Multicultural Legislative Review 2019

Discussion Paper

Government of South Australia

Department of the Premier and Cabinet

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Foreword

Multiculturalism is one of South Australia's greatest assets and strengths.

We have built our state upon successful waves of immigration, dating back to the very first settlers. The South Australian Government welcomes the positive and diverse contributions of migrants from all corners of the globe, who have made South Australia home, we value their aspirations to thrive and we respect their right to express and share their cultural traditions within our state.

The South Australian Multicultural and Ethnic Affairs Commission Act 1980 sets the foundation of establishing formal recognition of our culturally diverse communities and our commitment to multiculturalism.

Today, South Australia's multicultural landscape is becoming more and more diverse and complex. Alongside the long-established European communities who arrived after World War II, we are now witnessing incredible cultural, linguistic and religious diversity within our recently arrived communities.

Interculturalism is a term increasingly used to describe societies where there is a deep understanding and respect for all cultures. It reflects more dynamic inclusion of and interaction between culturally and linguistically diverse groups, from which all of society benefits. Foundations for an intercultural society can be laid through strong and proactive multicultural policies.

The South Australian Government is committed to multicultural legislative reform so that we can strengthen and expand the scope of the existing legislation to enshrine multicultural policy directions, address contemporary priorities and issues and better support culturally and linguistically diverse communities.

The state government's Multicultural Legislative Review 2019 will seek to engage with the wider community to help shape new legislation. This will include a series of regional and metropolitan community forums, key stakeholder workshops and online contributions through YourSAy, to gather feedback on this discussion paper. This will ultimately inform the recommendations to be made to our government as part of the review.

We encourage you to participate in these engagement opportunities and provide your feedback by 3 June 2019.

We look forward to working with you to build a stronger and vibrant multicultural South Australia.

Hon Steven Marshall MP
Premier of South Australia

Hon Jing Lee MLC
Assistant Minister to the Premier

About the review

As the South Australian Government has a strong commitment to supporting our diverse and vibrant multicultural community, it is considered timely to review the *South Australian Multicultural and Ethnic Affairs Commission Act 1980*.

We are seeking stakeholder and community views to shape new multicultural legislation.

This discussion paper will be used to support consultations with stakeholders about how best to modernise the legislation to reflect the changing needs and aspirations of our growing multicultural community. It includes guiding questions as well as a summary of research about multicultural legislation and policies in other jurisdictions.

This discussion paper should be read in conjunction with the *Multicultural Legislative Review 2019 Research Paper* and the *South Australian Multicultural and Ethnic Affairs Commission Act 1980*.

Community input is critical to ensuring that the new legislation reflects community views and needs.

Why is the review necessary?

***The South Australian Multicultural and Ethnic Affairs Commission Act 1980* is the only piece of South Australian legislation specific to multicultural affairs.**

It was enacted 39 years ago and has not undergone major review in 30 years.

A review of the Act provides the opportunity to develop fresh legislation that affirms the government's commitment to multiculturalism and its importance to South Australia. We need legislation that sets a foundation for the development of new multicultural policy that reflects the state's cultural, linguistic and religious diversity, recognises the valuable contribution of our diverse communities and supports the development of culturally responsive government services.

Key stages of the review

15 April 2019 **Engagement opens**	Discussion paper released YourSAy online discussion opens
30 April - 31 May **Community forums**	Open to the general public Adelaide Murray Bridge Berri Port Pirie Mount Gambier
May 2019 **Stakeholder workshop(s)**	By invitation
3 June 2019 **Engagement closes**	Written submissions due YourSAy online discussion closes
June 2019 **Reporting back**	Engagement report published (Communicating what we heard from the community and stakeholders)
October 2019 **Legislation introduced**	Revised or proposed Legislation in the form of a Bill introduced to Parliament

Context for the review

The government's role in multicultural affairs

Development of policies and programs that promote cultural diversity and all matters relating to multicultural affairs is a key priority of the South Australian Government.

Multicultural grant programs, events, awards, community forums, support programs and resources are used to support communities and encourage showcasing of cultural diversity.

Multicultural Affairs within the Department of the Premier and Cabinet is responsible for developing and delivering these programs.

Another important role of Multicultural Affairs is to provide executive support to the South Australian Multicultural and Ethnic Affairs Commission to assist it to carry out its role of advising government about all matters relating to our multicultural communities.

The Commission currently has 12 members including the Chair that were appointed in June 2018 for a two-year term.

The review of the *South Australian Multicultural and Ethnic Affairs Commission Act 1980* (the Act) is being led by Multicultural Affairs within Department of the Premier and Cabinet supported by the Commission. Members will be actively involved in the consultation process and attend community forums and stakeholder workshops to hear firsthand the views of community members and other stakeholders.

Terms of Reference

The purpose of this review is to modernise legislation to build a stronger and vibrant multicultural South Australia.

Consultation will focus on the following terms of reference:

The review will:

1. Explore options for expanding the scope and purpose of the legislation to enshrine multicultural policy directions
2. Review the functions and powers of the Commission and ensure its title reflects this
3. Review the appointment process of Commission members
4. Contemporise language used in the Act.

The next section discusses each of the terms of reference in detail, including current practice under the existing legislation, a summary of practice in other jurisdictions, proposed directions and questions to guide consultation.

Discussion on the Terms of Reference

1. Explore options for expanding the scope and purpose of the legislation to enshrine multicultural policy directions

The existing legislation

The Act defines multiculturalism as the policies and practices that

- recognise and respond to the ethnic diversity of the South Australian community and
- have as their primary objective, the creation of conditions under which all groups and members of the community may:
  - live and work together harmoniously
  - fully and effectively participate in, and employ their skills and talents for the benefit of, the economic, social and cultural life of the community, and
  - maintain and give expression to their distinctive cultural heritages.

However, as the main objective of the Act is to set out the functions and operational arrangements of the Commission, the Act does not outline how South Australia can put the definition into action.

The government would like to expand the scope of the legislation to enshrine multicultural principles. These will replace the current definition in the legislation, supporting a more proactive approach to recognising and responding to a diverse South Australian community.

Multicultural principles

Multicultural principles can be defined as foundational rules or laws that represent the government's views about multiculturalism and the implications for how people live in a multicultural society. They provide a basis for policy development. It is proposed that a set of multicultural principles be enshrined in South Australia's legislation. The following principles are suggested for consideration.

1. Diversity is an asset and a valuable resource benefiting the state.
2. All people have the right to express and celebrate their cultural, linguistic and religious diversity.
3. All people are entitled to mutual respect and understanding regardless of their background.
4. All people have access to participate in the cultural, economic, political and social life of the state.
5. All people have equal rights and responsibilities under the law and equitable access to the services funded by government.
6. All people have a responsibility to abide by Australian laws and respect the democratic processes under which those laws are made.

7. South Australia's diversity should be reflected in a whole of government approach to policy development, implementation and evaluation.
8. Government entities are responsible for embedding the multicultural principles in conducting their affairs.

Questions

- What does each principle mean to you?
- Which principle do you feel is the most important and why?
- Do any of the principles need changing to better reflect multiculturalism? If so, which ones?

Converting multicultural principles into policy

Multicultural principles give a strong foundation for whole of government multicultural policy, but decisions about the best way to implement the principles still need to be made.

Key features of implementation in other jurisdictions, which could be considered for South Australia, include:

- Development of an official policy document (e.g. a charter)
- Develop a model including identification of outcomes required from government agencies delivering services to people from diverse backgrounds (e.g. framework or action plan)
- Public reporting of outcomes.

Questions

- Which features of implementation do you feel are most important and why?
- What features have other jurisdictions implemented that South Australia could adopt?
- What other features do you recommend for implementation?

2. Review the functions and powers of the Commission and ensure its title reflects this

Current functions and powers defined in the Act

Section 12 of the existing Act defines the primary functions and powers of the Commission, which are to:

- increase awareness and understanding of the ethnic diversity of the South Australian community and the implications of that diversity, and
- advise the government on all matters relating to the advancement of multiculturalism and ethnic affairs.

These functions drive most of the Commission's work. The Commission meets several times a year to advise the responsible minister on a range

of multicultural issues impacting on individual communities or the wider community. Commission members are very active in attending many multicultural events and festivals throughout the year and addressing events where requested.

The Commission also consults with communities in various ways to advise the responsible minister on key issues, changing needs and circumstances of diverse communities.

Questions

- How well do you understand the functions of the Commission?
- What is your understanding of the role of Commission members?
- How often do you come into contact with Commission members?

Advisory bodies in other jurisdictions

Other jurisdictions have adopted different arrangements for undertaking responsibilities for multicultural affairs. Several other jurisdictions apart from South Australia have a Commission, equivalent advisory council or board. Their functions vary considerably, ranging from bodies which operate in a similar way to the Commission, to others with wider consultative, policy and implementation responsibilities.

For more detail about approaches in other jurisdictions refer to the *Multicultural Legislative Review 2019 Research Paper.*

Proposed functions of the Commission

Some of the activities which the Commission already undertakes are not clearly defined in legislation. In order to empower the Commission to meet its objectives, it is proposed that the following functions are reflected in the Act:

1. To give advice to government about:
   - identifying the needs, aspirations and contributions of people from diverse backgrounds
   - government policies relating to multiculturalism
   - services and programs that will meet the needs of people from diverse backgrounds.
2. To consult with any group or entity as required to carry out its advisory function
3. To promote and raise awareness of the multicultural principles and use the principles to drive and underpin their work as Commission members.

Government will consider whether the title of the Commission appropriately reflects the proposed functions of the Commission and its role in the community.

Questions

- What do you think is working well with how the Commission currently operates?
- What do you think could be improved with how the Commission currently operates?
- How often would you like to come into contact with Commission members?
- Do you have any feedback about the proposed functions of the Commission?
- Do you feel the title of the Commission reflects the proposed role?

3. Review the appointment process of Commission members

Current practice for appointing Commission members

Section 6 of the Act outlines who can be appointed to the Commission and for how long, as well as how they are appointed.

The Commission may have a maximum of 15 members, including the Chair. At least four members must be men and four must be women. Members may serve for up to three years while the Chair may serve for five years. Service can be extended through reappointment. All appointments are made by the minister.

As part of the appointment process, the Act also requires consideration of the individuals' knowledge, sensitivity, enthusiasm, personal commitment, experience and involvement with ethnic groups, as well as how the Commission as a whole reflects gender balance and a diversity of ethnic groups and occupations.

The current Act requires the Commission to present the responsible minister with a report on its activities for the previous year on or before 30 September each year. The minister is required to table this report in Parliament.

Practice in other jurisdictions

There are broad similarities across states and territories for the appointment of members of commissions/advisory councils/boards. Appointments are made by the minister or by governors on the recommendation of ministers.

Characteristics of prospective members considered during the appointment process are also similar across jurisdictions.

Proposed additional criteria for appointment

It is proposed that the Act also requires consideration of the following when appointing members to the Commission:

- ensuring a balance between established, new and emerging communities
- different social and cultural backgrounds
- different age groups
- regional representation
- expertise in current areas of need/relevance to the community.

Question

- Do you think there are any other considerations that should be taken into account in the appointment of Commission members?

4. Contemporise language in the Act

One of the stated review outcomes is to contemporise language in the Act. It is also the intention of the review to incorporate more intercultural principles and language used in the legislation to make it accessible and inclusive.

Questions

- Are there any words or terms in the current legislation you feel are no longer appropriate and should be removed?
- What words or terms do you consider culturally appropriate and responsive that should be within the Act?

What feedback you can provide

We want to understand what is important to you in strengthening our commitment to multiculturalism.

This Discussion Paper suggests ways to improve and modernise our legislation.

We have posed questions to encourage you to think about the proposed approaches for new legislation.

We would like your feedback on these questions and the proposed approaches.

Your feedback will inform Multicultural Affairs' recommendations to government about what changes to the legislation should be made or considered.

We will report what we heard and share the outcomes of the engagement process and how it influenced the review.

How you can engage in the review

The engagement process will be open from 15 April to 3 June 2019. To ensure a wide range of views are sought and heard, there are different ways to participate.

Face to face

A series of community forums and stakeholder workshop(s) will be held in Adelaide and regional areas.

These forums are a chance for all members of the community to attend a face to face engagement session, and the workshops a chance for key stakeholders to attend by invitation.

These face to face sessions are a chance to hear about the review, ask questions and provide input through facilitated conversations based on this Discussion Paper. An independent facilitator will lead these sessions to ensure attendees are enabled and supported to participate and share their ideas and feedback.

Community forum dates, locations and details on how to register can be found at:
www.yoursay.sa.gov.au/multiculturalreview

Online

Join the online discussion or complete the online survey at:
www.yoursay.sa.gov.au/multiculturalreview

Alternatively, submit your feedback or written submission by email to:
multiculturalreview@sa.gov.au

Please note that your submission will be made publicly available unless you indicate that you wish for it to remain confidential.

For any enquiries contact Multicultural Affairs on telephone (08) 8429 5961.

If English is not your preferred language, please contact the Interpreting and Translating Centre on 1800 280 203 and ask to speak with the Department of the Premier and Cabinet.

All submissions must be received by 5pm Monday 3 June 2019.

Further information

Multicultural Affairs
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