



Australian Government  
Attorney-General's Department

# Disability Discrimination Act Review

## Summary Issues Paper

# Acknowledgement of Country

We acknowledge Aboriginal and Torres Strait Islander peoples as the traditional custodians of Australia and acknowledge their continuing connection to land, sea and community. We pay our respects to the people, the cultures and the elders past and present.

We pay our respects to all First Nations people with disability and recognise the distinct contributions they make to Australian life.

This is a summary of the Issues Paper. The paper is about updating the Disability Discrimination Act. You can read the full Issues Paper on our [website](#).

To respond to the issues raised in this paper, you can:

- **answer a shorter set of questions about each of these areas in our [online community survey](#)**
- **respond to the full set of questions in the full [Issues Paper](#).**

The Australian Government is reviewing the **Disability Discrimination Act** (the Act). We want to make sure it is working to protect people with disability.

The Act makes discrimination against people with disability unlawful in workplaces, in schools and universities and in public places. Disability discrimination is when someone treats you differently because you have a disability.

The law is over 30 years old, and the last big changes were made over 15 years ago. Many people with disability still face discrimination.

The **Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability** (the **Disability Royal Commission**) was one of the biggest investigations into the experiences of people with disability in Australia.

- It heard from **nearly 10,000 people**.
- It made **222 recommendations** to improve life for people with disability.
- **15 of these recommendations** are directly about the Act.

We are reviewing the Act in response to these recommendations. We want to know how to make the Act stronger and clearer.

## Support and help

Disability discrimination is a challenging issue. Reading this paper may bring up strong feelings for some people. The following support services can give you help and support:

### **Lifeline (13 11 14)**

National crisis support and suicide prevention services. They are available 24 hours a day, 7 days a week.

### **13YARN (13 92 76)**

Aboriginal and Torres Strait Islander crisis support line, available 24 hours a day, 7 days a week.

### **Kids Helpline (1800 55 1800)**

National crisis support for children and young people (aged 5 to 25). They are available 24 hours a day, 7 days a week.

### **1800ELDERHelp (1800 353 374)**

A support line for the abuse and mistreatment of older people.

### **National Disability Abuse and Neglect Hotline (1800 880 052)**

A free, independent and confidential service. You can report abuse and neglect of people with disability.

### **1800RESPECT**

Confidential information, counselling and support. It's for people experiencing, or who have experienced, sexual assault or domestic violence.

# What we know about the issues

In Australia, many people with disability still experience discrimination. This makes it hard for them to take part equally in society.

## Key facts from the Australian Bureau of Statistics (2022):

- **More than 1 in 5 Australians** (about 5.5 million people) are people with disability.
- **1 in 10** (9.9%) people with disability aged 15 and over experienced discrimination.
- Almost **1 in 5** (17.6%) young people with disability aged 15 to 34 experienced discrimination.

The Disability Royal Commission found many examples of unacceptable treatment of people with disability.

- **Employment**
  - Some people with disability may have a hard time getting or keeping a job.
- **Education**
  - Some students with disability are **excluded from schools and universities**.
  - Others **do not receive enough support** to help them succeed.
- **Accommodation**
  - People with disability often **struggle to find housing**.
- **Access to justice**
  - People with disability often **find engaging with police and the justice system hard**.
- **Access to services and public places**
  - Many people with disability **cannot get goods and services that they need, or cannot easily access places**.

This is why we need to update and improve the Disability Discrimination Act.

# What changes are being considered?

The below **7 topics** come from:

- the **Disability Royal Commission's recommendations**
- suggestions from representatives of people with disability and other groups.

They are:

- **Part 1 – Updating understandings of disability and disability discrimination**
- **Part 2 – Positive duty to eliminate discrimination** (Stronger protections to prevent discrimination before it happens)
- **Part 3 – Encouraging inclusion of people with disability in employment, education and other areas of public life**
- **Part 4 – Improving access to justice**
- **Part 5 – Exemptions**
- **Part 6 – Modernising the Disability Discrimination Act**
- **Part 7 – Further options for reform**

# Part 1 – Updating understandings of disability and disability discrimination

## Definitions of disability

The definition of ‘disability’ in the Act might need to change so that:

- It uses respectful language instead of outdated terms.
- It recognises that some people face more than one type of discrimination. For example, due to disability and gender, race, or age.

## Definition of discrimination

The definition of ‘discrimination’ in the Act might need to change so that:

- It is simple and easy to understand.
- The law can be used in everyday life to protect people with disability.

## Align with the Convention on the Rights of Persons with Disabilities (Disabilities Convention)

We could update the Act to better refer to the **Disabilities Convention**. This could help make sure the Act supports people with disability.

### We want to know your thoughts about:

- the best way to define disability in the Act
- addressing discrimination that happens because of more than one factor (e.g., disability and gender, race or age)
- improving how the Act refers to the Disabilities Convention.

## Why this matters

The Act should reflect today’s understanding of disability discrimination. Using simple, respectful and inclusive language makes sure no one is left out.

# Part 2 – Stronger protections to stop discrimination before it happens

Right now, people can only make a complaint after discrimination happens. A proposed change is to introduce a ‘positive duty’, meaning:

- Employers, schools, organisations and businesses must actively prevent discrimination. They shouldn’t just deal with it afterward.
- The Australian Human Rights Commission may be able to enforce compliance.

This ‘positive duty’ would apply to all **duty holders** and would be similar to the positive duty that applies to employers to prevent sex discrimination. Duty holders covers a wide range of people and organisations. It includes schools, businesses and workplaces, organisations and services.

#### **We want to know your thoughts about:**

- what duty holders such as employers, schools, organisations and businesses should do to prevent discrimination
- what the impact and cost of a ‘positive duty’ will be for duty holders.

#### **Why this matters**

Right now, people with disability have to fight discrimination themselves and it’s up to them to take complaints to the Australian Human Rights Commission. This change would make duty holders responsible for preventing discrimination.

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

People with disability still face discrimination when trying to work, go to school, or take part in public life. The review looks to reduce these barriers and make rights and obligations clear.

Right now, duty holders must do things that people with disability need so they can take part in activities like having a job or going to school. This is called making ‘reasonable adjustments’.

To help make sure people with disability are receiving the **adjustments** they need, the review is looking at:

- Changing ‘reasonable adjustments’ to ‘adjustments’, to accurately reflect how the law already works. It will make it clear that helping people with disability is the standard.
- Making sure employers talk to people with disability. This will make them think about what adjustments they will need to help them do their job.
- Clarifying ‘inherent requirements’. Employers would need to think about adjustments, and talk to the person, before deciding if they can do the job.
- Clarifying who is responsible for providing adjustments.

The review is also looking at requirements for ‘**unjustifiable hardship**’. Right now, duty holders must make adjustments unless it is too difficult. This is called ‘unjustifiable hardship’. The Act currently considers cost and how the change affects others when deciding this.

The review is looking at adding more things that would have to be done before deciding an action is an ‘unjustifiable hardship’. This might be things like making sure duty holders:

- talk to the person with a disability about what they need
- look for different ways to help.

**In education settings**, the review is looking at making the rules clearer. This is to make sure that schools and universities cannot exclude or suspend a student because of their disability.

### We want to know your thoughts about:

- how the Act could better make sure employers and employees work together to find out if the employee can do everything they need to for a job
- requiring employers to ask the person with disability what they need and ways to help
- making the rules for reasonable adjustments, inherent requirements and unjustifiable hardship clearer
- making it clearer that schools and universities cannot exclude or suspend a student because of their disability.

### Why this matters

Many people with disability want to work or study but face discrimination in work and study. Ensuring that adjustments are made in workplaces, schools and other settings will make sure they are more inclusive.

## Part 4 – Improving access to justice

We are looking at **ways to improve protections** for people with disability, including:

- stronger rules against harassment
- addressing discrimination within the justice system.

Currently, there isn’t enough **protection** against offensive behaviour and hate speech (also known as vilification). The review is looking at:

- Making it illegal to harass, threaten, or spread hate about people with disability.
- Extending protection to online spaces (such as social media).

It is also looking at better protection when dealing with police and the justice system.

### We want to know your thoughts about:

- updating the Act so it's better at protecting people with disability from **offensive behaviour and/or harassment**
- applying protections in **online spaces**
- ensuring protections when people with disability deal with the **police**.

### Why this matters

Strengthening these protections would help **keep people safe and promote inclusion in our community**. Many people with disability are experiencing harassment and offensive behaviour. Stronger protections would help to prevent harassment and offensive behaviour.

## Part 5 – Exemptions

Some **exemptions** in the law allow actions that might otherwise be considered discrimination. We are reviewing them to see if any should be **changed**. **This will make sure we get the right balance**.

For example, the **special measures exemption** lets people or organisations **treat people differently to help people with disability**. We are asking if this rule **could be improved**.

There may be **other exemptions** that need to be changed. This includes changes in how decisions are made about temporary exemptions. For example, we are looking at the Australian Human Rights Commission's powers to grant temporary exemptions.

### We want to know your thoughts about:

- **changes or improvements** to the permanent exemptions under the Act
- making **decisions about temporary exemptions**.

### Why this matters

Some exemptions have not been updated or reviewed since they were first included in the law. This review will make sure exemptions are only used when necessary.



# Part 6 – Modernising the Disability Discrimination Act

Stakeholders and the disability community have raised other possible updates to the Act. They include:

- **Assistance animals**
  - The rules about assistance animals are unclear. This includes for people with disability and duty holders.
  - The review is asking how to make the rules clearer about training and certification.
- **Disability action plans**
  - Some organisations have voluntary plans to improve accessibility.
  - The review is asking how these plans could be improved.
- **Disability Standards**
  - Public premises, public transport and education have special rules to help them be accessible.
  - The review is asking how we can be better at enforcing and reporting on these rules.

## We want to know your thoughts about:

- making protections for people with **assistance animals** clearer
- improving **disability action plans** to make them more effective and helpful
- compliance and enforcing the **Disability Standards**, to make sure people follow these rules.

## Why this matters

These changes will help people with disability take part in society by removing outdated concepts in the Act.

# Part 7 – Further options for reform

There might be other things you think need to be changed in the Act.

## We want to know your thoughts about:

- lessons we can learn from other anti-discrimination laws
- making the law clear and easy to understand
- support or help for duty holders
- any other changes that could be made to the Act.

# A final word

People with disability, their families, carers, friends, and advocacy groups have helped with many reviews and inquiries. For example, these have included:

- The Disability Royal Commission
- The Parliamentary Joint Committee on Human Rights' review of Australia's human rights framework
- The Productivity Commission's 2004 review of the Act
- The 5-yearly reviews of the Disability Standards.

This advocacy has involved significant time and energy. We understand that sharing experiences of discrimination can be exhausting and traumatic. To help avoid people having to repeat the same issues, this paper uses reports and feedback from these past reviews.

This review does not question whether the Act should be improved. The review asks what are the best ways to change the Act. It aims to improve the experiences of people with disability. It also aims to help people with duties under the Act.

## Contacts

If you have questions about areas in this Issues Paper or the consultation process, please email [DDAReview@ag.gov.au](mailto:DDAReview@ag.gov.au) or phone (02) 6141 6280.

You can find the full Issues Paper and more information about the review on our [website](#).

