



A legislative framework for eliminating discrimination.

Amaze submission to *Disability Discrimination Act 1992* review.

October 2025

CONTENTS

About Amaze.....	2
Executive Summary	3
Summary of Recommendations.....	5
Submission.....	6
1. Background.....	8
2. Modernise the Disability Discrimination Act (DDA).....	8
(a) Clarify and strengthen the definition of disability.....	8
(b) Embed International Human Rights Obligations	9
(c) Introduce a Positive Duty to Eliminate Discrimination	9
(d) Strengthen obligations regarding Disability Action Plans (DAPs).....	10
3. Provide meaningful protections from Direct and Indirect Discrimination	11
4. Strengthen duty to provide meaningful adjustments and restrict unjustifiable hardship exemption...	13
5. Strengthen capacity to undertake inherent requirements of work test	15
6. Prohibit suspension and exclusion on the basis of disability.....	17
7. Improve the safety of and justice for people with disability	18
8. Limit exemptions under the DDA, prioritising inclusion.	20
9. Strengthen oversight and compliance with Disability Standards.	20
10. Clarify rights and obligations relating to Assistance animals.....	21
11. Take further steps to strengthen the DDA and improve community understanding.	22
(a) Invest in co-designed, accessible information resources	22
(b) Address discrimination by disability service providers and systems.....	22
(c) Require autism inclusive environmental design.....	22
(d) Strengthen transparency by requiring the AHRC to publish all complaint outcomes.....	23

ABOUT AMAZE

Amaze is a leading autism organisation driving change so that Autistic people and their families can live their best lives in a more autism inclusive Australia. For more than 50 years, Amaze has supported Autistic people, their families, and the broader community. While based in Victoria, our reach is national. We are home to Autism Connect – Australia’s first and only national autism helpline – which provides free, evidence-informed support to anyone in Australia.

We work closely with governments, partner organisations, employers, and community groups to deliver vital information, training, and advice to the autism community and beyond. Through Amaze Inclusion, we support workplaces, education providers and service systems to become more inclusive, respectful and responsive to the needs of Autistic people and neurodivergent people. Our work includes tailored training, advisory services and co-designed programs that build capability, shift attitudes and embed inclusive practice.

Across all areas, our work is informed by research, grounded in lived experience, and shaped by what the autism community tells us matters most. Alongside providing high-quality support and building broader understanding of autism, we translate community experiences into policy advice and systems-change efforts that aim to create lasting impact.

Our vision is inspired, and our ambitions significant. Our five strategic priorities (2022–2026) – Autism Assessment and Diagnosis, Education and Training, Employment, NDIS, and Health and Mental Health – reflect the areas where we believe change will make the greatest impact for Autistic people, their families and the wider community.

EXECUTIVE SUMMARY

Amaze welcomes this opportunity to contribute to the *Disability Discrimination Act 1992* (DDA) review, recognising it as a pivotal opportunity to eradicate discrimination, shaped by the powerful findings and recommendations of the Disability Royal Commission (DRC) and other recent inquiries.

The DRC's recommendations are grounded in evidence and in the courage and advocacy of thousands of people with disability, and their families, carers and supporters, who generously shared their experiences to expose systemic discrimination and drive lasting change. Their contributions have laid the foundation for reform. It is now time for action to ensure the DDA delivers stronger, rights-based protections for people with disability, including Autistic people across all areas of life.

Despite its intent, the DDA has not delivered meaningful protection from discrimination for Autistic people, or their families and carers. Discrimination remains widespread, and Autistic people continue to be excluded from education, employment, services and public spaces. Many are denied the adjustments they need to participate, and face systemic barriers with little transparency, accountability or access to justice. The current legislative framework places a heavy burden on individuals to advocate for their rights, while allowing discriminatory practices to persist.

Drawing on evidence, the DRC's findings and recommendations, and the lived experience of Autistic people shared through our national **Autism Connect** helpline and decades of community engagement, our submission calls for a shift from a reactive complaints-based model to a proactive, rights-based, person-centred framework.

Key reforms must include:

- 1. Modernise the DDA** by introducing a positive duty to prevent discrimination, updating the definition of disability to reflect neurodivergence and intersectionality, embedding Australia's international human rights obligations, and strengthening the transparency and accountability of Disability Action Plans – driving a rights, strengths and person-centred approach.
- 2. Strengthen protections against direct and indirect discrimination**, including by removing the comparator test and shifting the burden of proof to duty holders to demonstrate that adverse treatment was not based on disability – providing meaningful and practical protections from discrimination, and reducing the existing burdens on Autistic people and their families and carers.
- 3. Introduce a stand-alone duty to provide meaningful adjustments and redefine the unjustifiable hardship exemption** to apply only in exceptional, well-evidenced cases, where an adjustment would impose a disproportionate and undue burden - ensuring Autistic people can participate to the fullest extent possible in education, employment and community life.
- 4. Clarify the test for determining whether a person can perform the inherent requirements of work**, including by requiring formal assessments of inherent work requirements (where capacity to meet these requirements is questioned) and meaningful engagement with job/course applicants in decision making processes - ensuring person centred, fair, transparent decision making that drives inclusion and harnesses the talents of Autistic people.
- 5. Prohibit suspension and exclusion of students on the basis of disability** and require formal, transparent assessment processes, informed by meaningful engagement with students and their families and supporters, before any disciplinary action is taken – reducing the disproportionate suspension and exclusion of Autistic students and improving their education outcomes.
- 6. Strengthen the justice system for people with disability**, including through explicit protections from vilification and offensive behaviour (including online harms) and clearer obligations and guidance

(including mandatory training) for police officers to act without discrimination – promoting fairness, safety and accountability within the justice system.

7. **Embed the Assistance Animal National Principles into the DDA** and prescribe accredited training organisations, minimum standards for evidence of disability and autism-specific guidance in regulations – driving consistent recognition and access. improved public understanding and inclusive attitudes toward assistance animals.
8. **Mandate autism-inclusive environmental design** in building access standards and require the co-design of autism inclusion and accessibility guidelines for buildings and public spaces – driving autism inclusive environments, equal access and greater participation in education, employment and community.
9. **Strengthen transparency and accountability** through mandatory data collection and reporting on complaints and outcomes, including by requiring the AHRC to publish all complaint outcomes – improving oversight, trust and informing future reforms.
10. **Invest in co-designed, accessible information resources** to support public understanding and implementation of the updated DDA, tailored to diverse cohorts (including Autistic people) and regularly promoted and evaluated to ensure they remain effective – building understanding of rights, obligations and complaint pathways, and implementation of a positive duty across sectors.

We are ready to assist!

We welcome any further opportunity to discuss our submission and share our expertise, learnings and insights from community, including our de-identified data collected through Autism Connect and wider community engagement.

Please contact me on (03) 9657 1600 or by email at david.tonge@amaze.org.au.



Mr. David Tonge

Chief Executive Officer

SUMMARY OF RECOMMENDATIONS

Modernise the Disability Discrimination Act

1. Modernise the definition of disability to reflect inclusive, strengths-based language and align with the human rights model in the CRPD.
2. Embed Australia's international obligations in the Act, including a requirement to interpret the law in a way that benefits people with disability.
3. Introduce a positive duty for all duty holders to proactively eliminate discrimination, tailored to organisational context and co-designed with people with disability.
4. Strengthen Disability Action Plans by requiring mandatory reporting, transparency, review, accountability and co-design.
5. Ensure robust enforcement and oversight, with powers for the Commission to undertake own motion investigations and actions, and act on breaches of the Act.

Provide meaningful protections from Direct and Indirect Discrimination

6. Amend the "direct discrimination" test, removing the comparator test and shifting the burden of proof to respondents.
7. Provide that 'direct discrimination' occurs when a person has been treated unfavourably or detrimentally for reason of their disability, or when a respondent has failed to adequately take a person's disability into account in their decision-making process.
8. Remove the "reasonableness" and "inability to comply" elements from the definition of indirect discrimination.

Strengthen duty to provide meaningful adjustments and restrict the unjustifiable hardship exemption

9. Remove "reasonable" and insert a stand-alone duty to provide "meaningful adjustments".
10. Redefine the unjustifiable hardship exemption, ensuring the exception applies only in exceptional cases where an adjustment would impose a disproportionate and undue burden, consistent with the UN CRPD and international law and guidance.
11. Require all duty holders to document decisions to deny adjustments for reasons of unjustifiable hardship, with requirements for reasons to be backed by clear financial or operational data.

Strengthen capacity to undertake inherent requirements of work test

12. When determining whether an employee will be able to carry out the inherent requirements of the work, require consideration of the nature and extent of any adjustments made, and the extent of consultation with any person with disability concerned.
13. Expressly state that inherent requirements refer only to requirements that are essential or non-negotiable and require the development of co-designed guidelines to support consistent identification and application of inherent requirements across employment and education settings.
14. Require duty holders seeking to rely on the inherent requirements exception to obtain an independent assessment from an approved body of the essential and non-negotiable aspects of the role/course.

Prohibit suspension and exclusion on the basis of disability

15. Amend the DDA to explicitly prohibit suspension, and all types of exclusion (including gatekeeping and informal exclusion) of students on the basis of disability.
16. Ensure this duty applies not only to schools but also to childhood education, vocational education and training (VET), and higher education settings.
17. Require schools to undertake a formal, independent assessment before suspending a student with disability.
18. Require all suspensions and exclusions of students with disability to be reported to the CEO of the education authority, with mandatory review and higher accountability measures for repeated or unlawful actions.
19. Require nationally consistent public reporting of suspensions and exclusions (disaggregated by disability status and types of disability).

Improve the safety of and justice for people with disability

20. Introduce enforceable, person-centred protections against disability-based hate crimes, vilification and all forms of offensive behaviour.
21. Apply protections across physical and online spaces, with clear guidance on when an individual and/or the platform or service provider may be liable.
22. Ensure protections cover people with disability and their families, carers and supporters.
23. Provide a range of remedies and a clear pathway to accessible dispute resolution.
24. Explicitly protect people with disability from discrimination by police officers, regardless of whether they are victims, witnesses or suspected offenders.
25. Mandate accredited, co-designed training for police officers that reflects intersectional disadvantage and equips officers to engage respectfully and appropriately with people with disability.

Limit exemptions under the DDA, prioritising inclusion

26. Adopt the AHRC's recommendations identified in the Issues Paper, including to define special measures and the parameters of temporary exemptions.
27. Require formal consultation with people with disability before any exemption is granted that may affect their rights or community access.
28. To the extent possible, require exemptions to be time-limited and subject to renewal only under strict criteria, with oversight by the AHRC (particularly for exemptions under s.48 relating to infectious diseases).
29. Require annual review of the impacts of exemption provisions, in partnership with people with disability and the sector, to ensure they remain fit for purpose and uphold protections against discrimination.

Strengthen oversight and compliance with Disability Standards

30. Impose a positive duty on duty holders to proactively comply with the Disability Standards.
31. Attach enforcement mechanisms to the AHRC's existing power to inquire into systemic unlawful discrimination, including civil penalties, injunctions and enforceable undertakings.
32. Require annual reporting by the AHRC on complaints and outcomes, disaggregated by disability type.
33. Mandate the development of an outcomes framework for each Standard to support consistent measurement and monitoring.

34. Mandate a post-reform review of the Disability Standards to ensure alignment with any new positive duty provisions.

Clarify rights and obligations relating to Assistance animals

35. Embed the proposed Assistance Animal National Principles into the DDA.
36. Prescribe accredited training organisations and minimum standards of evidence of disability in DDA regulations.
37. Include autism-specific guidance in regulations to address the unique tasks performed by autism assistance animals and reduce discrimination and access barriers.

Take further steps to strengthen the DDA and improve community understanding

38. Invest in co-designed, accessible, tailored and practical information resources to support public understanding and implementation of the updated DDA.
39. Address discrimination within disability-specific service systems by introducing stronger reporting and accountability mechanisms and clearer standards for inclusion.
40. Mandate autism inclusion and accessibility in building access standards and require the co-design of autism inclusion and accessibility guidelines for buildings and public spaces.
41. Require the AHRC to publish summaries of all complaint outcomes, including conciliated, discontinued, terminated, and declined matters.

1. BACKGROUND

The Disability Discrimination Act 1992 (DDA) was established to eliminate discrimination and uphold equal rights for people with disability. Yet, for many Autistic people, the Act has not delivered on this promise. Discrimination remains widespread and systemic, particularly in education and employment, where Autistic people are frequently denied adjustments, excluded from participation, and left without meaningful recourse.¹ The current framework places the burden on individuals to prove discrimination, while duty holders have limited obligations to prevent it. This reactive model fails to address entrenched barriers and often does little to promote inclusion or uphold rights.

Autism Connect, Australia's national autism helpline operated by Amaze, provides direct insight into these challenges. In 2024–25, 165 contacts (including calls, emails, webchat) related specifically to discrimination, with education (58%) and employment (15%) the most common areas of concern. Families and Autistic people commonly described exclusion from education, lack of reasonable adjustments, and discriminatory treatment in workplaces. These experiences reflect the broader systemic failures identified by the Disability Royal Commission (DRC), which also found that Autistic people face persistent discrimination across all areas of life.

These experiences highlight the urgent need for reform. A modernised, proactive legislative framework - aligned with the DRC's recommendations - is essential to shift the burden of proof from people with disability to duty holders, embed person-centred rights-based protections, and ensure Autistic people are included, supported, and treated equally when accessing education, employment and community.

2. MODERNISE THE DISABILITY DISCRIMINATION ACT

The DDA must be modernised to reflect contemporary understandings of disability, uphold Australia's international obligations, and ensure comprehensive protection against all forms of discrimination. The current framework allows discrimination to persist where obligations are unclear, and rights are limited. A modernised Act should provide clarity, consistency, and proactive mechanisms to eliminate discrimination, promote inclusion, and reduce the advocacy burden placed on people with disability and their families and carers. It must also explicitly acknowledge intersectionality and establish clear pathways for individuals to seek protection when facing discrimination on multiple grounds.

(a) Clarify and strengthen the definition of disability.

The current definition of disability in the DDA is outdated and deficit based. It does not adequately reflect the diversity of disability experiences, particularly for people with neurodevelopmental, intellectual or psychosocial disabilities.

A modern definition must:

- Use inclusive, strengths-based and neurodiversity affirming language.
- Expressly include neurodevelopmental disability and temporary and fluctuating disabilities, particularly psychosocial conditions (commonly experienced by Autistic people).
- Move away from a purely medical or impairment-based model towards a right based model, consistent with the Convention on the Rights of Persons with Disabilities (CRPD).

¹ Senate Select Committee on Autism, 2022. *Services, support and life outcomes for Autistic Australians*. March 2022. Available at https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Autism/autism/Report

- Acknowledge the strengths and diversity of people with disability, including neurodivergent people.
- Expressly recognise the intersectional experiences of many people with disability, including Autistic people.
- Drive a consistent definition across legal frameworks to help ensure people with disability are consistently protected from discrimination and can understand and enforce their rights without ambiguity.

(b) Embed International Human Rights Obligations

Australia's commitment to the CRPD must be explicitly reflected in the DDA. In particular, the DDA should include a legislative requirement that it be construed in a manner that benefits people with disability. This would embed a rights-based approach into domestic law, promote proactive inclusion, and provide clarity for duty holders and courts.

Articles 2 to 5 of the CRPD affirm dignity, autonomy, non-discrimination, and accessibility, and require proactive measures to promote equality. Embedding these principles in the DDA will ensure that the law is not only reactive but also takes a proactive and preventative approach, guiding duty holders to act in ways that uphold human rights and foster inclusion.

(c) Introduce a Positive Duty to Eliminate Discrimination

One of the most critical reforms to the DDA is the introduction of a positive duty for all duty holders—including employers, educators, and providers of goods and services—to take reasonable and proportionate steps to prevent discrimination before it occurs. Most duty holders genuinely want to protect people with disability and meet their legal obligations, but many lack clarity about the steps they can and should take to achieve this. A positive duty provides that clarity, giving organisations the confidence to take proactive, meaningful steps to create inclusive environments and uphold the rights of people with disability.

Beyond legal compliance, disability inclusion delivers significant economic and social benefits. Inclusive workplaces are more innovative, productive, and resilient, contributing to a stronger economy and healthier communities.² A positive duty would also embed transparency and accountability, making visible how organisations interpret and act on their responsibilities. This visibility would help build trust and strengthen community understanding of their rights under the DDA.

Importantly, this reform would shift the advocacy burden away from people with disability, their families, and carers—who have long carried the weight of challenging discrimination throughout their lives. By placing responsibility on duty holders to act, it would send a clear message that eliminating discrimination is everyone's responsibility.

The positive duty to eliminate discrimination should:

- Be co-designed with people with disability to ensure it reflects lived experience and day to day realities.
- Include requirements for duty holders to have transparent policies on inclusion and adjustments, undertake accredited disability competence training and continuing professional development, and deliver transparent accountability mechanisms and success measures.

² Australian Human Rights Commission, 2025. *Economic and social benefits of employing people with disability*. Available at <https://humanrights.gov.au/our-work/6-economic-and-social-benefits-employing-people-disability>.

- Require duty holders to proactively comply with the Disability Standards and lodge compliant Disability Action Plans with the AHRC (see further discussions below)
- Be tailored to the size and nature of the organisation, utilising learnings from provisions in the *Sex Discrimination Act 1984* and *Victorian Equal Opportunity Act 2010*.
- Apply to all levels of education (from early education to tertiary education settings) and across the employment pathway, including recruitment, onboarding, and career progression.
- Extend to parents and carers with disability in education settings, ensuring they are not excluded from participating in key decision-making processes, including Student Support Group meetings and Disability Inclusion Profile development.

To provide meaningful protection and oversight, the Australian Human Rights Commission must be adequately funded to enforce obligations and have powers to take own motion investigations and actions.

(d) Strengthen obligations regarding Disability Action Plans (DAPs).

Disability Action Plans (DAPs) have the potential to drive systemic change and embed inclusive practices, but under the current framework, they remain voluntary and largely unenforced. While organisations that develop a DAP must register it with the Australian Human Rights Commission (AHRC), there are no minimum content standards, no requirement for review, and no consequences for failing to implement or update a plan.

To be effective, DAPs must be more than aspirational. They should serve as a key mechanism for demonstrating compliance with the proposed positive duty to eliminate discrimination. When developed in genuine partnership with people with disability, DAPs can provide an incredibly valuable and transparent roadmap for how organisations will uphold rights, make adjustments, and foster inclusion.

Learnings should be taken from Western Australia's *Disability Services Act 1993* (WA), which requires all State and local government authorities to develop, implement, and regularly review Disability Access and Inclusion Plans (DAIPs). These plans must be developed in consultation with people with disability, meet prescribed outcome areas, and be reported on annually. The Act also empowers the WA state government to set minimum standards for DAIPs and ensures DAIPs are integrated into broader strategic planning.

The DDA should be amended to require DAPs to be:

- Co-designed with people with disability, bringing a diversity of perspectives and experiences.
- Publicly accessible and subject to mandatory reporting on progress and outcomes.
- Compliant with minimum content standards and subject to mandatory review by the AHRC, with the power to reject non-compliant plans.
- Supported by adequate funding, mandatory accredited training, and resources to ensure meaningful implementation.

The AHRC should also be empowered to provide guidance, set timeframes for plan renewals, and require evaluation of previous plans when new ones are submitted. These reforms will ensure DAPs are a practical tool for inclusion and can support duty holders to meet their positive obligations transparently and effectively.

Key Recommendations

1. Modernise the definition of disability to reflect inclusive, strengths-based language and align with the human rights model in the CRPD.
2. Embed Australia's international obligations in the Act, including a requirement to interpret the law in a way that benefits people with disability.
3. Introduce a positive duty for all duty holders to proactively eliminate discrimination, tailored to organisational context and co-designed with people with disability.
4. Strengthen Disability Action Plans by requiring mandatory reporting, transparency, review, accountability and co-design.
5. Ensure robust enforcement and oversight, with powers for the Commission to undertake own motion investigations and actions, and act on breaches of the Act.

3. PROVIDE MEANINGFUL PROTECTIONS FROM DIRECT AND INDIRECT DISCRIMINATION

(a) Direct discrimination

Section 5 of the DDA has grossly failed to protect Autistic people from direct discrimination. One of the most significant barriers is the comparator test, which requires a person with disability to prove they were treated less favourably than a person without disability in similar circumstances. This test is not only complex but fundamentally flawed in its application to Autistic people, whose experiences and support needs can significantly differ in ways that cannot be meaningfully compared to students without disability. This can be particularly challenging for people experiencing intersectional disadvantage as it is unclear exactly who the applicant should be compared to, and it is unlikely to reflect the complexity of their lived experience.

There have been no successful court cases relating to the “direct discrimination” of Autistic students following the narrow High Court decision of *Purvis v NSW [2003] HCA 62*. In *Purvis*, the High Court found that a student with disability was not treated less favourably because a student without disability, exhibiting similar disruptive behaviour, would also have been suspended and expelled. This reasoning has since been used to justify the exclusion of Autistic students, without any meaningful consideration of the underlying causes of any behaviours of concern, or the student’s need for reasonable adjustments and support. Cases such as *Abela v State of Victoria [2013] FCA 832* and *Conner v State of Queensland (Department of Education and Training) (No 3) [2020] FCA 45* have reinforced this narrow approach, consistently finding that the exclusion of students with disability due to behavioural concerns does not constitute ‘direct discrimination’.

Critically, the underlying causes of behaviours of concern among some Autistic students - such as sensory overload, communication differences, or unmet support needs - have been treated as irrelevant. So too have the differences in how students with disability, including Autistic students, understand the impact of their behaviour and the supports they require to participate meaningfully in education. This legal interpretation has led to the exclusion of many students from school, denying them the adjustments and assistance they need to engage in learning, build social connections, and achieve positive educational, employment, and life outcomes.

In contrast, Victoria's *Equal Opportunity Act 2010* does not require a comparator test for direct discrimination, instead applying a simpler 'unfavourable treatment' standard—making it easier for people with disability to demonstrate discrimination without needing to prove how a person without discrimination would have been treated in the same circumstances.

Accordingly, we strongly support a more inclusive and effective protection from direct discrimination, consistent with Victoria's approach and as recommended by the DRC. The comparator test should be removed and it should be sufficient for a person with disability to show they were treated unfavourably or detrimentally because of their disability, or that their disability was not appropriately considered in the decision-making process.

We also strongly support shifting the burden of proof to respondents, who are best placed to explain the reasons for their actions. Under the current framework, the burden rests entirely on the complainant to prove that their disability was a reason for the adverse treatment they experienced. This creates an unfair evidentiary burden, particularly for people with disability who will generally lack access to the respondent's internal decision-making information. For example, it is unreasonable to expect a complainant to know whether the respondent acted out of concern for safety, or whether their decision was influenced by the person's disability. Consistent with the approach taken under the *Fair Work Act 2009*, the complainant should only need to establish that an adverse event occurred and that they have a disability. The onus should then shift to the respondent to demonstrate that the treatment was not based on disability. This change is essential to ensure fairness, transparency, and real protection under the DDA.

Recommendations:

6. Amend the "direct discrimination" test, removing the comparator test and shifting the burden of proof to respondents (to demonstrate that adverse treatment was not based on disability).
7. Provide that 'direct discrimination' occurs when a person has been treated unfavourably or detrimentally for reason of their disability, or when a respondent has failed to adequately take a person's disability into account, in their decision-making process.

(b) Indirect discrimination

The DDA's protection from indirect discrimination (section 6) is intended to ensure that people with disability, including Autistic people, are not unfairly disadvantaged by seemingly neutral requirements, conditions, or practices that disproportionately impact them. For Autistic people, this can include being required to work in noisy or overstimulating environments without adjustments, attend long meetings without breaks, undertake oral assessments without communication supports, or being penalised for not making eye contact during interviews. These requirements may appear neutral but can have a significant and discriminatory impact when disability-specific needs are not considered.

Despite the intent of the DDA, enforcement of section 6 has been weak, particularly for Autistic complainants. As discussed in the next section of our submission, this is largely due the narrow scope of the obligation to make "reasonable adjustments" to enable compliance with a requirement or a condition, and the overly broad application of the "unjustifiable hardship" defence.

We also agree with the DRC that the "reasonableness" and "inability to comply" defences to the indirect discrimination test should be removed.

- **The "reasonableness" element:** As found by the DRC, the requirement for a condition or requirement to be "reasonable" under section 6 of the DDA has created unnecessary complexity and evidentiary burdens for complainants. It offers limited additional protection for duty holders,

who can nevertheless rely on the unjustifiable hardship defence. While guidance, or an obligation to show that a condition or requirement was legitimate or proportionate may be included to provide clarity, its superfluousness within the Act would suggest that it is better removed for clarity and simplification.

- **The “inability to comply” defence:** This defence allows duty holders to simply argue that they were unable to comply with the requirement to make adjustments, undermining the obligation to remove barriers. The DRC found this defence to be inconsistent with Australia’s commitments under the UN CRPD. We strongly support its removal in favour of a clearer, proactive duty to make adjustments unless doing so would impose a disproportionate or undue burden (as discussed in detail below).

Removing both of these elements will simplify the test for indirect discrimination and make the DDA’s protections more accessible and effective for people with disability, including Autistic people.

Recommendations:

8. Remove the “reasonableness” and “inability to comply” elements from the definition of indirect discrimination.

4. STRENGTHEN DUTY TO PROVIDE MEANINGFUL ADJUSTMENTS AND RESTRICT THE UNJUSTIFIABLE HARDSHIP EXEMPTION

Strengthening the duty to provide reasonable adjustments and reforming the unjustifiable hardship exemption are essential reforms to uphold the rights and dignity of Autistic people. These provisions are foundational to ensuring that the DDA delivers on its promise of equal access, and that exceptions to inclusion are only applied in limited circumstances, with transparency and accountability.

(a) Reasonable adjustments

The obligation to make “reasonable adjustments” under the DDA has consistently failed to provide effective protection for Autistic people. Despite the intent of the legislation, we are not aware of any court decisions that have upheld a complaint by an Autistic person for failure to make reasonable adjustments.

Although some complaints may have been resolved through conciliation by the AHRC, there is limited transparency around outcomes. It is difficult to determine how many complaints by Autistic people have been withdrawn or discontinued, and whether decisions not to proceed to the Federal Court are due to the inaccessibility of the legal process or a lack of confidence in success.

For example, in education settings we are not aware of any Federal Court cases where indirect discrimination or the failure to make reasonable adjustments has been successfully established by an Autistic student.³ Successful complaints have typically involved complainants with physical or sensory disabilities.⁴ Courts have taken a narrow view of what constitutes a “reasonable adjustment,” often finding that the mere existence of a behaviour support plan or classroom support is sufficient—regardless of whether it was tailored, effective, inclusive or capable of driving positive outcomes for the student.⁵

³ *Kiefel v State of Victoria* [2013] FCA 1398; *Sievwright v State of Victoria* [2012] FCA 118

⁴ *Hurst v State of QLD* [2006] FCAFC 100, *Clarke v Catholic Education office & Anor* [2003] FCA 1085; *Travers v State of NSW* [2001] FMCA 18; *Hills Grammer School v Human Rights & Equal Opportunity Commission* [2000] FCA 658

⁵ *Conner v State of Queensland (Department of Education and Training) (No 3)* [2020] FCA 45; *Kiefel v State of Victoria* [2013] FCA 1398 and *Sievwright v State of Victoria* [2012] FCA 118

In *Conner v State of Queensland (Department of Education and Training)* [2020] FCA 45, the Federal Court accepted that a behavioural support plan was a “reasonable adjustment” despite clear deficiencies in its design and implementation. The Court focused on the mere existence of the plan rather than its effectiveness, concluding that any shortcomings were acceptably due to resource limitations or errors of judgment, not unlawful discrimination. This procedural approach meant the Court did not assess whether the adjustment met the student’s actual needs or contributed to meaningful positive outcomes. It also failed to give due consideration to whether the student’s family was actively engaged in the design and implementation of adjustments.

The case also highlighted the significant burden placed on complainants to prove that an adjustment was not “reasonable.” Duty holders are not consistently required to document or justify their decisions, meaning Autistic students and their families often lack access to the information needed to understand or challenge these decisions. This imbalance creates an unfair evidentiary burden for those already experiencing disadvantage and reflects a broader lack of transparency and accountability in how decisions to deny adjustments are made.

We therefore support the DRC’s recommendation to remove the “reasonable” qualifier from the adjustment obligation. We also recommend that the legal test require duty holders to make “meaningful adjustments”, that meet the individual’s disability-related support needs and can drive positive substantial outcomes. The transparent documentation of decision making must be mandatory, including to ensure duty holders adhere to their obligation to engage meaningfully with people with disability and their supporters on the adjustments needed.

(b) Unjustifiable hardship.

The unjustifiable hardship exemption to discrimination has been broadly applied and often used to deny adjustments that are low-cost or cause minimal operational impact.

We are not aware of any court decisions involving an Autistic person where adjustments have been refused on the grounds of unjustifiable hardship. As noted above, this may be influenced by successful conciliation through the AHRC, the inaccessibility of litigation, or the absence of favourable precedents.

Although it did not involve an Autistic person, *Kristjansson v State of Queensland* [2018] FCCA 3894 offers relevant insights. In this case, the court upheld the refusal of several low-cost, reasonable adjustments requested by a neurodivergent employee with Obsessive Compulsive Disorder—such as written notice of meetings, permission to record discussions, and a standing desk—on the grounds that they conflicted with operational practicality and would therefore impose unjustifiable hardship. Similarly, in *King v Jetstar Airways Pty Ltd* [2012] FCA 798, the Court accepted the airlines argument that allowing more than two wheelchair users per flight would impact the airline’s low-cost business model (upholding its unjustifiable hardship defence).

This low threshold seriously undermines the rights of people with disability to live free from discrimination. It permits speculative impacts on operational capacity or business preferences to be prioritised over rights and life outcomes. It also enables duty holders to rely on vague or subjective claims without engaging meaningfully with the person affected or exploring reasonable alternatives.

As discussed above, there is a persistent lack of transparency and accountability in how decisions to deny adjustments are made. Duty holders are not consistently required to document or justify their decisions regarding unjustifiable hardship, leaving people with disability without access to the reasoning or evidence behind refusals. Without a requirement for clear, data-backed explanations—supported by financial or operational information—decisions often rely on subjective inconvenience or speculative cost.

To ensure the unjustifiable hardship exemption is not misused or allowed to undermine protections from discrimination, it must be redefined in line with the UN CRPD. International law and guidance interprets “undue burden” narrowly, applying it only in cases of significant difficulty or expense (not mere

inconvenience, moderate cost or conflict with operational preferences).⁶ The exemption should be reserved for exceptional circumstances only, such as where an adjustment would threaten the financial viability of the duty holder or compromise essential service delivery. The burden must also rest with the duty holder to demonstrate that the hardship is disproportionate to the rights and short and long-term inclusion of the person with disability.⁷ Additionally, the financial impact should be assessed across the whole organisation, not just a single team or manager's budget.

The DDA must include clear requirements for unjustifiable hardship decisions to be documented by all duty holders, regardless of their size or sector. Any duty holder with responsibility under the Act should be required to provide transparent reasons for decisions. The reasons should be required to be backed by clear financial or operational data and not based merely on subjective inconvenience or speculative cost.⁸ Duty holders should also be required to document their engagement with the person with disability and their supporters on their needs and the exploration of available options.

Recommendations:

9. Remove “reasonable” and insert a stand-alone duty to provide “meaningful adjustments”.
10. Redefine the unjustifiable hardship exemption, ensuring the exception applies only in exceptional cases where an adjustment would impose a disproportionate and undue burden, consistent with the UN CRPD and international law and guidance.
11. Require all duty holders to document decisions to deny adjustments for reasons of unjustifiable hardship, with requirements for reasons to be backed by clear financial or operational data.

5. STRENGTHEN CAPACITY TO UNDERTAKE INHERENT REQUIREMENTS OF WORK TEST

Under section 21A of the DDA, it is not unlawful for an employer to discriminate if a person with disability is unable to perform the “inherent requirements” of the job, even after reasonable adjustments have been made.

The current operation of section 21A allows employers to make decisions about a person's suitability for a role without any obligation to disclose what its inherent requirements are, consult with the person, or transparently explore reasonable adjustments. This lack of transparency and engagement can disproportionately exclude Autistic people, whose strengths and support needs may not be recognised or truly understood without meaningful dialogue. We therefore strongly support DRC's recommendations to strengthen the inherent requirements test, particularly by requiring employers to transparently consider the nature and extent of any adjustments made and the level of consultation with the person with disability concerned. This change is essential to ensure employment decisions are informed, inclusive, and based on a genuine understanding of a person's capacity to perform the role.

To improve consistency, and prevent the misuse of this exemption, the Act should clarify that “inherent requirements” refer only to those duties that are essential and non-negotiable. To help guide employers, the Act should also require the development of codesigned guidance for employers to identify essential and non-negotiable elements of a job, taking into account the scope, nature and location of the role. These

⁶ General Comment No. 6 (2018) by the UN Committee on the Rights of Persons with Disabilities. Available at <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no6-equality-and-non-discrimination>

⁷ Ibid.

⁸ Ibid.

guidelines must be developed in codesign with all relevant stakeholders, including Autistic people with a diversity of perspectives and experiences.

Where an employer seeks to rely on the inherent requirements clause, the Act should require that they obtain an independent formal assessment from an approved body, identifying the inherent requirements in the specific context of the role. Without a clear articulation of what the inherent requirements are, it is difficult for employees or prospective employees to propose effective adjustments or respond meaningfully to decisions.

These principles should apply across all duty holders, including employers and education providers. In higher education, inherent requirement statements are often used subjectively to exclude students from courses without adequate engagement with students or exploration of reasonable adjustments. Education providers should be required to assess whether a student can meet the inherent requirements with adjustments in place, and to demonstrate meaningful engagement with the student and their support networks.

We are concerned that consultation may require people with disability to disclose personal health information, however this risk must be balanced against the significant benefits of inclusion and accessing employment. With appropriate safeguards in place to protect privacy and ensure only relevant information may be requested, these reforms have the potential to significantly improve employment outcomes for Autistic people and all people with disability.

Recommendations:

12. When determining whether an employee will be able to carry out the inherent requirements of the work, require consideration of the nature and extent of any adjustments made, and the extent of consultation with any person with disability concerned.
13. Expressly state that inherent requirements refer only to requirements that are essential or non-negotiable and require the development of co-designed guidelines to support consistent identification and application of inherent requirements across employment and education settings.
14. Require duty holders seeking to rely on the inherent requirements exception to obtain an independent assessment from an approved body of the essential and non-negotiable aspects of the role/course.

6. PROHIBIT SUSPENSION AND EXCLUSION ON THE BASIS OF DISABILITY

Autistic students, especially those with complex behaviour support needs, face disproportionately high rates of suspension and exclusion, often becoming trapped in cycles of reduced school hours and frequent school transfers. These disciplinary actions are frequently responses to behaviours linked to unmet needs, communication differences, or sensory challenges - matters better addressed through tailored supports such as behaviour plans, sensory-friendly environments, and executive functioning assistance.^{9 10 11}

Suspensions do not improve behaviour and instead risk worsening emotional wellbeing, increasing anxiety, and reinforcing negative self-perceptions. In 2023, students with disability in Queensland missed over 107,000 days of education due to suspensions and were twice as likely to be suspended as their peers—resulting in significant long-term impacts, including \$41 million in lost income for students and \$14 million for families, alongside costs to schools and the youth justice system.¹²

While Section 22(2) of the DDA makes it unlawful to deny or limit access to education based on disability, it does not explicitly prohibit suspension or exclusion, allowing discriminatory practices to persist. We support the DRC's recommendation to amend the DDA to expressly prohibit suspension and exclusion on the basis of disability.

Gatekeeping (where schools discourage or refuse enrolment or informally exclude students) is also widespread and harmful, despite technically being unlawful under the DDA. This includes offering part-time enrolment or asking parents to keep children home. Amendments to s.22 must ensure that these practices are clearly and explicitly prohibited.

We agree with the DRC that before suspending or expelling a student with disability, education authorities should be required to undertake a formal, transparent assessment involving consultation with the student, their family, and support network. This process should determine whether the behaviour is linked to disability, whether reasonable adjustments were in place, and whether alternative strategies could be used. These protections must apply across all education sectors, including early childhood, VET, and higher education.

We also support the DRC's recommendation that multiple suspensions for the same student be reportable to the Chief Executive Officer of the education authority. The CEO should be required to conduct a transparent review to ensure inclusive practices are being implemented. Where schools are found to have unlawfully suspended or excluded students, they should be held accountable through regular reporting and required to undertake further training.

⁹ Barnard J. et al., 2000. *Inclusion and autism: Is it working?* Available at https://www.researchgate.net/publication/251814768_Inclusion_and_Autism_Is_It_Working

¹⁰ Jones S. et al., 2018. *Australia's Attitudes & Behaviours towards Autism; and Experiences of Autistic People and Their Families - Autism and Education*. Available at <https://www.amaze.org.au/creating-change/research/community-attitudes-education/>.

¹¹ Children and Young People with Disability Australia, 2019. *Time for Change: The State of Play for Inclusion of Students with Disability*. October 2019. Available at <https://www.cyda.org.au/search/details/147/time-for-change-2019-education-survey-results>.

¹² Queensland Advocacy for Inclusion, 2024. *Economic costs of suspending students with disability from school*. Available at <https://qai.org.au/economic-costs-of-suspending-students-with-disability-from-school/>

Recommendations:

15. Amend the DDA to explicitly prohibit suspension, and all types of exclusion (including gatekeeping and informal exclusion) of students on the basis of disability.
16. Ensure this duty applies not only to schools but also to childhood education, vocational education and training (VET), and higher education settings
17. Require schools to undertake a formal, independent assessment before suspending a student with disability.
18. Require all suspensions and exclusions of students with disability to be reported to the CEO of the education authority, with mandatory review and higher accountability measures for repeated or unlawful actions.
19. Require nationally consistent public reporting of suspensions and exclusions (disaggregated by disability status and types of disability).

7. IMPROVE THE SAFETY OF AND JUSTICE FOR PEOPLE WITH DISABILITY

(a) Protect people with disability from offensive behaviour and vilification

The DRC found that people with disability are frequently subjected to vilification and offensive behaviour, with Autistic people particularly vulnerable due to widespread misunderstanding and stigma. Autistic people reported being mocked, excluded, and harassed in public and online spaces, often because of their communication styles, sensory preferences and/or perceived behaviours. The DRC highlighted that these experiences contribute significantly to isolation and anxiety and undermine dignity, safety and participation in community life. We are also concerned by evidence that Autistic people may be at increased risk of online harms and cyberbullying. Reasons for this may include difficulties understanding social cues and the intentions of others, and difficulties setting boundaries.¹³

We agree with the DRC that to the extent not already covered by the Criminal Code, enforceable mechanisms are needed to protect people with disability from all forms of offensive behaviour and vilification. We agree that the protection from offensive behaviour should be modelled on protections in the *Racial Discrimination Act 1975* and *Sex Discrimination Act 1984* and include all types of offensive behaviour and vilification, including insults, humiliation, intimidation, threats, and harassment, where the act is done on the basis of a person's disability. On vilification and hate crimes, we agree that guidance should be taken from Victoria's new *Justice Legislation Amendment (Anti-vilification and Social Cohesion) Act 2025* which introduces both criminal and civil remedies for hate-based conduct.

Importantly, drawing on these existing protections, the DDA must:

- Protect people with disability and their families, carers and supporters from all forms of offensive behaviour, hate crimes and vilification.
- Apply across physical and online spaces, with clear guidance on when an individual and/or the platform or service provider maybe liable.

¹³ eSafety Commission, 2023. *A new playground: Digital lives of young people with disability*. Available at <https://www.esafety.gov.au/research/digital-lives-of-young-people-with-disability>; Kostin I, 2022. *Internet Safety for Schoolchildren and Adults with Autism Spectrum Disorders: Vulnerability and Areas of Assistance*. Available at https://link.springer.com/chapter/10.1007/978-3-031-13646-7_2; Beckman L et al., 2020. *Cyber bullying among children with neurodevelopmental disorders: A systematic review*. Available at <https://pubmed.ncbi.nlm.nih.gov/30820957/>; Abregu-Crespo R et al., 2024. *School bullying in children and adolescents with neurodevelopmental and psychiatric conditions: a systematic review and meta-analysis*. Available at <https://pubmed.ncbi.nlm.nih.gov/38109913/>.

- Introduce a person-centred harm-based test, judged from the perspective of a person with the person's protected attributes.
- Provide a range of remedies, including apologies, retractions, removal of harmful content and civil penalties.
- Provide an accessible dispute resolution pathway and mechanism.
- Promote public accountability and support broader community education.

Recommendations:

20. Introduce enforceable, person centred protections against disability-based hate crimes, vilification and all forms of offensive behaviour.
21. Apply protections across physical and online spaces, with clear guidance on when an individual and/or the platform or service provider maybe liable.
22. Ensure protections cover people with disability and their families, carers and supporters.
23. Provide a range of remedies and a clear pathway to accessible dispute resolution.

(b) Explicitly protect people with disability from discrimination by police officers

Autistic people are overrepresented across the justice system and face increased vulnerabilities in their interactions with police. While every Autistic person is different, the avoidance of eye contact, communication differences, stimming, difficulties interpreting verbal instructions/information (particularly during times of distress) can be misread as suspicious or defiant. Sensory sensitivities and stress responses may escalate situations if not properly understood. Autistic people are also at higher risk of victimisation, including physical and sexual violence.¹⁴

We therefore support the DRC's recommendation that the DDA should protect people with disability from discrimination when interacting with police officers. The right to equality before the law must apply regardless of a person's legal status or the nature of their engagement with police, i.e. whether they are victims, witnesses or suspected offenders.

To ensure clarity and enforceability, the DDA should include a dedicated section on police conduct, rather than categorising policing under general services, particularly given police are not squarely providing "services" to suspected offenders. To support this protection and assist police in their interactions, the Act should require mandatory, co-designed and accredited training. This training must reflect intersectional disadvantage and equip officers with the skills and confidence to engage consistently, appropriately and respectfully with people with disability.

These reforms will help drive consistent education and training, enabling police to engage more effectively and respectfully with people with disability. They will also foster greater trust and confidence in police among people with disability, their families and carers.

Recommendations:

24. Explicitly protect people with disability from discrimination by police officers, regardless of whether they are victims, witnesses or suspected offenders.
25. Mandate accredited, co-designed training for police officers that reflects intersectional disadvantage and equips officers to engage respectfully and appropriately with people with disability

¹⁴ Aspect. *Interacting with Autistic people – a guide for Australian policy*. Available at <https://www.aspect.org.au/uploads/documents/Research/Police-Guide.pdf>

8. LIMIT EXEMPTIONS UNDER THE DDA, PRIORITISING INCLUSION

Exemptions under the DDA have frequently been used to justify exclusion and unequal treatment, resulting in significant gaps in protection and enabling discriminatory practices to persist across key sectors. This undermines the DDA's fundamental purpose of promoting equality and safeguarding the rights of people with disability. Broad or unclear exemptions can also discourage people with disability from pursuing complaints or taking further action, especially when facing large organisations with greater power and resources.

We support the amendments proposed by the AHRC, as outlined in Part 5 of the Issues Paper, including that definitions of special measures and temporary exemptions be added to the DDA for clarity and transparency. To the extent possible, any exemptions that are granted should be time limited and renewable only under strict criteria, with oversight from the AHRC. This is especially important for the infectious disease's exemption (s. 48), to ensure people are not unduly excluded from their community for an extended period of time.

The Act should require meaningful engagement with people with disability in any decision-making process related to exemptions that may affect them. This is important to ensure exemptions are applied to the minimum extent necessary, with careful consideration of individual circumstances and priority always given to inclusion and community participation.

Regularly reviewing and evaluating the impact of the exemption provisions under the DDA, in partnership with people with disability and the sector, is critical to ensure they remain fit for purpose and do not unintentionally encroach on the DDA's protections from discrimination. This process should be undertaken annually to ensure the integrity of the DDA and inform future reforms.

Recommendations:

26. Adopt the AHRC's recommendations, including to define special measures and the parameters of temporary exemptions.
27. Require formal consultation with people with disability before any exemption is granted that may affect their rights or community access.
28. To the extent possible, require exemptions to be time-limited and subject to renewal only under strict criteria, with oversight by the AHRC (particularly for exemptions under s.48 relating to infectious diseases).
29. Require annual review of the impacts of exemption provisions, in partnership with people with disability and the sector, to ensure they remain fit for purpose and uphold protections against discrimination.

9. STRENGTHEN OVERSIGHT AND COMPLIANCE WITH DISABILITY STANDARDS

We understand that while the content of the Disability Standards is outside the scope of this review, the legislative and regulatory framework that governs their operation under the DDA is within scope.

The Disability Standards are a critical mechanism for operationalising rights and protections under the DDA, yet their enforcement remains weak and largely reliant on individual complaints. To improve compliance and reduce the burden currently placed on individuals to lodge and pursue complaints, we agree with the DRC that any new positive duty under the Act must require duty holders to proactively comply with the Standards. At the very least, the AHRC's existing power to inquire into systemic unlawful

discrimination (breaches of the Standards), must be accompanied by enforcement mechanisms, including civil penalties, injunctions and enforceable undertakings.

Following the introduction of a positive duty into the Act, a review of each Disability Standard (outside of the usual cycle of reviews) will be required to ensure they are aligned.

We currently lack transparent data, measurement and monitoring to track implementation of the Standards and inform understandings of their effectiveness, with little accountability for ensuring they improve short- and long-term outcomes. There is no transparent mechanism for helping to ensure individual breaches can inform systemic change.

We recommend that the DDA expand on the AHRC's current remit, to require that it annually review, analyse and report on the numbers and types of complaints received by relevant authorities, the AHRC and Federal Court each year and their outcomes, broken down by disability type, including autism. The Commission should also be required to deliver a robust outcomes framework for each of the Standards, to demonstrate the impact of each Standard on short- and long-term outcomes. This is a critical step towards ensuring the Standards are consistently reported on across the relevant sectors, and are fit for purpose, responsive to emerging needs and improving outcomes for all people with disability.

Recommendations:

30. Impose a positive duty on duty holders to proactively comply with the Disability Standards.
31. Attach enforcement mechanisms to the AHRC's existing power to inquire into systemic unlawful discrimination, including civil penalties, injunctions and enforceable undertakings.
32. Require annual reporting by the AHRC on complaints and outcomes, disaggregated by disability type.
33. Mandate the development of an outcomes framework for each Standard to support consistent measurement and monitoring.
34. Mandate a post-reform review of the Disability Standards to ensure alignment with any new positive duty provisions.

10. CLARIFY RIGHTS AND OBLIGATIONS RELATING TO ASSISTANCE ANIMALS

We agree that the DDA must provide clearer, national guidance on the rights and obligations of people with disability who rely on assistance animals. For Autistic people, assistance animals can play a vital role in supporting emotional regulation, reducing anxiety, and enabling safe and confident participation in public life. However, the role of autism assistance animals is not commonly understood, and as a result, Autistic people often face discrimination in accessing public spaces, negative attitudes from community members and service providers, and inconsistent recognition of their assistance animals. This lack of understanding can significantly impact their confidence and willingness to engage in their communities, undermining both their rights and their wellbeing.

The current legislative framework currently lacks clarity around rights and obligations and what constitutes a trained assistance animal, leaving Autistic people and their families vulnerable to poor training outcomes, inconsistent recognition, and discrimination. The release of the Assistance Animal National Principles will be a welcome step toward addressing the current lack of clarity around rights, obligations and training requirements. However, these Principles must be embedded into the DDA to ensure enforceability and consistent recognition of and access for assistance animals across Australia.

The draft Principles, released for comment in March 2025, proposed a nationally consistent framework that includes a single Public Access Test, minimum training standards, accreditation for trainers and

training organisations, and clearer evidence requirements. These reforms are critical for Autistic people, whose assistance dogs must receive quality, evidence informed training to meet specific sensory, behavioural, and emotional needs. Embedding these principles into legislation would provide clarity for individuals, families, and duty holders, and ensure that assistance animals are recognised and included as necessary supports. Without legislative backing, the Principles risk remaining aspirational rather than actionable and enforceable.

Currently, the absence of prescribed accredited training organisations in the DDA creates uncertainty for both people with disability and trainers, undermining confidence and resulting in inconsistent public access outcomes. To address this, the DDA regulations should prescribe training organisations that meet defined standards. We also support the prescription of minimum standards of evidence of disability in the DDA rules. This approach would create an appropriate balance between legal certainty, flexibility and enforceability, allowing standards to evolve alongside new accreditation schemes and training practices. This is especially important for Autistic people, whose need for assistance animals is not always widely recognised or understood, and whose assistance animals may perform tasks that are less visible but no less essential.

Recommendations:

35. Embed the proposed Assistance Animal National Principles into the DDA.
36. Prescribe accredited training organisations and minimum standards of evidence of disability in DDA regulations.
37. Include autism-specific guidance in regulations to address the unique tasks performed by autism assistance animals and reduce discrimination and access barriers.

11. TAKE FURTHER STEPS TO STRENGTHEN THE DDA AND IMPROVE COMMUNITY UNDERSTANDING OF RIGHTS AND OBLIGATIONS

(a) Invest in co-designed, accessible information resources

There will be a critical need for investment in co-designed, accessible information resources to support public understanding and implementation of the updated DDA. This will be particularly important to ensure the community and duty holders are aware of rights and obligations arising from key legislative changes, particularly to support understanding and implementation of any new positive duty.

These resources must be co-designed, including with people with disability and the disability sector and be tailored to the needs of disability cohorts (including autism accessible information relevant to the specific needs of Autistic people) and vulnerable and hard to reach groups. These resources should offer practical advice on rights, obligations and next steps, including complaint pathways, and be regularly promoted through multiple channels, including sector bodies, social media and via trusted disability organisations. Ongoing investment will be essential to keep materials current and to evaluate their effectiveness, ensuring continuous improvement and relevance across sectors.

(b) Address discrimination by disability service providers and systems.

While the DDA review understandably focuses on mainstream inclusion, it is equally critical to ensure that the Act is addressing discriminatory practices across some disability-specific service providers (including day programs and housing, allied health services, specialist employment providers, and special schools). These services are often positioned as safe and supportive environments for people with disability, yet

many fall short of inclusive practice. Autistic people who exhibit behaviours of concern are frequently excluded from these settings, or Autistic people struggle to function in these settings due to failures to provide inclusive environments.

This exclusion can be especially harmful because these services are often the *only* options available, particularly where mainstream services have failed to provide support or an inclusive environment, and there is no provider of last resort. When they fail to be inclusive, there is no safety net — people are left without support, without community, and without access to their rights. If the very systems designed to support people with disability are allowed to exclude them, the DDA's protections are severely undermined.

To ensure disability-specific service providers are held to the highest standard possible, consideration should be given to stronger reporting and accountability mechanisms for these service providers under the DDA, clearer standards of inclusion that go beyond access, and address culture, rights and inclusive practices and enforceable obligations to prevent exclusionary practices, especially for those with complex behaviour support needs.

(c) Require autism inclusive environmental design

The DDA provides the legislative foundation for building access standards in Australia, including the *Disability (Access to Premises – Buildings) Standards 2010*, the *Access Code for Buildings* and the *National Construction Code*. These standards are intended to ensure equitable access to buildings and public spaces. However, they overwhelmingly focus on physical access — ramps, lifts, and tactile indicators — and do not adequately address the needs of Autistic people or people with other or co-occurring neurological, cognitive and intellectual disabilities. While universal design principles are referenced in many planning and development contexts, they often fail to account for sensory needs, cognitive accessibility, and the need for predictable, low-stimulation spaces. This results in public spaces and buildings that are technically compliant but functionally inaccessible for many Autistic people. This gap has real consequences, with some Autistic people unable to access public services, education, employment, or community life due to overwhelming or confusing environments. Retrofitting spaces to accommodate invisible disabilities is often costly and impractical, inclusive design from the outset is much more effective and equitable.

Inclusive design must be a legal requirement. It is therefore critical that the DDA provide the foundation for building access standards and codes to explicitly include autism accessibility, require inclusive design from the outset and require the development of specific design guidelines for Autistic inclusion, informed by lived experience and co-designed with the disability community.

(d) Strengthen transparency by requiring the AHRC to publish all complaint outcomes.

The Australian Human Rights Commission (AHRC) plays a key role in resolving discrimination complaints under the DDA, yet as discussed above, there is limited transparency around complaint outcomes—particularly those resolved informally or not resolved at all. While selected summaries are published, the lack of comprehensive reporting limits public insight into systemic issues and missed opportunities for learning and accountability. This is particularly concerning following the recent performance audit by the Australian National Audit Office which found that the AHRC's complaint handling is only partly effective, with declining rates of conciliation and increasing rates of complaints being discontinued, terminated or declined by the AHRC.¹⁵ Greater transparency could strengthen public trust, support continuous improvement, and provide valuable insights for service providers, policymakers, and advocates working to uphold the rights of people with disability.

¹⁵ ANAO, 2025. *Management of complaints by the AHRC*, 17 February 2025. Available at <https://www.anao.gov.au/work/performance-audit/management-of-complaints-the-australian-human-rights-commission>

We therefore recommend that the DDA require the AHRC to publish summaries of all complaint outcomes, including conciliated, discontinued, terminated, and declined matters. Summaries must be easily searchable and privacy concerns can be addressed through robust de-identification protocols already used in other legal contexts.

Recommendations:

38. Invest in co-designed, accessible, tailored and practical information resources to support public understanding and implementation of the updated DDA.
39. Address discrimination within disability-specific service systems by introducing stronger reporting and accountability mechanisms and clearer standards for inclusion.
40. Mandate autism inclusion and accessibility in building access standards and require the co-design of autism inclusion and accessibility guidelines for buildings and public spaces.
41. Require the AHRC to publish summaries of all complaint outcomes, including conciliated, discontinued, terminated, and declined matters.