lived experience. It also made the process more accessible for everybody. So, one of the opportunities we have here is to learn those lessons as we go through each process and to ensure they are captured and feed into the next process. I have talked a lot, having said I was going to hand over to Jacinta and Tania. Do not either of you want to add to that in relation to the specific processes?

Ms Browne: I very much echo what the minister said around development of the ACT Disability Health Strategy. Going back to the point you raised around engagement through the implementation, we will soon be releasing an EOI for applications for the Disability Health Strategy’s Reference Group and that will really guide us around implementation of the First Action Plan. They will also have oversight of implementation of the inclusion plans that we have in place at the moment with Canberra Health Services, and also the one that will be developed through the First Action Plan. So that group is a really important function of making sure we have ongoing engagement of people with disability and their lived experience. I will also add that membership is specified to include people with disability but also Aboriginal and Torres Strait Islander people with disability as well. So we have a very inclusive group that is informing the work going forward.

THE CHAIR: If the bill is to pass, what kind of transitional arrangements would be required to accommodate existing ACT disability strategies?

Ms Stephen-Smith: I think it will be important to ensure that the bill is read and understood. This may require some amendment to enable the existing strategies to continue and not have to be remade. Part of that is about the impact on government and continuity, part of it is about the impact on people who have already engaged in that consultation and been part of the co-design work for these strategies.

I have not caught much of today’s hearing, but I did hear earlier a couple of comments about consultation fatigue. So I think it is really important that the strategies that we already have in place can transition to being recognised as strategies under this bill/act. My understanding is that was the intention, but if there are amendments that are required to clarify that is the case, then that will be a useful thing for the committee to consider and potentially recommend.

Speaking on consultation fatigue briefly, just to note that one of the things that we have also tried to do through our consultation processes is to ensure we are gathering the feedback. This is where the YourSay platform comes in and is really useful because it requires us to produce listening reports, which then provide a body of evidence that can be drawn on in the next consultation process. So I think the transition arrangements recognising all of the work that has been done and not requiring it to be redone is going to be really important.

MISS NUTTALL: My understanding is that these strategies would be a notifiable instrument. Do you see any case for making them a disallowable instrument? Or are you happy with where they sit?

Ms Stephen-Smith: I think notifiable is appropriate. Yes, I probably could go into a lot of detail about that but I think the type of thing that they are really speaks to being notifiable. I do not know if anyone wants to make any more technical comment about that.

THE CHAIR: Can you give me some context into the history of why the DRG might not be a formal ministerial advisory council, like described in the bill?

Ms Stephen-Smith: My recollection—and I do not know if anyone else was around at the time—is that the DRG was established in the context of initially the consultation around the NDIS establishment, then the implementation and then post-NDIS. It was quite a deliberate decision to say that while we have got out of direct disability service delivery and funding, except in some quite explicit areas, we still believe that we have an important role in building a more inclusive Canberra.

Also in those early years of NDIS, as disability minister at the time, getting advice from the Disability Reference Group about the implementation of the NDIS and what they were seeing on the ground was a key factor in the way that it was established at the time. Then it has evolved to have a broader remit around building a more inclusive Canberra and being an opportunity for other directorates also to come and get advice. So while we had a specific Disability Health Strategy Steering Committee prior to that, the Disability Reference Group would provide quite a lot of feedback to the ACT Health Directorate around the things that they were doing, and then they wanted to engage and get a source of advice.

I suspect it was not established as a council because of that kind of informal growth in the reason it came into being, and because it did not have any legislation specifically to sit underneath at that time. I think it has operated very much like any other formally established ministerial council and I can certainly see a very smooth transition from the Disability Reference Group to the council that is envisaged in the bill.

THE CHAIR: Are there any benefits to formally elevating the DRG to a ministerial advisory council?

Ms Stephen-Smith: I think one of the benefits of having it established under legislation is that at the moment it is kind of at the whim of government. It can be there or not be there, and that can change with a change of government. I think requiring you to have one is a very good signal to the community that there is a continuity there. No matter what happens, election to election, governments are expected to get formal advice from people with disability across these specific areas that are outlined in the bill.

MISS NUTTALL: Just to clarify, what then do you foresee as the role of the new Disability Advisory Council? And how do you see that interacting with the existing Disability Reference Group and other reference groups?

Ms Stephen-Smith: Of course there is no formal decision about this at this point, but my expectation would be that the Disability Reference Group would transition into being the new council. But that where there are specific reference groups that have been established for particular reasons, whether that is in city services, or in health, or in education, those would also have a role to play. One of the things government would need to consider in concert with the council is what are the relationships between those groups.

Particularly reflecting on the establishment of the transport and city services group, which was something that the Disability Reference Group had called for, for quite a long time, because they recognise that there are so many access issues that the directorate deals with that are quite specific about physical access and sensory access that the Disability Reference Group could not possibly deal with that level of detail while also looking across whole of government and community and inclusion issues.

MISS NUTTALL: How do you foresee establishing the social model of disability in this act interacting with other acts, like the discrimination act, the human rights act and the disability services act?

Ms Evans: I think it is really critical that this act does, as referred to in the act, go right back to the UN Convention on the Rights of Persons with Disabilities, and in the context of all those pieces of legislation you mentioned, that we really consider more broadly and elevate the needs of people with disability. This bill builds on those pieces. It enforces and reinforces the rights of people with disability to be considered holistically within the environment in which they live and within the context of us as a society. From my perspective, I think it is just a strengthening of those other pieces of legislation.

Ms Stephen-Smith: I think the other comment to make is the recognition that the discrimination act strengthening is coming into effect. So the positive requirement to make adjustments and to act to support people with all of those protected attributes is coming into place very soon and that really sits alongside it. As Jacinta said, that social model, the recognition of the UN Convention on the Rights of Persons with Disabilities, all of those things I think actually mesh very, very nicely.

MISS NUTTALL: Do you foresee that there would need to be any amendments to harmonise those pieces of legislation to streamline reporting requirements at all? Or do you see them as very much complementary pieces?

Ms Stephen-Smith: I have certainly been thinking of them as complementary, but I think that is a useful question for the committee to explore in terms of the evidence that you have received. We would certainly welcome, from a government response perspective, any feedback that you have on that.

THE CHAIR: The government submission notes that allowing annual reporting requirements to be incorporated into existing annual report requirements may reduce administrative burden. Can you confirm for the committee that this will not dilute the bills current annual report requirements?

Ms Stephen-Smith: There is often a bit of a challenge about how you set up reporting to be clear and consistent without being duplicative. There is already a lot of reporting around a lot of activity. There will be reporting against each of the individual strategies and there will be reporting against the broader disability strategy.

I think in terms of the directorates reporting, it could be included in their annual report—as all directorates' annual reports include a statement on Aboriginal and Torres Strait Islander activity inclusion. I think that is helpful, rather than creating yet another set of reports that then have the potential—I know from a bit of experience across the government, that these reports all require quite a lot of effort and pulling together and input. So you are putting resource into reporting rather than putting resource into doing. And if they occur at different times of the year then it is very hard to use that same information across multiple reports. So I think it makes sense. I do not know if anyone else here wanted to say anything about that. Jo?

Ms Wood: Yes. We have some learnings in the public service from our approach to Aboriginal and Torres Strait Islander reporting, and there has been some work to strengthen that to ensure that we are actually showing what the outcomes are not just the activity. So I think as we consider the guideline to reporting that we have some lessons learnt there that we can apply in this space as well.

MISS NUTTALL: I understand the bill allows for flexibility within those priority areas to meet the changing needs of people with a disability in our community. With that in mind, we did receive feedback from housing, which I think is actually included now, transport and the environment—the key areas where inclusion is paramount. Do you think there is scope to include these areas within our priorities?

Ms Stephen-Smith: Well the bill enables additional priority areas to be named. So I probably would leave that for the committee's view around whether the committee believes there should be additional priorities specified in the bill/act or whether to leave that to the discretion of the minister to make it in regulation.

THE CHAIR: Something that has been raised with the committee in previous evidence is a concern that this might become a tick and flick exercise. How do you stop that from happening with government?

Ms Stephen-Smith: I think that is the importance of the council and its work to hold the government to account. One of the things I think that would need to be considered is how any holding to account might actually work, because it is one thing to require government agencies to report on what they do; it is another thing to have that challenged and checked. So that might be something that is worth considering: what role the council plays in that.

MISS NUTTALL: Given that the bill may well necessitate quite a number of strategies, and we have previously talked about consultation fatigue and also streamlining, do you have any kind of mechanism in place that would allow the council to be able to scrutinise the things that it needs to, but not to overwhelm their remit?

Ms Evans: I was going to suggest—I think again going to those learnings from Aboriginal and Torres Strait Islander actions and reporting, I think we have found within government that it is important that we have the appropriate internal mechanisms. So our own senior officials’ groups and our own processes to report through to sub-committees and cabinet, for instance. That information is often pulled together and could be shared with the council in a way that avoided them having to interrogate every item.

We have found, with our Aboriginal and Torres Strait Islander reporting, as was mentioned in the previous question, we can end up in a situation where each directorate is just working on their own individual things unless we pull it all together at some point through those internal mechanisms and really look at and interrogate the work that we are doing. So I think there is a possibility—while it would not necessarily be formally mandated, but the expectation would certainly be within the public service that we would have to have a way that we collectively consider our response and reporting.

Ms Wood: If I could just add to that? In CSD we have experience of a range of ministerial advisory councils. It is important that the council has the capacity to set its priorities and require input and engagement from government agencies on those priorities, rather than run past an advisory council every single thing that a directorate might think would be useful to. The council really, I think, will be in a position to set a strong set of priorities and that should then shape the engagement.

THE CHAIR: Something that has been raised with the committee previously is that the definition of ableism could be altered. Does the government have a definition of ableism that it commonly refers to? Or is in legislation?

Ms Evans: I do not think we do. I think we would just reference the one that is listed in other legislation. I do not think we have anything separate.

THE CHAIR: Okay. I have no idea what that is. So I am just going to assume they all line up.

Ms Evans: Well I was more thinking about the—there is a definition obviously given in Australia’s Disability Strategy, I believe. I would have to dig around to pull that out. Certainly I think it is an accepted definition, more broadly. So I am not aware of anything else in our legislation that relates to that.

MISS NUTTALL: One thing that was put to us in one of the submissions was the potential of changing the definition of ableism in the bill to consider structural ableism, not just as it relates to the individual. Is that something that you have come across or see scope for within the bill?

Ms Stephen-Smith: I certainly think the idea of that—without necessarily knowing what the words would look like—is consistent with the purpose of the bill, which is about creating a more inclusive society. So addressing those structural issues is vital. I think you can draw a parallel around individual racism and structural racism in the way that our organisations and society are set up. So I certainly think that commentary is valid. I do not know; I probably would not make a comment about whether the current words capture or do not capture that, or are intended and could be applied to organisations as well as individuals. That is probably a matter for Ms Orr to talk about what the intention was.

THE CHAIR: The bill currently lists a review after the fifth year of operation. Is five years an appropriate time to review legislation? Or should it be more commonly done sooner, later?

Ms Stephen-Smith: I think for something like this, I would say five years would probably be a minimum, in terms of not wanting it to be reviewed much sooner, just recognising the time it takes to establish structures and strategies and then to see the impact of them. To go back to Ms Wood’s point about outcomes, part of where we end up when we—I think this was with the consideration around how often strategies and action plans need to be reviewed and updated—is that you can spend all of your time engaging with people to update the words on paper or you can get on with doing the doing. When you spend all of your time updating the words on paper, while it is important that these are things that are reviewed periodically, that is where you end up with consultation fatigue and you do not have time to see what the outcomes look like before you end up in another review cycle. So I think it is important that you have enough time to start seeing whether what you are already doing is having an impact.

Ms Evans: Chair, may I clarify my answer to the question on ableism?

THE CHAIR: Of course.

Ms Evans: Thank you. I just wanted to make sure that I was not misquoting. In the section on community attitudes in Australia’s Disability Strategy, there is a section that talks about ableism:

> People with disability report the greatest barriers they face are not communication or physical, rather they are created through stigma, unconscious bias and lack of understanding of disability. This can include ableism, where people with disability can be seen as being less worthy of respect and consideration, less able to contribute, and not valued as much as people without disability.

There is a whole section, which is on page 29. I just wanted to clarify that.

THE CHAIR: It seems very similar.

Ms Evans: Yes. I think it is probably drawn from that.

THE CHAIR: It is hardly different, I think.

Ms Stephen-Smith: I think, though I am not finding it right now, there is also a definition in the disability royal commission's final report as well. So that might be something that is worth the committee having a look at, the different things that are available in those reports versus what is in the bill.

MISS NUTTALL: I know this has been partially answered in other submissions, but I am interested to get your take. Do you see scope for ensuring remuneration, secretariat support and other necessary provisions for the Disability Advisory Council within the bill itself or more as provisions surrounding that?

Ms Stephen-Smith: I would say the requirement to have the council necessitates the requirement to support the council. I am not a big fan of making legislation too prescriptive around those kinds of administrative issues.

MISS NUTTALL: I think you have probably covered this a bit already, but I would love to just grab clarification. The disability royal commission has recommended a review and update of the Australian Disability Strategy by the end of 2024. Do you think there are pros to aligning the timing of the commencement of the Disability Inclusion Bill or its reporting obligations with the work taking place nationally?

Ms Stephen-Smith: I think, just in the way these things work, there is not necessarily going to be full alignment. States and territories and the commonwealth have now committed to an initial response to the disability royal commission recommendations by the end of July—we put a date on it, did we not, in the end? But that will still be an initial response. I am not in a position to pre-empt that response in terms of commenting of the review of Australia's Disability Strategy and the timing around that.

Again, Australia's Disability Strategy has not been in place for that long. It is then challenging to review it if it has not had a chance to deliver an outcome, but we also respect the recommendations of the disability royal commission and the reasons behind that, and also recognise that a review would take a little bit of time. So I think we will probably have a bit more to say about that across jurisdictions once we have had an opportunity to consider the responses to the recommendations as a whole.

Ms Evans: I think also that the review that has been considered for 2024 is not a fulsome review. It is designed to be a bit light touch. We are not five years through yet, so the expectation is that there will be another opportunity for review in the term of this strategy.

THE CHAIR: Any last thoughts? No?

Ms Stephen-Smith: Sorry, just to clarify the context of Ms Evan's comment. I had forgotten this. The Disability Reform Ministerial Council has committed to that smaller review before the end of 2024, it was a lighter touch review, and then that larger evaluation in 2025.

THE CHAIR: And with that, we will call it a day. On behalf of the committee, thank you very much for your attendance.

The committee adjourned at 4.38 pm.