Settlement Council of Australia

NEDA
National Ethnic Disability Alliance

Joint Submission to the Attorney-General's Department

Disability Discrimination Act 1992 Review

Settlement Council of Australia (SCOA)
National Ethnic Disability Alliance (NEDA)

November 2025

Acknowledgement of Country

The Settlement Council of Australia and the National Ethnic Disability Alliance acknowledge the Traditional Custodians of the lands on which we live and work. We pay our respects to Elders past and present, and honour the enduring strength, cultures, and sovereignty of Aboriginal and Torres Strait Islander peoples.

We recognise that settlement in Australia has never been neutral. The experience of settlement in this country holds contrasting truths and complexities. For refugee and migrant communities, settlement often represents hope and the promise of belonging. Yet alongside this, we must hold and honour another reality: that the history of settlement in Australia began with displacement, violence, and profound loss for Aboriginal and Torres Strait Islander peoples. That legacy continues through systems and structures that still marginalise and harm First Nations communities today. We also acknowledge the resilience and leadership of First Nations peoples, whose ongoing fight for justice and self-determination has paved the way for all communities seeking safety and belonging on these lands.

We recognise that we live and work on stolen land, and that the settlement of refugees and migrants continues to take place on lands taken without treaty, consent, or compensation. We recognise that colonial projects are interconnected and affect different communities in different ways. Our shared responsibility is to name these truths and to embed them into our policies, programs, and public conversations. We recognise that true belonging for newly arrived communities is not possible without acknowledging and respecting the unceded sovereignty of First Nations peoples over their lands, waters, and skies.

Acknowledgements

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We thank the Attorney-General's Department and the Australian Human Rights Commission for enabling meaningful engagement in the Disability Discrimination Act 1992 (DDA) Review process.

Cover Photo credit: Disabled And Here

About the Settlement Council of Australia

The Settlement Council of Australia (SCOA) is the peak body representing Australia's migrant and refugee services and allied organisations. SCOA provides leadership to the settlement sector and broader society to enable people of migrant and refugee backgrounds to experience positive settlement outcomes. SCOA represents over 160 member organisations nationally, all working towards a shared vision for an Australia where all people of migrant and refugee backgrounds belong, thrive and experience fulfilling lives.

About the National Ethnic Disability Alliance

The National Ethnic Disability Alliance (NEDA) is Australia's national peak body representing people with disability from culturally and linguistically diverse (CALD) backgrounds. NEDA advocates for and amplifies the perspectives and needs of CALD people with disability, including those on temporary visas, and from refugee and asylum seeker backgrounds.

NEDA is a national Disabled People's Organisation (DPO), majority governed and constituted by people from CALD backgrounds and/or people with disability. NEDA's state and territory members are CALD DPOs, CALD disability advocacy organisations, or community-led disability organisations with a demonstrated history of working in partnership with CALD people with disability and their communities.

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Introduction

The Settlement Council of Australia (SCOA) and the National Ethnic Disability Alliance (NEDA) are grateful for the opportunity to make a joint submission in response to the Disability Discrimination Act 1992 (DDA) Review.

We welcome the Australian Government's commitment to reviewing and modernising the DDA as part of the government's response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.

We recognise that the DDA serves as an important piece of legislation, providing a legal framework to challenge discrimination and promote equal rights. However, we also acknowledge that for many individuals and communities from culturally and linguistically diverse (CALD) backgrounds, especially newly arrived migrants and people from refugee backgrounds, the DDA presents several limitations.

Despite its important role in protecting people with disability, many people from migrant and refugee backgrounds are not familiar with the DDA due to factors such as language barriers, limited access to information, and the demands of resettlement, which often leave people with limited time, energy, and resources to engage with legal or policy frameworks.

Many people in these communities experience intersectional barriers and compounded marginalisation, arising not only from their disability, but also from factors such as race, ethnicity, or migration status. These overlapping power systems, including racism, ableism, sexism, classism, and restrictive migration regimes, can significantly restrict access to, and participation in, employment, education, and public life.

In response, we welcome the proposed reforms to modernise the definition of disability in the DDA to better reflect the lived experiences of the communities we advocate for. In recognition of compounded marginalisation and unequal power dynamics experienced by many CALD individuals, particularly from migrant and refugee backgrounds, we support the recognition of intersectionality and the introduction of a positive duty, as well as the proposed reforms to improve access to employment, education and participation in public life.

Additionally, we wish to highlight concerns regarding the Health Requirement, which because it is exempt from the DDA, permits visa applicants to be treated differently on the basis of disability or other health conditions, often facing visa refusals due to projected costs or perceived service needs. This exemption contradicts Australia's obligations under the UN Convention on the Rights of Persons with Disabilities, which prohibits discrimination on the basis of disability. It undermines broader disability rights reform efforts in Australia and contributes to fear, shame and stigma within CALD communities, as many families feel pressured to downplay disability to avoid negative migration outcomes. The current approach ultimately harms the disability community as a whole by reinforcing outdated and discriminatory assumptions about cost, dependency and human worth.

We provide this joint submission in our capacity as a peak body for settlement services in Australia and a leading national voice for refugees and migrants (SCOA) and as a national Disabled People's Organisation that advocates federally for the human rights of people with disability, and their carers, from culturally and linguistically diverse backgrounds (NEDA). Our recommendations reflect the expertise of our member organisations as well as the lived experiences of the communities we serve.

To inform this submission, we convened a consultation with SCOA member organisations as well as a focus group with NEDA's lived experience networks. Besides structured group consultations, we met with other members individually, who were more comfortable providing one-on-one feedback. We also circulated a survey with questions related to this submission to allow our members and networks an opportunity to provide written feedback. This collaborative approach helped us strengthen this submission by capturing a range of perspectives, making this submission a reflection of the perspectives of both settlement service providers, often working with migrants and refugees with disabilities, as well as CALD individuals with lived experience of disability.

Below, we outline recommendations to modernise the DDA. Our responses follow the structure of the Issues Paper, focusing on the issues pertinent to the communities we represent.

Responses to questions in the Issue Paper

Part 1: Updating understanding of disability and disability discrimination

1.1 Updating the definition of disability

The current definition of *disability* in the Disability Discrimination Act 1992 (Cth) (DDA) is rooted in medicalised and deficit-based language such as *malfunction, disfigurement,* and *disturbed behaviour*, which reflect outdated understandings of disability.[1] These terms are inconsistent with contemporary frameworks that view disability through social, cultural and human-rights models and with Australia's obligations under the *United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)*.

Participants in our national focus group, facilitated by SCOA and NEDA, echoed this concern, noting that the **current** definition "feels deficit-based, clinical, and medicalised" and "doesn't acknowledge intersectionality or barriers that make the world disabling." In these contexts, identifying as "disabled" can feel either empowering or disempowering depending on past experiences of surveillance, stigma and government systems.

One participant explained:

> ***"It focuses more so on disability being negative - a bad thing, a deficit… and often we don't even have a word for disability in our language."***

This highlights a key issue for many CALD and refugee communities: the DDA remains inaccessible both linguistically and conceptually. In many languages, there is no direct translation for *disability* or existing translations carry stigmatising connotations. On the other hand, translations for certain disabilities carry neutral or even positive connotations, reflecting understandings of disability as a natural variation of human experience rather than a deficit and/or carrying its own forms of knowledge and contribution. For many newly arrived communities, the concept itself may be unfamiliar, shaped by Western social constructs of individual deficit or condition requiring formal recognition, rather than understandings of collective care and community responsibility.

Understandings of disability differs across cultures, and some individuals may not feel comfortable identifying with the term 'disability' as defined in the Act, due to stigma, shame, or concerns about surveillance, discrimination, or jeopardising their visa status. To ensure cultural relevance and inclusion, the definition should be modernised to reflect disability as a dimension of human diversity, rather than a deficit, and should avoid reinforcing exceptionalism or stigma.

A consultation participant noted:

> ***"We don't have the same concept of disability in our languages; some words carry shame, some carry respect, and none fully translate."***

1 Attorney-General's Department (2024), "Disability Discrimination Act 1992 Review – Issues Paper", https://consultations.ag.gov.au/rights-and-protections/dda-issues-paper/user_uploads/dda-review-issues-paper.pdf

Another observed that avoiding the term altogether can sometimes reinforce stigma within communities, highlighting the importance of culturally informed definitions and approaches that reflect the diversity of experiences across communities.

Participants stressed that emerging multicultural communities often lack in-language materials about the DDA and disability rights, rendering the Act inaccessible in practice. Low literacy and limited awareness of equity principles further exacerbate barriers to participation and justice in some communities. As one participant noted:

> ***"In the mainstream, we talk about certain things or develop language or discourse about disability, but no one tells multicultural communities that and sometimes it takes many years before those messages that we discuss in the mainstream reach communities where it really matters."***

A participant working with people from refugee backgrounds with disability emphasised that "clients prefer not to identify with the term disability or as disabled", so they offer support tailored to self-identified needs and barriers. As one focus group participant reflected:

> ***"Sometimes people don't want to identify because of past experiences of surveillance or persecution."***

However, consultation with a human rights law and advocacy centre highlighted a caution: a purely barrier-based definition could unintentionally narrow access to coverage in some cases where people must prove the existence of barriers to qualify as disabled to unlock support services. This is concerning given that people with disability from CALD backgrounds, particularly women and gender-diverse people, are less likely to have consistent access to medical information, documentation, or trusted healthcare relationships to back up their disability experience. Therefore, while the definition should move toward a social and rights-based model, the definition should still reflect that disability can be episodic or fluctuating, and may not always be supported by formal documentation. It must also recognise degenerative or progressive disabilities, where people may face barriers accessing early supports because eligibility is restricted until a condition becomes severe or irreversible.

1.2 Addressing intersectionality

We recognise that many people from migrant and refugee backgrounds with disability face discrimination on multiple grounds. For example, disability, race, gender, visa status and language. Participants reported difficulty distinguishing which ground triggered the discrimination, underscoring the need for the DDA to recognise combined or intersectional claims.

Many of those we consulted shared personal examples of being, e.g., from a migrant background, having a disability, being a member of the LGBTQIA+ community and of an older age, recognising that individuals rarely experience discrimination based on isolated attributes.

Legal recognition of combined claims would more accurately reflect the lived experiences of people with disability, particularly from CALD backgrounds. Explicitly allowing combined claims would ensure stronger legal protection for more people. It would demonstrate a stronger commitment to equity and acknowledge the complexity of intersectional disadvantages.

It also aligns more closely with the original definition of intersectionality coined by Kimberlé Crenshaw[2], to address the gaps and limitations in the legal frameworks that often fail to recognise how different forms of marginalisation and systems of power intersect and overlap to create complex, cumulative and unique experiences of discrimination. This means we cannot address each form of discrimination in isolation. Our laws must reflect the complex experiences of our communities.

Intersectionality is often misunderstood as simply describing the coexistence of multiple identities. However, its true meaning goes beyond the sum of its parts. Additive language flattens structural harm; it treats identities as neutral tick-boxes rather than revealing power. The DDA should therefore frame intersectionality from a structural lens, not a diversity checklist. Intersectionality provides a framework for understanding how overlapping systems of power such as racism, ableism, sexism, and migration policy interact to create unique and compounded experiences of discrimination and disadvantage. For many CALD people with disability, these intersecting systems do not just add barriers but produce distinct forms of exclusion that cannot be understood or addressed in isolation. Recognising intersectionality in this way is essential to ensuring that reforms to the DDA meaningfully respond to the lived realities of those at the margins of multiple systems.

While most of those we consulted supported the proposed reform to strengthen the DDA by expressly allowing claims to be brought for multiple or combined protected attributes, some expressed concerns about the potential misuse or misunderstanding of intersectionality. Specifically, it being used to identify people using separate and additive categories rather than recognising how these combined forms of discrimination interact to create a unique experience. This deviates from the original intersectionality framework.

We support the proposed reform to allow claims to be brought for multiple or combined protected attributes as an essential step towards recognising the complexity of lived experience. However, we also emphasise the importance of defining and applying intersectionality as a framework revealing how systems of oppression interact, rather than reducing it to a checklist of identities.

2 Crenshaw, K. (1991). Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color. Stanford Law Review, 43(6), 1241–1299. https://doi.org/10.2307/1229039

1.3 Comparator test

(Recommendation 4.23)

The comparator test, which is designed to compare the treatment of a person claiming discrimination on grounds of disability to a hypothetical 'non-disabled' person, fails to capture the lived experiences of many people with disability from CALD backgrounds. The test assumes that discrimination can be isolated to a single attribute, e.g., disability, failing to recognise intersectionality - how different forms of power systems create complex and unique experiences of discrimination.

The comparator test overlooks the structural and systemic inequalities embedded in our systems, laws, and institutions, assuming discrimination occurs only at the individual level. By focusing on individual comparisons rather than institutional practices, the comparator test fails to recognise that discrimination is often institutional and systemic, shaped by complex power relations.

Additionally, the comparator test is never a fair assessment of someone's experience of discrimination, because no two people share the same lived experience. There is no 'neutral' or 'default' person and therefore no universal standard against which to measure fairness.

Consultation participants emphasised that the logic of the comparator test fails to account for the way discrimination manifests differently across communities, languages and social contexts.

We note strong support for a positive duty across all duty holders (public/private; work/education/services) to proactively prevent discrimination, with proportionality calibrated to size and resources. Participants emphasised that responses must move from reactive complaints to institutional accountability and continuous improvement.

The comparator test often ignores the important context and operates heavily on assumptions, making it an unfair assessment of a person's experience of discrimination. We therefore strongly recommend that the comparator test be removed as a test for direct discrimination.

1.4 Burden of proof

(Recommendation 4.23)

Intersectionality recognises how systems of power, involving law, policy, and institutional design, interact to produce unique experiences of privilege, power, and marginalisation. This creates complex barriers and risks for individuals facing marginalisation to report or prove discrimination.

Many members of CALD communities, particularly those from newly arrived migrant and refugee backgrounds, encounter complex systemic barriers and inequalities. These might also be reflected in areas such as employment, education or access to public participation. For example, when facing workplace discrimination, some might hesitate to file a complaint due to fear of potential consequences such as an impact on their visa status or employment loss. Additional barriers, such as limited access to legal representation and support networks, access to evidence, a lack of familiarity with systems and protections offered in Australia and the complexities involved in proving discrimination further compound these challenges and often discourage a person from pursuing a complaint.

People with disability from CALD backgrounds also disproportionately face barriers in accessing information and reporting discrimination. Limited literacy and digital literacy skills make it difficult to navigate reporting tools and mechanisms.

Institutions are not neutral rule-bound structures but systems of norms and power that shape who is seen as a 'legitimate' service user and whose exclusion is normalised. Without reform, such logics continue to reproduce exclusion and make equality rights illusory for many CALD people with disability, rendering legal recourse difficult, inaccessible, and at times retraumatising.

As one focus group participant observed:

> ***"It's hard to prove discrimination when you don't have the language or documents… the system isn't built for you."***

Members have also emphasised that pursuing a discrimination claim can be an exhausting, resource-intensive process, often requiring significant emotional and financial labour. Many community members described being "time-poor" and operating in survival mode, balancing multiple responsibilities such as work, care, migration stress, health and disability. Under these conditions, engaging in lengthy complaint processes becomes practically impossible.

Proving discrimination is inherently challenging, especially when the burden of proof falls solely on the person experiencing it, which can discourage the person from pursuing a complaint and reinforce systemic inequalities. We strongly support a reform to balance the burden of proof, so it does not continue to fall on the individual experiencing discrimination.

Recommendation 1:

Amend the DDA definition of disability to reflect the social and human rights models, incorporate cultural and fluctuating experiences of disability, and remove deficit-based terms. Retain limited engagement with medical framing to avoid exclusion where proof of barriers is impractical.

Recommendation 2:

Amend the DDA to allow combined claims across multiple protected attributes and include a preamble defining intersectionality as the interaction of structural systems of power, not merely the coexistence of identities.

Recommendation 3:

Remove the Comparator Test to determine direct discrimination.

Recommendation 4:

Amend the DDA so that the burden of proof does not mostly sit on the person making the complaint.

Part 2: Positive duty to eliminate discrimination

(Recommendations 4.27 and 4.28)

The current approach is reactive rather than proactive, and relies on individuals with disability to report discrimination after it has occurred, rather than attempting to prevent it from the outset. This is a significant limitation of the DDA.

We acknowledge that discrimination in settings such as employment often involves complex power dynamics and imbalances between the person experiencing discrimination and the perpetrator. These issues are even more significant for many migrants and people from refugee backgrounds who, making it difficult, and at times risky, to report discrimination or seek accommodations and support for their disability.

During our consultation with settlement service providers assisting migrants and refugees with disability in accessing services or employment, we learnt of many examples of individuals from migrant and refugee backgrounds choosing not to report discrimination when it occurred. Some did not recognise that they were being discriminated against, and many chose not to disclose their disability or request necessary accommodations.

Some of the reasons identified by those we consulted:

- **Lack of recognition of discrimination:** Many migrants and people from refugee backgrounds, shaped by experiences of displacement, colonial violence, and long periods of operating in "survival mode," may not immediately recognise discriminatory treatment or view it as something they can safely challenge. Their focus is often on immediate safety, stability, and meeting basic needs, leaving little time or energy to name or pursue discrimination. People often only identify discrimination after speaking with a trusted worker or advocate, yet many still hesitate to report it, fearing their complaint will not be taken seriously.
- **Lack of awareness of existing protections:** Many people from CALD backgrounds, especially those at early stages of settlement, are not familiar with legal protections or legislations. Through consultations with our members and networks, we found that many community members were unaware that the DDA exists and, therefore, unfamiliar with the protections it offers.
- **Making a complaint can be resource-intensive:** The process of collecting evidence and lodging a complaint can be too complicated, overwhelming and burdensome, making it inaccessible for many people from CALD backgrounds. Particularly those newly arrived and with limited English proficiency who usually have less access to resources, support, time or legal knowledge.
- **Migration-related barriers and concerns:** Some individuals hesitate to report discrimination due to concerns that it could negatively impact their visa status. This is especially true for newly arrived individuals and those on temporary visas. Some individuals who are just starting to build their lives in Australia face higher risks. For example, they often depend on their jobs since employment is a requirement for many visa categories, making job loss a significant threat. For the same reason, many choose not to request accommodations or support at work if it involves disclosing their disability. The perceived risks of reporting discrimination often outweigh the potential benefits or outcomes.

Many of those we consulted emphasised that a positive duty should acknowledge intersectionality and compounded disadvantages, similarly to how it is recognised in the Australian Human Rights Commission's Guidelines for complying with positive duty under the Sex Discrimination Act 1984.[3]

Certain forms of discrimination disproportionately impact some groups; for example, people from CALD backgrounds with disability will experience significantly higher rates of discrimination. A positive duty should recognise that when people experience discrimination, it is rarely a result of a single factor. As one participant noted:

> ***"I know from my experience, I had raised things [at a workplace] around how to, you know, bring up the discussion of disability and how it intersects with multicultural communities or racial justice. And they were just like, yeah, and then just like tossed aside, and their response was very reactive rather than preventative (…). So I think that positive duty in this instance would be really important."***

Majority of those we consulted supported introduction of a positive duty in all areas, including settlement services, and some have already started implementing proactive approaches. According to a participant:

> ***"We've recently introduced a policy about safeguarding children, young people and all vulnerable individuals, and that actually started from disability services, and we're now looking at expanding it to safeguarding vulnerable individuals (and I know the term isn't perfect), but in terms of who should have the responsibility, everyone interacting with these groups should have the responsibility to respond appropriately (…)"***

We support introducing a positive duty as a preventative approach and extending it to all duty holders under the DDA. A positive duty would encourage individuals and organisations to proactively consider their policies and take active steps to prevent discrimination before it happens, thereby easing the burden on individuals to bring the complaint forward or disclose their disability in situations where it could be unsafe or uncomfortable.

We also want to recognise that this preventative approach has the potential to improve overall settlement outcomes for newly arrived migrants and refugees. For example, by actively implementing mechanisms to prevent discrimination, we can strengthen the accountability of organisations, services, employers and systems. This includes removing structural barriers to help people retain their jobs, access education and build their lives in Australia.

Recommendation 5:

Introduce a positive duty as a preventative measure under the Disability Discrimination Act. The positive duty should recognise intersectionality and address compounded marginalisation.

3 Australian Human Rights Commission (2023), "Information Guide on the Positive Duty under the Sex Discrimination Act 1984", https://humanrights.gov.au/sites/default/files/2023-08/information_guide_on_the_positive_duty_2023.pdf

Part 3: Encouraging inclusion of people with disability in employment, education and other areas of public life

3.1 Strengthening duty to make adjustments

(Recommendations 4.25 and 2.26)

Migrants and people from refugee backgrounds with disabilities navigate a range of persistent and intersecting barriers in areas like employment and education. These include systemic discrimination and limited access to specialised employment pathways.[4] Additionally, they are more likely to work in casual, insecure jobs, which increases their risk of exploitation, particularly where employment is tied to visa requirement. Disclosing disability or requesting workplace adjustments may involve a greater risk. Participants reported that after disclosing disability or requesting workplace adjustments, they were demoted as a "reasonable adjustment" or faced reduced hours without explanation.

Participants also highlighted default, one-size-fits-all "adjustments" made without consultation that did not meet need. As one participant framed it:

> ***"The employer gave me equipment that didn't help my situation at all - they already had something they'd used with somebody else and thought that would help me."***

Some participants shared that they were offered accommodations, but they were not consulted about what kind of accommodations they would find helpful. Instead, default accommodations were provided based largely on assumptions.

Institutions often operate with implicit norms about the "typical" user, producing solutions that fit the system rather than the person.

4 Wenqi Tan, Tadgh McMahon, Tri Nguyen, Gerard Goggin, Slamet Thohari (2025), "Insights on Refugees with Disabilities in Australia: Foundations for Belonging", SSI/ Institute for Culture and Society, Western Sydney University, https://www.ssi.org.au/wp-content/uploads/2025/09/Foundations_for_Belonging_2025_Disability_Full_Report.pdf

3.2 "Reasonable adjustments": remove, retain, or redefine?

Most of our consultation participants supported removal of the word *reasonable* from *reasonable adjustments*, viewing reasonable as vague and too easily used to delay or deny support.

Reasonable adjustments are often misunderstood, delayed, or denied, especially for migrant workers in low-paid or casual roles. Disclosure of disability is considered a risk, especially depending on migration/visa status. Employment is also often a requirement for many visa types, which can result in the exploitation of CALD people with disability. According to one participant:

> ***"We should request for the 'reasonable' to be defined in the act, because it's such a vague terminology. What I think is reasonable could be so different. Every individual will have an interpretation."***

Others warned that removing the term without safeguards could shift unfunded costs, create uncertainty for smaller entities, and risk unintended trade-offs across under-resourced regional and multicultural settings. As one participant noted:

> ***By removing the word 'reasonable' - the intent is "must" - so where does the burden of such a cost sit? It might mean funds are taken from another need - i.e. regional education - which creates a disadvantage in another way and is not fair either."***

3.3 Definition of, and considerations for, unjustifiable hardship (Recommendation 4.32)

We support strengthening unjustifiable hardship with **clearer, person-centred factors.**

Mandatory factors in determining unjustifiable hardship, require decision-makers to consider:

- The extent and quality of consultation with the person with disability;
- The availability of alternative, less burdensome options (including *low-cost/cost-neutral* changes); and
- The intersectional impact on persons at the margins (e.g., CALD, refugee, visa-holders), recognising language, literacy and cultural safety barriers in access to adjustments.

Record-keeping and reasons: Duty holders seeking to rely on unjustifiable hardship should document all options considered, why they were rejected, and how intersectional impacts were weighed. (Courts already test "all relevant circumstances"; codifying this will improve transparency and accountability.)

Clarify the balancing test: If Government prefers a single definition: clarify that hardship is "unjustifiable" only where the benefits to the person and community are outweighed by the cost/detriment after consultation and consideration of alternatives—preserving a principled balance without defaulting to budgetary convenience.

Recommendation 6:

Replace “reasonable adjustment” with “adjustments”, and create a clear duty for employers and education providers to consult with the person and provide adjustments that are timely, effective and culturally safe.

Recommendation 7:

Strengthen the “unjustifiable hardship” test by requiring consultation, documentation of options, and consideration of intersectional impacts.

Recommendation 8:

Protect workers in insecure or visa-linked jobs by adding safeguards against retaliation for disclosing disability or requesting adjustments, and provide guidance for culturally safe processes.

Margherita Coppolino at the SCOA 2025 National Settlement Conference.

Photo credit: Disabled And Here

Part 4: Improving access to justice

(Recommendations 4.29 and 4.30)

4.1 Services provided by police officers

(Recommendation 8.19)

Many people from migrant and refugee backgrounds face legal, cultural or institutional challenges when trying to access the justice system. This includes interactions with the police and other authorities. Additionally, people with disability and those from CALD backgrounds are often discriminated against at much higher rates within the justice system.

Unsurprisingly, many migrants, people from refugee and CALD backgrounds frequently associate police and authorities with fear. Their fear can be rooted in past experiences of trauma.

It is essential to consider intersectional disadvantage, systemic discrimination and unequal power relations. For migrants and refugees, discrimination can occur simultaneously based on race and disability, creating compounded barriers to justice and safety. For example, racism and ableism operate together as mutually reinforcing systems of structural violence and individuals from CALD backgrounds can be frequently over-policed due to racial profiling. They are also at higher risk of being disbelieved or ignored when reporting discrimination or violence. Interactions with the justice system are never neutral; they reflect and reinforce existing systems of power and control. Police are not only enforcing laws but also hold significant institutional power and authority.

Our members have also emphasised that the lack of engagement and collaboration between the justice, disability and multicultural sectors contributes to systemic exclusion and barriers to justice for people with disability from CALD, migrant and refugee backgrounds. For example, a member mentioned that initiatives addressing vilification with multicultural and faith communities do not extend their consultations to people with disability from multicultural communities. This represents a significant gap, considering the significant and unique barriers these communities face to the justice system and legal protections.

Our members also noted that access to justice extends to the experiences of people with disability in immigration detention facilities. Currently, the DDA does not offer protection for refugees with disability under the exemption of the Migration Act 1958.

We are deeply concerned with the limited data and statistics available relating to the experiences of refugees with disabilities in Australian detention facilities. We call for the DDA reform to include extending protections for those in immigration detention, ensuring their basic human rights and disability-related rights are safeguarded.

We strongly recommend that the DDA be amended to cover interactions with all government authorities and agencies. This should include extending the scope of the DDA to offer protections for people in Australian migration detention facilities, guaranteeing legal protections for people with disabilities across the entire justice system.

Additionally, we propose establishing formal collaboration mechanisms between the justice, disability, and multicultural sectors. Ensure that justice reforms and anti-discrimination legislation incorporate disability inclusion and cultural diversity perspectives and experiences.

Recommendation 9:

Amend the Disability Discrimination Act to explicitly cover interactions with all government authorities and agencies, including police.

Recommendation 10:

Extend the scope of the DDA to offer protections for individuals in Australian migration detention facilities.

Recommendation 11:

Establish formal collaboration mechanisms between the justice, disability, and multicultural sectors.

Photo credit: Disabled And Here

Part 5: Exemptions

5.1 Migration Act 1984

(Section 52)

We strongly advise the government to remove exemption granted under section 52 of the Disability Discrimination Act, which specifically exempts the Migration Act 1958 along with all its associated regulations from the protections offered by the DDA.

Denying individuals (and very often entire family units) an opportunity to permanently settle in Australia on the basis of their disability raises important concerns. It creates a hierarchy of value and portrays migrants and refugees with disability as economic burdens and liabilities.

In our view, this also has implications for social cohesion in Australia. It risks reproducing harmful and negative narratives about disability, and in this case, especially migrants and refugees with disability who are already often seen as the 'other' and 'burdens'. It fosters exclusion and reinforces stigma, undermining efforts to create a just and equitable society.

This often has long-term implications for the individuals and their families. During our consultations we heard from participants on temporary visas who are afraid of disclosing their disability publicly, in fear that it will negatively impact their future visa applications. Consequently, they're unable to access necessary supports and healthcare while in Australia.

Participants of the focus group supported removing the exemption. They also acknowledged that ongoing global conflicts and widespread disabling events will inevitably lead to an increased number of people with disability. As one participant noted:

> ***"I think it should be updated because, especially with the current genocide that is happening in Palestine and other, you know, conflicts and genocides across the world, those are mass disabling events, and even after COVID, we don't know the impacts of long COVID, what that's going to look like. We are going to have a greater number of people who have some form of disability."***

We strongly recommend that the exemption under Section 52 of the DDA be removed. We support applying a human rights approach, which recognises that the right to be free from discrimination is universal and applies to everyone, regardless of citizenship or migration status.

Recommendation 12:

Remove exemptions under Section 52 of the Disability Discrimination Act, which exempts the Migration Act 1958 and its associated regulations from the DDA's anti-discrimination provisions.

Part 6: Modernising the Disability Discrimination Act

6.1 Assistance animals

Feedback from CALD consultation participants with disability indicates persistent confusion about training, accreditation, evidence, and access rights. This confusion leaves both assistance-animal users and duty-holders uncertain about their obligations, resulting in discrimination, refusals of access, and unnecessary distress.

Participants in NEDA's 2025 national consultation on the *National Principles for the Regulation of Assistance Animals* reported that regulation and recognition are inconsistent across jurisdictions, and that accreditation pathways often exclude smaller and community-based training organisations that are more culturally responsive.

CALD assistance-animal users described long waitlists, high costs, and lack of services in community languages. Some trained their own animals because accredited programs were inaccessible or culturally unsafe. People who used non-traditional animals or did not "look disabled" were more likely to be challenged when accessing public spaces.

These experiences highlight that reforms must recognise diverse training pathways, community-based and self-training models, and intersectional barriers such as language, migration status, and socio-economic disadvantage.

6.2 Training and accreditation

We support a nationally consistent accreditation framework, provided it is co-designed with people with disability, particularly those from CALD backgrounds, and does not entrench monopolies among a small number of large providers.

We recommend a nationally consistent accreditation system for trainers and training organisations that:

- is co-designed with people with disability, including CALD and regional participants;
- includes community-based and culturally responsive trainers; and
- ensures mutual recognition across states and territories to prevent postcode discrimination.

We also recommend introducing flexible minimum training standards that focus on animal behaviour, hygiene, and task performance rather than prescribing a single training model.

- Standards must recognise self-training and non-mainstream approaches.
- Provide subsidies or grants so low-income and CALD participants can access training.

6.3 Evidence of training and public access

Participants supported a single, consistent national process for evidence of disability and training, but stressed that it must be affordable, culturally safe, and not duplicative. CALD people with disability are often required to repeatedly prove both their disability and their animal's legitimacy, particularly when the animal is not a guide or hearing dog.

We recommend establishing national standards for evidence and public access, co-designed with assistance-animal users, to include:

- simple documentation confirming training and behaviour standards;
- acceptance of community-based or medical-professional verification (e.g. GP or allied-health letter); and
- explicit limits on what businesses can request from handlers.
- Implement a single national Public Access Test (PAT) that is:
  - government-administered, low-cost, and accessible in all jurisdictions;
  - valid for two–three years; and
  - recognised nationally to avoid duplication or travel barriers.

6.4 National identity card and public education

A national identity card and logo were strongly supported, with the proviso that privacy be protected and education accompany rollout.

We recommend introducing an optional national assistance-animal ID card and logo, available in physical and digital formats, that:

- includes privacy safeguards; and
- is accompanied by a national public-education campaign explaining rights and responsibilities under the DDA to reduce everyday discrimination.

6.5 Animal welfare and infrastructure

NEDA's consultation emphasised that animal welfare must include public infrastructure, emotional wellbeing, and cultural context. Poorly designed environments such as airports, shopping centres, and transport hubs lacking safe toileting or resting spaces, pose greater risks to animals than their handler's disability. We recommend to embedding co-designed animal-welfare standards into the National Principles and DDA guidance to ensure that:

- welfare is defined broadly to include environment, rest, and emotional health; and
- public infrastructure meets universal-design standards (e.g. accessible relief areas, low-sensory zones).

Recommendation 13:

Clarify rights and obligations by aligning DDA assistance-animal provisions with nationally consistent training, accreditation, and evidence standards.

Recommendation 14:

Recognise self-trained and community-based models and ensure affordability and cultural safety.

Recommendation 15:

Provide a national identity card, education campaign, and infrastructure improvements to support inclusion and reduce stigma.

Conclusion

We welcome the opportunity to provide this submission and strongly support reviewing and modernising the DDA.

In our recommendations, we focused primarily on embedding intersectionality as a guiding framework. We implore the government to recognise and address the complex barriers to protection faced by the communities we serve.

This submission reflects the perspectives of our communities - people with disability from CALD, migrant and refugee backgrounds, alongside settlement service providers.

List of Recommendations

Recommendation 1: Amend the DDA definition of disability to reflect the social and human rights models, incorporate cultural and fluctuating experiences of disability, and remove deficit-based terms. Retain limited engagement with medical framing to avoid exclusion where proof of barriers is impractical.

Recommendation 2: Amend the DDA to allow combined claims across multiple protected attributes and include a preamble defining intersectionality as the interaction of structural systems of power, not merely the coexistence of identities.

Recommendation 3: Remove the Comparator Test to determine direct discrimination.

Recommendation 4: Amend the DDA so that the burden of proof does not mostly sit on the person making the complaint.

Recommendation 5: Introduce a positive duty as a preventative measure under the Disability Discrimination Act. The positive duty should recognise intersectionality and address compounded marginalisation.

Recommendation 6: Replace "reasonable adjustment" with "adjustments" and create a clear duty for employers and education providers to consult with the person and provide adjustments that are timely, effective and culturally safe.

Recommendation 7: Strengthen the "unjustifiable hardship" test by requiring consultation, documentation of options, and consideration of intersectional impacts.

Recommendation 8: Protect workers in insecure or visa-linked jobs by adding safeguards against retaliation for disclosing disability or requesting adjustments and provide guidance for culturally safe processes.

Recommendation 9: Amend the Disability Discrimination Act to explicitly cover interactions with all government authorities and agencies, including police.

Recommendation 10: Extend the scope of the DDA to offer protections for individuals in Australian migration detention facilities.

Recommendation 11: Establish formal collaboration mechanisms between the justice, disability, and multicultural sectors.

Recommendation 12: Remove exemptions under Section 52 of the Disability Discrimination Act, which exempts the Migration Act 1958 and its associated regulations from the DDA's anti-discrimination provisions.

Recommendation 13: Clarify rights and obligations by aligning DDA assistance-animal provisions with nationally consistent training, accreditation, and evidence standards.

Recommendation 14: Recognise self-trained and community-based models and ensure affordability and cultural safety.

Recommendation 15: Provide a national identity card, education campaign, and infrastructure improvements to support inclusion and reduce stigma.

References

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