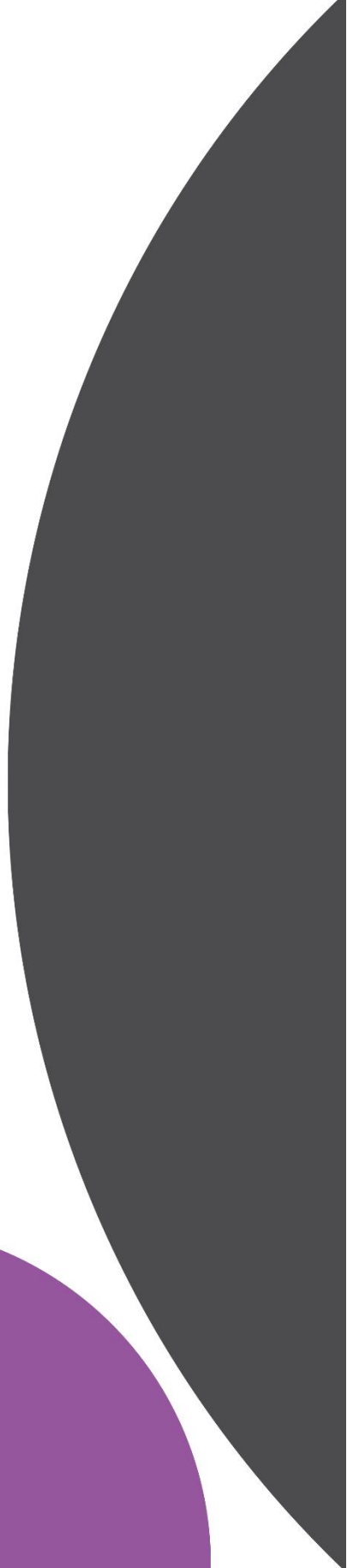


Submission to the
**Attorney-General's Review
of the Disability
Discrimination Act 1992**

October 2025





Acknowledgement of Country

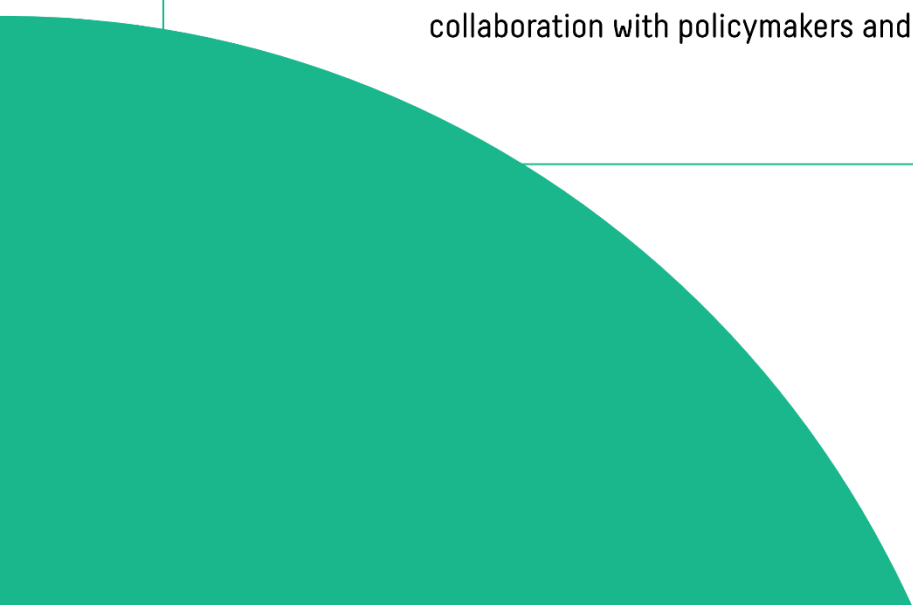
Mental Health Lived Experience Tasmania (MHLET) respectfully acknowledges the palawa, the original custodians of the lands and seas of lutruwita (Tasmania) on which we live and work. We pay our respects to elders, past and present.

We acknowledge the significant ongoing and pervasive harmful impacts of colonisation and respect the resilience of First Nation's Peoples and their retained strong connection to Country, culture, and community.

We recognise that sovereignty was never ceded. This was, is, and will always be Aboriginal land.

About MHLET

MHLET is a not-for-profit organisation dedicated to empowering Tasmanians with lived experience of mental health challenges. By advocating for, and with, Tasmanians, we amplify the voices of people with lived experience to create meaningful systemic change in mental health services for the Tasmanian community. MHLET provides training opportunities, peer connections and collaboration with policymakers and service providers.



Contents

Terminology	4
About this submission.....	4
Introduction	5
Part 1: <i>Updating understandings of disability and disability discrimination</i>	5
Reframing disability	5
Psychosocial disability.....	5
Intersectionality.....	6
Public conduct	6
Recommendations	6
Part 2: <i>Stronger protections to stop discrimination before it happens</i>	7
Discrimination.....	7
Positive duty	7
Recommendations	7
Part 3: <i>Encouraging inclusion of people with disability in employment, education and other areas of public life</i>	8
Employment.....	8
Education.....	8
Public life, health, housing and digital access.....	8
Recommendations	9
Part 4: <i>Improving access to justice</i>.....	9
Access and procedural fairness.....	9
Human rights alignment	10
Mental health crisis responses.....	10
Recommendations	10
Part 5: <i>Exemptions</i>	11
Recommendations	11
Part 6: <i>Modernising the Disability Discrimination Act</i>	11
Assistance animals.....	11
Additional modernisation measures.....	11
Recommendations	12
Part 7: <i>Further options for reform</i>.....	12
Reframing and language	12
Structures and investment.....	12
Recommendations	13
Conclusion	13

Terminology

References made within this submission to the terms 'consumer' and 'lived experience' specifically refer to mental health consumers with lived experience of mental health challenges and/or suicidality. MHLET uses these as blanket terms due to their shared understanding and acceptance within the broader community, but understand that different people may identify with, and/or prefer, different terms. Within this submission, these terms do not necessarily consider nor convey the levels of need (i.e., low, medium, or high) of consumers unless specified.

MHLET does not represent family, carers, kin, or the bereaved within the organisation, as such they are not included in the definitions of 'lived experience' or 'consumer' within this submission.

About this submission

The *Disability Discrimination Act 1992* (Cth) (DDA) is Australian federal legislation designed to eliminate discrimination against people with disabilities and promote their equal participation in society. The Act makes it unlawful to discriminate on the basis of disability in areas including employment, education, accommodation, access to premises, clubs and sport, goods and services, facilities, land, and accommodation. The legislation covers both direct discrimination, where someone is treated less favourably because of their disability, and indirect discrimination, when neutral requirements disadvantage people with disabilities. The DDA also requires reasonable adjustments to be made to enable people with disabilities to participate equally, unless this would cause unjustifiable hardship.

The Australian Government is currently conducting a comprehensive review of the DDA following sustained calls for reform over many years. This review aims to ensure the DDA effectively protects people with disabilities in contemporary Australian society. The government has released an Issues Paper¹ seeking public consultation on potential reforms and improvements to the legislation. A significant focus of the review is implementing recommendations from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, which identified areas where stronger legal protections may be needed to safeguard disability rights and prevent discrimination.

¹ Attorney-General's Department 2025, *Issues Paper*, Australian Government, <<https://www.ag.gov.au/sites/default/files/2025-08/DDA-Review-Issues-Paper.PDF>>.

Introduction

The *Disability Discrimination Act 1992* (Cth)² (DDA) remains Australia's primary statute protecting against disability discrimination. However, Tasmania's geography, small population and thin service systems amplify discrimination risks for people with disability. In this environment, a reactive, complaint-based legislative model does not reliably prevent harm or deliver timely inclusion.

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability³ (Royal Commission) has documented widespread violence, abuse, neglect and exploitation across education, employment, housing and health, demonstrating the need for a more proactive, rights-affirming legislative framework. The Australian Human Rights Commission's (AHRC) on disability rights⁴ and Australia's obligations under United Nations' Convention on the Rights of Persons with Disabilities (UNCRPD)⁵ underscore the imperative for reform that centres dignity, autonomy, accessibility and participation.

The DDA should be modernised to embed a UNCRPD-consistent definition of disability, explicitly recognise psychosocial disability, mandate a positive duty to prevent discrimination, strengthen inclusion across public life, ensure trauma-informed access to justice, narrow exemptions, modernise assistance animal provisions, and put in place structural mechanisms and language reforms that support sustained change.

Part 1: Updating understandings of disability and disability discrimination

Reframing disability

The DDA's definition of disability in Section 4(1) is broad but largely impairment-centred². This framing can channel decision-making toward individual "deficits," obscuring the systemic and environmental barriers that produce exclusion. By contrast, the UNCRPD's social and human rights model recognises disability as the interaction between impairments and attitudinal and environmental barriers⁵. Embedding that model in the DDA would more directly require duty-bearers to remove barriers.

Psychosocial disability

Psychosocial disability remains insufficiently explicit in the statutory language. Although 'psychiatric disability' is encompassed, explicit recognition of psychosocial disability is necessary to drive consistent interpretation and service design in employment, education, housing and healthcare - contexts where

² Australian Government 2022, *Disability Discrimination Act 1992 (Cth)*, Australian Government, <<https://www.legislation.gov.au/C2004A04426/2018-04-12/text>>.

³ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability 2023, *Final Report*, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

⁴ Australian Human Rights Commission 2025, *Disability Rights*, Australian Human Rights Commission, <<https://humanrights.gov.au/our-work/disability-rights>>.

⁵ United Nations, 2006, *Convention on the Rights of Persons with Disabilities*, United Nations, <<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>>.

stigma, risk stereotyping and fear of disclosure often drive discriminatory outcomes. The World Health Organisation recognises psychosocial disability as a distinct category requiring tailored legal and policy consideration⁶.

Intersectionality

Intersectionality is not adequately embedded. People with disability who are First Nations, LGBTQIA+, culturally and linguistically diverse, women, or living in poverty experience layered and cumulative discrimination⁷. Mandating intersectional analysis in decision-making and enforcement would better reflect real-world disadvantage.

Public conduct

The DDA also lacks an equivalent to Section 18C of the *Racial Discrimination Act 1975* (Cth)⁸, which makes public conduct reasonably likely to offend, insult, humiliate or intimidate unlawful, subject to calibrated exemptions. Everyday stigma, harassment and microaggressions against people with disability that occur in public spaces, workplaces, and online remain common and harmful⁹.

Recommendations

- 1.1 Amend Section 4(1) to a UNCRPD-consistent, human rights-based definition that recognises disability as the interaction of impairments with attitudinal and environmental barriers⁵¹⁰.
- 1.2 Explicitly recognise psychosocial disability in the Act, supported by co-designed guidance for courts and duty-bearers⁶.
- 1.3 Embed intersectionality by requiring decision-makers to consider cumulative disadvantage across attributes⁷.
- 1.4 Insert an 18C-equivalent provision prohibiting public conduct reasonably likely to offend, insult, humiliate or intimidate on the ground of disability, with 18D-style exemptions²⁸⁹.
- 1.5 Amend the Objects and interpretation clauses to give effect to UNCRPD rights and principles, including dignity, autonomy, accessibility and participation⁵⁷.

⁶ World Health Organization 2023, *Mental health, human rights and legislation*, World Health Organisation, <<https://www.who.int/publications/i/item/9789240080737>>.

⁷ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability 2023, *Final Report Volume 4*, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, <<https://disability.royalcommission.gov.au/publications/final-report-volume-4-realising-human-rights-people-disability>>.

⁸ Australian Government 2022, *Racial Discrimination Act 1975* (Cth), Australian Government, <<https://www.legislation.gov.au/C2004A00274/latest/text>>.

⁹ Department of Social Services 2020, *Public consultation on the Disability Royal Commission*, Australian Government, <<https://engage.dss.gov.au/wp-content/uploads/2024/06/Australian-Government-Public-Consultation-on-the-Disability-Royal-Commission-Summary-Report.pdf>>.

¹⁰ Oliver, M 2013, 'The social model of disability: thirty years on', *Disability & Society*, vol. 28, no. 7, pp. 1024-1026.

Part 2: Stronger protections to stop discrimination before it happens

Discrimination

The current definition of direct discrimination fails to capture stereotype-driven decisions, perceived or past disability, association discrimination and “neutral” policies with disparate impacts²¹¹. For psychosocial disability, exclusion is often coded as “cultural fit,” “reliability” or rigid policy compliance rather than explicit differential treatment¹².

Positive duty

Complaint-driven systems place the onus on individuals already navigating trauma, fluctuating health, and structural disadvantage; conditions that regularly deter complaints. Proactive duties shift responsibility to institutions to anticipate and address risks of discrimination.

The UK *Public Sector Equality Duty* has driven culture and practice change¹³, and the *Sex Discrimination Act 1984* (Cth)¹⁴ now includes a positive duty backed by regulator powers. The AHRC has advocated for an equivalent duty in disability discrimination law¹⁵.

A DDA positive duty should require structured risk assessment, co-designed action plans, reasonable adjustments, workforce training, consultation with people with disability and transparent reporting. Regulatory powers and resourcing are essential to ensure the duty has practical effect.

Recommendations

- 2.1 Broaden Section 5 to capture unfavourable treatment based on perceived, imputed or past disability; association with a person with disability; and “disability-neutral” policies with disproportionate impact¹⁶¹¹.
- 2.2 Establish a statutory positive duty on public bodies, large employers and service providers to assess risks, co-design action plans with targets, provide reasonable adjustments, train staff, consult with lived experience and report publicly¹⁷¹³.

¹¹ Thornton, M 2016, 'The political dimension of equal opportunity', *Journal of Industrial Relations*, vol. 58, no. 1, pp. 105-117.

¹² Corrigan, PW 2014, *The stigma of disease and disability: Understanding causes and overcoming injustices*, American Psychological Association, Washington DC.

¹³ Equality and Human Rights Commission 2018, *Reviewing the aims and effectiveness of the Public Sector Equality Duty (PSED) in Great Britain*, Equality and Human Rights Commission, <<https://www.equalityhumanrights.com/sites/default/files/review-of-public-sector-equality-duty-psed-effectiveness.pdf>>.

¹⁴ Australian Government 2024, *Sex Discrimination Act 1984* (Cth), Australian Government, <<https://www.legislation.gov.au/C2004A02868/latest/text>>.

¹⁵ Australian Human Rights Commission 2025, *What are human rights?*, Australian Human Rights Commission, <<https://humanrights.gov.au/about/what-are-human-rights>>.

¹⁶ Fredman, S 2016, 'Substantive equality revisited', *International Journal of Constitutional Law*, vol. 14, no. 3, pp. 712-738

¹⁷ Smith, B 2008, 'From Wardley to Purvis: How far has Australian anti-discrimination law come in 30 years?', *Australian Journal of Labour Law*, vol. 21, no. 1, pp. 3-29.

- 2.3 Empower and resource the AHRC to guide, monitor and enforce compliance through compliance notices, enforceable undertakings, own-motion and systemic inquiries, and court applications.
- 2.4 Align the duty's scope and enforcement with the *Sex Discrimination Act 1984* [Cth] model for clarity and consistency¹⁴.

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

Employment

National employment rates for people with disability lag far behind those without disability, and are lower again for people with psychosocial disability¹⁸. Inclusion requires targeted incentives, workplace capability, peer workforce development and trauma-informed approaches. The Royal Commission recommends phasing out segregated, underpaid employment in favour of inclusive, mainstream jobs¹⁹.

Education

Students with psychosocial disability require timely, enforceable adjustments and trauma-informed, inclusive practice. The *Disability Standards for Education 2005* [Cth]²⁰ should be modernised to improve accountability, consistency and enforceability across schools and tertiary. The Royal Commission's trajectory toward inclusive education, with informed choice preserved and segregation phased out, should be adopted¹⁹.

Public life, health, housing and digital access

Barriers persist in healthcare (including non-trauma-informed or coercive practices), housing (insufficient suitable, stable and affordable options), transport, sport/recreation and digital services. These barriers compound disadvantage and isolation, particularly in regional and rural areas. National accessibility standards, mandatory audits and transparent reporting should apply to publicly funded health services, transport operators, digital platforms and public infrastructure. The positive duty should extend across these domains to create preventive, system-wide obligations.

¹⁸ Australian Institute of Health and Welfare, 2022, *People with disability in Australia*, Australian Institute of Health and Welfare, <<https://www.aihw.gov.au/reports/disability/people-with-disability-in-australia/contents/employment/employment-rate-and-type>>.

¹⁹ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability 2023, *Final Report Volume 7*, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, <<https://disability.royalcommission.gov.au/publications/final-report-volume-7-inclusive-education-employment-and-housing>>.

²⁰ Australian Government 2005, *Disability Standards for Education 2005* [Cth], Australian Government, <<https://www.legislation.gov.au/F2005L00767/latest/text>>.

Recommendations

- 3.1** Introduce targeted employer measures: wage subsidies for initial employment, tax deductions for adjustments and mental health supports, innovation grants, recognition programs, peer workforce development and mental health first aid training¹⁹.
- 3.2** Require disability inclusion audits for duty-bound employers, including lived experience consultation, barrier analysis and time-bound action plans with measurable outcomes, updated at least three-yearly.
- 3.3** Phase out segregated/supported employment by 2034 with individual transition planning, skills development, partnerships with mainstream employers, sustained workplace support and fair pay during transition.
- 3.4** Strengthen the *Disability Standards for Education 2005* (Cth)²⁰ to ensure enforceable, timely adjustments and mandatory teacher training in psychosocial disability and trauma-informed practice.
- 3.5** Prohibit forced placement in segregated education; preserve informed choice with safeguards against coercion.
- 3.6** Plan the closure of segregated special schools by 2051, with investment in inclusive education capability and resources.
- 3.7** Extend the positive duty to health services, transport and digital platforms receiving public funding.
- 3.8** Set national accessibility standards for public infrastructure, transport, digital services and government platforms, with mandatory audits and public reporting.

Part 4: Improving access to justice

Access and procedural fairness

The Royal Commission found that most people with disability who experience discrimination do not enter formal complaints pathways due to fear, inaccessibility and lack of trust³. For people with psychosocial disability, legal processes can be re-traumatising and rigid. Pathways through the AHRC and Federal Court should be redesigned to be trauma-informed and accessible, including independent advocacy, flexible timelines, remote participation, mental health liaison officers, plain language materials, supported decision-making and appropriate sensory environments²¹¹¹.

²¹ Fredman, S 2011, *Discrimination Law*, 2nd edn, Oxford University Press, Oxford.

Human rights alignment

The DDA should explicitly require UNCRPD-consistent interpretation so courts and tribunals apply a human rights lens²²⁵ - a Human Rights Advisory Panel within the AHRC could promote consistent application. The AHRC should also be enabled to initiate systemic investigations without individual complaints, recognising the chilling effect of small-community dynamics and power imbalances³.

Mental health crisis responses

Police-led responses to mental health crises can escalate distress and increase criminalisation risk³. National standards should emphasise consent, dignity and therapeutic care, limiting police transport to immediate risk situations, with safeguards, independent oversight and transparent data consistent with the *National Mental Health and Suicide Prevention Agreement*²³.

Recommendations

- 4.1 Require trauma-informed procedures in AHRC conciliation and Federal Court proceedings: independent advocacy, flexible timelines, remote options, mental health liaison officers, plain language, supported decision-making and sensory accommodations¹¹¹⁶.
- 4.2 Increase funding for the National Disability Advocacy Program to provide specialised legal representation and advocacy for people with psychosocial disability²⁴.
- 4.3 Amend the DDA to require UNCRPD-consistent interpretation and application.
- 4.4 Establish a Human Rights Advisory Panel within the AHRC to guide human rights-based interpretation and practice.
- 4.5 Grant the AHRC own-motion powers to investigate systemic disability discrimination³.
- 4.6 Restrict police use for mental health transport to situations of immediate risk with statutory safeguards and clear thresholds.
- 4.7 Require state/territory crisis care standards prioritising consent, dignity and therapeutic support, aligned with the *National Mental Health and Suicide Prevention Agreement*.
- 4.8 Mandate independent oversight and publication of data on police interactions with people in mental health crisis.

²² Kayess, R & French, P 2008, 'Out of darkness into light? Introducing the Convention on the Rights of Persons with Disabilities', *Human Rights Law Review*, vol. 8, no. 1, pp. 1-34.

²³ Federal Financial Relations 2022, *National Mental Health and Suicide Prevention Agreement*, Australian Government, <<https://federalfinancialrelations.gov.au/agreements/mental-health-suicide-prevention-agreement>>.

²⁴ Australian Human Rights Commission 2022, *Submission to the Royal Commission into Violence, Abuse, Neglect, and Exploitation of People with Disability*, Australian Human Rights Commission, <https://humanrights.gov.au/sites/default/files/2023-01/submission_to_the_disability_rc_2022.12.23.pdf>.

Part 5: Exemptions

Broad and open-ended exemptions risk entrenching discrimination behind claims of cost or convenience. The “unjustifiable hardship” defence and other exemptions should be reframed as strictly time-limited, necessary, proportionate and subject to independent oversight²⁵. Exemptions enabling underpaid supported employment or segregated education undermine equal rights and should be removed to comply with Article 27 and broader UNCRPD obligations⁵³.

Recommendations

- 5.1** Tighten exemptions to be time-bound, strictly necessary and proportionate, with independent review and evidence of consideration of less restrictive alternatives.
- 5.2** Prohibit reliance on unjustifiable hardship in core public life domains, such as employment, education, and healthcare, without demonstrated active consultation and robust mitigation.
- 5.3** Abolish exemptions enabling discriminatory pay or conditions in supported employment to align with UNCRPD.

Part 6: Modernising the Disability Discrimination Act

Assistance animals

Ambiguity in Section 9 of the DDA² regarding assistance animals for psychosocial disability leads to inconsistent recognition and access refusals across transport, accommodation and services. National standards for training, certification and identification, developed with mental health and disability organisations, would enhance consistency and confidence while protecting access rights. Conflict and stigma regarding service animals could be reduced through public education.

Additional modernisation measures

The DDA must be comprehensively modernised to reflect 21st-century challenges and commitments. The Australian Government has recognised the need for this through its ongoing review of federal anti-discrimination laws⁴.

²⁵ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability 2023, *Final Report Volume 6*, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, <<https://disability.royalcommission.gov.au/system/files/2023-09/Final-Report-Volume-06-Enabling-autonomy-and-access.pdf>>.

Recommendations

- 6.1** Amend Section 9 to explicitly include animals trained to assist people with psychosocial disability, including psychiatric service animals and, under defined conditions, emotional support animals².
- 6.2** Establish national standards for training, certification and identification of assistance animals, co-designed with lived experience.
- 6.3** Prohibit denial of access to accredited assistance animals across all public life domains, with effective remedies for unlawful refusal.
- 6.4** Fund public education on assistance animals and psychosocial disability to improve compliance and reduce stigma.
- 6.5** Align the DDA with Australia's obligations under the UNCRPD, especially Article 16 (freedom from exploitation and abuse) and Article 7 (rights of children with disability)⁵, including protections for Aboriginal and Torres Strait Islander people with disability.
- 6.6** Ensure legislative coherence between the DDA, the NDIS Act, and state and territory disability laws to eliminate jurisdictional gaps and inconsistencies.

Part 7: Further options for reform

Reframing and language

The creation of a legislative framework named and drafted around rights rather than solely discrimination signals alignment with the UNCRPD's transformative vision and the Royal Commission's human rights focus⁵⁷. Further, conducting a linguistic audit would replace deficit-based phrasing with respectful, empowering terminology reflecting dignity, autonomy and participation. Requiring disability language reviews in future legislation and policy would sustain quality and consistency, co-designed with people with disability.

Structures and investment

Durable change depends on visible leadership, system capability and long-term resourcing for lived experience organisations. A National Disability Rights Commissioner empowered to monitor compliance, investigate systemic issues and recommend reforms would strengthen accountability. A National Disability Rights Action Plan, with measurable targets across sectors and co-designed with representative organisations would drive coordinated progress²⁶. Flexible, long-term funding for user-led organisations is essential to embed co-design and independent monitoring³⁴.

²⁶ Department of Health, Disability and Ageing 2025, *Australia's Disability Strategy 2021-2031*, Australian Government, <<https://www.disabilitygateway.gov.au/document/3106>>.

Recommendations

- 7.1** Creation of a rights-based legislative framework to operate in complement to the DDA to signal a proactive, UNCRPD-aligned approach.
- 7.2** Conduct a linguistic audit to remove deficit or medicalised phrasing and embed respectful, empowering language, co-designed with people with disability.
- 7.3** Require disability language reviews for future legislation and policy affecting people with disability.
- 7.4** Establish a National Disability Rights Commissioner within the AHRC, with powers to monitor compliance, investigate systemic discrimination and recommend reform.
- 7.5** Adopt a National Disability Rights Action Plan with measurable targets across key domains, co-designed with disability representative organisations.
- 7.6** Provide long-term, flexible funding to lived experience-led organisations for co-design, advocacy and independent monitoring.

Conclusion

To align with the UNCRPD and respond to the Royal Commission, the DDA should evolve from a reactive, complaint-based model to a proactive, preventive and participatory rights framework. Explicit recognition of psychosocial disability, a UNCRPD-consistent definition, intersectional analysis and a positive duty on institutions are essential to prevent harm and remove barriers in.

Trauma-informed justice processes, tighter exemptions, modern assistance animal provisions and cross-jurisdictional coherence will further close current gaps. Reframing the legislation as a rights instrument, strengthening oversight and investing in lived experience leadership are critical to realising equal participation in education, work, community life and decision-making.

These reforms must be developed through genuine co-design with people with disability and their representative organisations, ensuring that the principle of "nothing about us without us" is honoured throughout the reform process.

Recognition of Lived Experience

MHLET deeply values the insights and wisdom of individuals with lived experience of mental health challenges. We believe that those who have navigated these struggles are not only the experts of their own journeys, but also vital contributors to creating a more effective and compassionate mental health system.

We acknowledge that lived experience provides unique and essential perspectives that must be actively integrated into mental health policy, service design, and suicide prevention strategies.

People with lived experience offer invaluable insights into what works, what needs improvement, and what services are truly meaningful. Their voices must be central to the decision-making processes that shape mental health care.

MHLET is committed to fostering an inclusive mental health system where lived experience is not only recognised but empowered. By valuing the voices of those with lived experience, we can create services that are truly person-centred, accessible, and effective for all.

